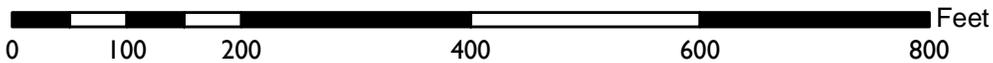
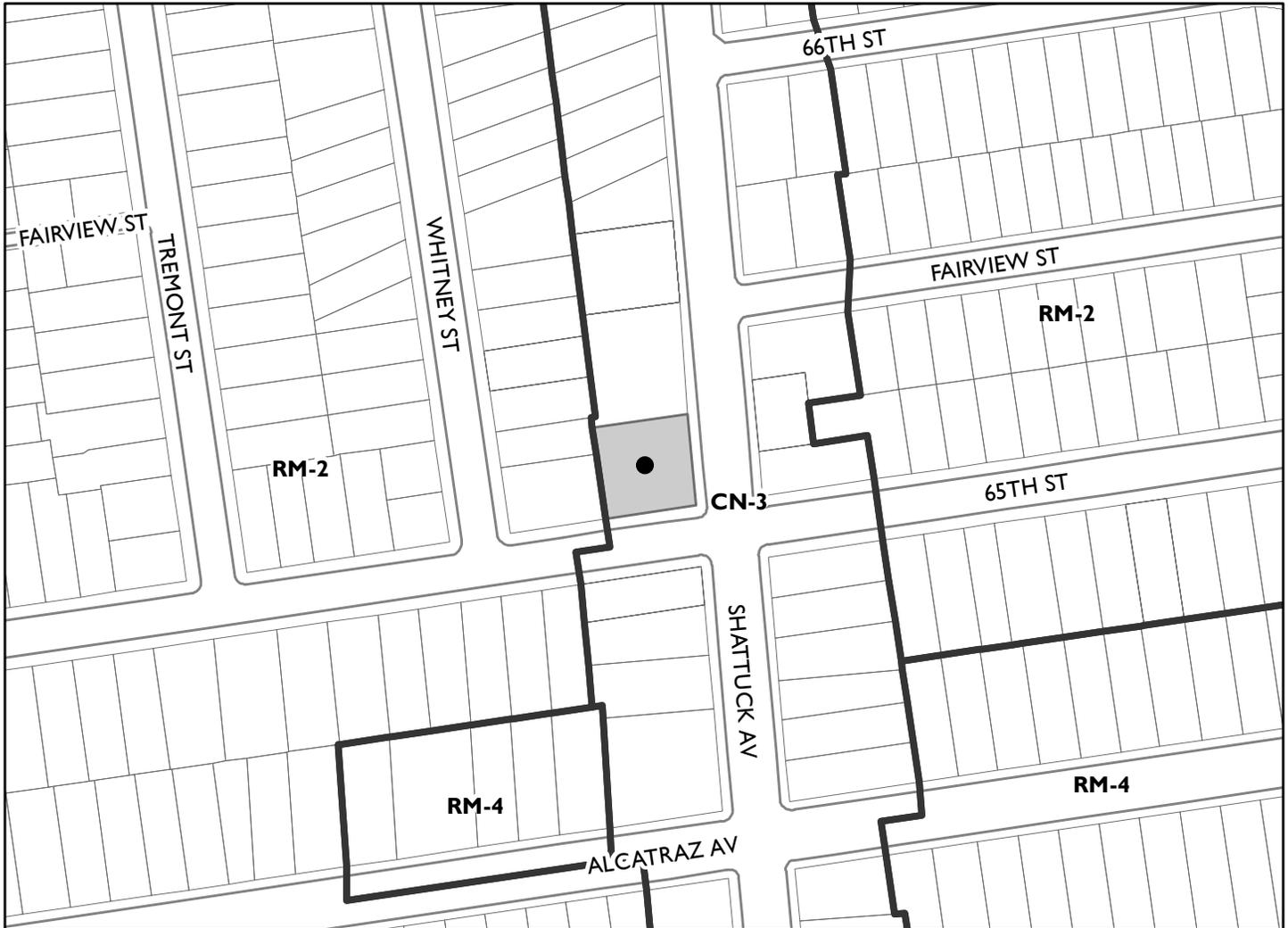


Location:	6501 Shattuck Avenue- See map on reverse
Assessor's Parcel Number:	016 142801102
Proposal:	Two Appeals of the Zoning Manager's Approvals: 1) to construct a 4-story mixed-use building with commercial space and parking on the ground floor and 18 residential units above; and 2) for two additional required permits for a Multifamily Dwelling Residential Facility and more than 20% of the required group open space on the roof which were not included on the previous public notice or original Decision Letter.
Applicant:	Moshe Dinar (510)759-2133
Owner:	Bruder, LLC
Appellant:	Appellant 1) Chris Hall Appellant 2) Caitlin Stuart
Case File Number:	APL19003 and APL20010
Original Case File Number:	CDV10185
Planning Permits Required:	Interim Conditional Use Permit for a density of 18 residential units where the General Plan allows for 31 units and the zoning only allows for 5 units; Minor Conditional Use Permit for a Multifamily Dwelling Residential Facility and parking to be setback less than 75 feet from the front property line, Regular Design Review for new construction; and Minor Variances to allow a 13-foot high garage podium structure to project 7 feet into the required 15-foot rear yard and for more than 20% of the group open space on the roof.
General Plan:	Neighborhood Center Mixed Use
Zoning:	Neighborhood Commercial - 3 Zone (CN-3 Zone) Zone was adopted by Ordinance (13064 C.M.S.) on March 15, 2011 and became effective thirty-days later on April 14, 2011. <i>The previous zoning was the C-10 Local Retail Commercial Zone. This application was submitted and deemed complete prior to the zoning change that became effective on April 14, 2011. As such, the application was processed and approved under the property's previous C-10 zoning designation.</i>
Environmental Determination:	Exempt pursuant to the following sections of the State CEQA Guidelines: Section 15183.3: Streamlining for Infill Projects and Section 15183: Projects Consistent with a Community Plan, General Plan or Zoning. A CEQA Analysis supporting the Exemptions were prepared and published on September 7, 2018. The analysis can be found on the City's Environmental Review Documents webpage via the following link: https://www.oaklandca.gov/resources/current-environmental-review-ceqa-eir-documents-2011-2020
Historic Status:	OCHS Rating: Dc3
City Council District:	1
Status:	The original Zoning Decision Letter was mailed on January 18, 2019, and the Project was appealed by Chris Hall (Appellant 1) on January 28, 2019. The Zoning Decision Letter related to the two additional required permits was emailed on August 5, 2020, and the permits were appealed by Caitlin Stuart (Appellant 2) on August 17, 2020.
Staff Recommendation:	Deny the Appeals and uphold the Zoning Manager's Decisions.
Finality of Decision:	The decision of the Planning Commission is final immediately pursuant to Planning Code Sections 17.134.060, 17.136.080, and 17.148.060.
For Further Information:	Contact case Planner Heather Klein at (510) 238-3659 or hklein@oaklandca.gov

CITY OF OAKLAND PLANNING COMMISSION



Case File: APL19003 and APL20010 (CDV10185)
Applicant: Chris Hall
Address: 6501 Shattuck Avenue
Zone: CN-3

SUMMARY

The Project Applicant submitted a Planning application on July 12, 2010, which was later revised to propose construction of a four-story mixed-use building with a 1,975 square-foot commercial space and 18 parking stalls on the ground floor and 18 residential units above (*Attachment A*).

At the time of submittal, the zoning of the site was the C-10 Local Retail Commercial Zone (C-10 Zone). While staff continued working with the Applicant to address zoning and the exterior design issues, an Incomplete Letter was not sent to the Applicant. As such, when the zoning changed to the Neighborhood Commercial - 3 Zone (CN-3 Zone) with the adoption of the Citywide Zoning Update (13064 C.M.S.), the Project was “deemed complete” and continued to be processed under the previous C-10 Zone regulations.

The Project was noticed three times on July 22, 2011, January 9, 2015, and on September 7, 2018, due to contamination and remediation issues on the site. During this period, staff met several times with the owners and neighbors to discuss the Project and address potential issues through design changes.

On January 18, 2019, the Zoning Manager issued an approval of the Project (*Attachment B*).

The 10-day appeal period ended on January 28, 2019 at 4:00 PM, and a timely Appeal (Appeal 1) was filed of the Zoning Manager’s decision on that same day by Chris Hall (Appellant 1), which included supplemental information by Ian Martin, Vibeke Norgaard, Guita Boostani, and Corey McCannon (*Attachment C*). The basis of the Appeal is that the Zoning Manager abused his discretion and made a decision not based on substantial evidence, and the application should be denied.

Upon preparation of the Appeal staff report, staff noticed that two required permits for a Multifamily Dwelling Residential Facility and the amount of open space on the roof had not been noticed to the public or considered in the approval Findings. On January 31, 2019, staff noticed only those permits for the fourth time.

On August 5, 2020, the Zoning Manager issued an approval of the two additional permits (*Attachment D*).

The 10-day appeal period ended on August 17, 2020 at 4:00 PM, and a timely supplemental Appeal (Appeal 2) was filed of the Zoning Manager’s decision on those permits on that same day by Caitlin Stuart (Appellant 2) (*Attachment E*). The basis of that supplemental Appeal is that the Zoning Manager abused his discretion and made a decision not based on substantial evidence, and the application should be denied.

The Appellants’ specific arguments in the Appeals are discussed and responded to in detail in the *Basis of the Appeals* section of the report below, along with City staff’s response to each argument.

Per Section 17.132.020 of the City of Oakland Planning Code, the Appellants must state where an error or abuse of discretion was made by the Zoning Manager or where the Zoning Manager’s decision is not supported by evidence in the record. As detailed in this report, the Appellants have not demonstrated an error or abuse in discretion by the Zoning Manager. Therefore, staff recommends the Planning Commission deny the Appeals, thereby, upholding the Zoning Manager’s decisions based on the Findings and Conditions of Approval.

PROPERTY AND SURROUNDING AREA DESCRIPTION

The Project site is located at 6501 Shattuck Avenue. The site is an 8,334 square-foot corner lot, with street frontage on Shattuck Avenue and 65th Street. The site contains an existing one-story, 1,887 square foot building.

The surrounding neighborhood includes low- to medium-density residential and commercial buildings which are one- to three-stories. The buildings are a variety of architectural styles, materials and heights.

North, south, and east of the Project site, along Shattuck Avenue, are one- to two-story residential and commercial buildings with a three-story mixed-use building directly across the street. To the west along 65th Street are one to two-story residential buildings.

PROJECT DESCRIPTION

The proposal is to construct a four-story mixed-use building with commercial space fronting Shattuck Avenue at the corner of 65th Street, 18 parking spaces and 18 residential units above the ground floor (*Attachment A*).

The building will be 43 feet tall with a commercial storefront system along Shattuck Avenue at the ground floor. The podium level (first level) is set back approximately 8 feet from the rear property line while the 2nd through 4th floors are set back 15 feet adjacent to the residential neighborhood. The fourth floor is set back 6-8 feet from the front to provide private open space balconies for the units. The 2nd through 4th floor façades include a series of bay window projections with metal awnings/sunshade. The building material is smooth cement plaster.

Project floor plans show a 1,975 square-foot ground floor commercial space fronting Shattuck Avenue at the corner of 65th Street, and the residential lobby also off Shattuck Avenue. A 16-foot driveway is accessed off 65th Street which leads to 18 ground-level parking spaces below the cantilevered building. Floors two through four contain the residential units. Group open space is provided on the podium level and roof, and private open space is provided through private patios and balconies.

To address neighbor concerns, the Project has been revised several times to reduce the number of units and parking from 20 to 18, include a 3-foot setback and planting strip to the rear of the project for landscape screening, a 5-foot setback along the adjacent neighbor to the north, a smaller open space area to the rear and more on the roof, a 6-8 foot upper story setback, smaller fourth floor building footprint, as well as significant façade design changes.

GENERAL PLAN ANALYSIS

The subject site is in the Neighborhood Center Mixed Use classification of the City of Oakland's Land Use and Transportation Element (LUTE) of the General Plan classification. "The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses." The Desired Character and uses note that "Future Development within this classification should be commercial or mixed-uses that are pedestrian oriented and serve nearby neighborhoods, or urban residential with ground floor commercial space."

The maximum residential density allowed per the Neighborhood Center classification is 125 dwelling units per gross acre or 166.67 dwelling units per net acre. The .19-acre Project site could support a maximum of 31 units. The 18-unit Project is under the maximum allowable density. The proposed Project conforms to the Neighborhood Center Mixed Use classification of the Oakland General Plan, as well as the LUTE objectives and policies as shown in *Attachment F*.

The zoning in place at the time the Project was “deemed complete” in 2010 and as discussed below in the *Basis of the Appeals* section, potentially conflicts with the Neighborhood Center Mixed Use classification, in that, the C-10 Zone did not permit a maximum density equal to the General Plan. In these situations, pursuant to the *Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations (as amended July 21, 2009)* which were in place at the time the Project was “deemed complete” and prior to the Citywide Zoning Update, the General Plan governs, and the higher density is permitted with an Interim Major Conditional Use Permit (CUP) (Section 17.01.100.B of the previous Zoning Code).

ZONING ANALYSIS

The site is currently in the CN-3 Zone. As discussed in the *Background*, this application was submitted and “deemed complete” in 2010, prior to the Citywide Zoning Update Zoning Ordinance that became effective on April 14, 2011. As such, staff continued to review the application under the its original C-10 Zoning designation as opposed to the CN-3 Zone. This issue is further discussed in the *Basis of the Appeals* section below.

The C-10 Zone was “intended to create, preserve, and enhance areas of small-scale retail establishments serving frequently recurring needs in convenient locations, and is typically appropriate to small shopping clusters located within residential communities.” The C-10 Zone permitted Permanent Residential Activities and conditionally permitted Multifamily Dwelling Residential Facilities. The maximum residential density for the C-10 Zone was set forth in the R-50 regulations, which stated that five dwelling units are permitted on lots that range from 7,000 to 8,499 square feet. However, as stated above in the *General Plan Analysis*, the 18 units are permitted with approval of an Interim Major CUP. The proposal would also require Minor CUPs, Minor Variances, and Regular Design Review as detailed below.

Per Section 17.36.070 of the previous Planning Code, a Minor CUP is required for a Multifamily Dwelling Residential Facility. Also, per Section 17.36.080, a Minor Conditional Use Permit is required for accessory off-street parking and loading within 75 feet of the front lot line. Since the proposal is a multi-family project and provides parallel parking on a lot only 90 feet wide, these Minor CUPs are required. The current Zoning does not require either Minor CUP.

Per Section 17.126.030B of the previous Planning Code, group open space may be located anywhere on the site, except that not more than 20% can be located on the roof. The group open space requirement is 1,350 square feet, and 682 square feet or 50% is provided on the roof. Per Section 17.36.050, this Zone requires a rear yard setback of 15 feet. However, parking garages are permitted in the rear yard only if they are a maximum of 9 feet in height. The parking podium is 13 feet high not including railings and is projecting 7 feet into the rear yard. Minor Variances are required for both the rooftop group open space and the parking podium height and projection. The Project would still require a Minor Variance for the amount of rooftop group open space and the parking podium in the setback if analyzed under the current CN-3 Zoning.

Per Section 17.136.020 of the previous Planning Code, Regular Design Review is required for the new construction of a multi-family building.

Attachment G includes the Project’s comparison to C-10 and CN-3 Zoning requirements.

ENVIRONMENTAL DETERMINATION

Staff has evaluated the Project pursuant to the California Environmental Quality Act (CEQA). Staff did not apply a CEQA categorical exemption as the Project site was formerly used as a gas station and service center prior to October 2009 and is listed on the Cortese List.

The Alameda County Department of Environmental Health (ACDEH) accepted an oversight role of the site in 2009. Six (6) on-site underground storage tanks (USTs) were removed from the site in 2009. Following removal of the USTs, soil samples were collected, and contaminants detected from the previous leaking USTs. Environmental remediation was conducted and ACDEH issued a case closure letter for the site on June 26, 2014. However, additional assessments were undertaken to ensure the site was suitable for residential development. On September 12, 2016 ACDEH issued a letter that no further action is required.

However, since the Project remained on the Cortese List, staff prepared a CEQA analysis per CEQA Guidelines Section 15183.3 (Streamlining for Infill Projects), which provides for streamlined review for projects where a previous programmatic Environmental Impact Report (EIR) was certified and the potential impacts of development can be addressed by Uniformly Applied Development Standards. The CEQA analysis was prepared and published on September 7, 2018 (*Attachment H*). The analysis concluded that implementation of the Project would not substantially increase the severity of significant impacts identified in the LUTE and Housing Element nor would it result in new significant impacts related to hazards and hazardous materials that were not identified in those EIRs. All Uniformly Applied Development Standards noted in the EIRs to address hazards have also been included as Conditions of Approval, and these have been found to mitigate environmental effects. Therefore, application of CEQA Section 15183.3 is appropriate.

As separate and independent basis, staff also found that the Project was consistent with CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning). The CEQA document noted above also includes an analysis of the project's consistency with the General Plan, Housing Element, and the Zoning. The analysis concluded that the Project was consistent with these documents, and therefore, application of CEQA Section 15183 is appropriate.

BASIS OF THE APPEALS

Appeal 1 was filed by Chris Hall (Appellant 1) on behalf the Neighbors of 6501 Shattuck which included supplemental information by Ian Martin, Vibeke Norgaard, and Guita Boostani. The following is a summary of the specific issues raised in Appeal 1, with the exact language found in *Attachment C*. Specifically, Appeal 1 alleges that:

Letter from Ian Martin and Vibeke Norgaard

1. The area is not zoned for 4-stories, and the decision relies on the mistaken assumption that the applicant has a right to "grandfathered in" the project under the old zoning laws that were in place prior to 2011. Even if the application was "deemed complete" so many years ago, the developer has not obtained a vested right to proceed with the development under the prior zoning as a building permit was not obtained.
2. The 3-story height limit effective April 15, 2011 applied to this development.
3. The application was incomplete as it failed to include information required by state law.
4. The City should not have even accepted the application under its own guidelines.
5. The City should not deem this application complete because it contains misrepresentations of fact.
6. There are inaccuracies in the application.
7. The public does not have enough time or even enough information to comment fully on this proposed development.
8. There are additional concerns with the design of the proposed building. The proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor and its massing will be sorely out of context.
9. Size, massing, height transitions and setbacks are inappropriate for the neighborhood.
10. The proposed bay windows exacerbate massing.
11. The proposed development causes unnecessary loss of views from our building.
12. The Variances required for the rear setback, density, and driveway add to the excessive bulk and

- adverse impact on the neighborhood.
13. The plans submitted by the applicant do not show the legally required elevator tower and may also lack other important details.
 14. The City should not accept the Hobson's choice of approving the applicant's imperfect development project in order to alleviate the blight the applicant created over the past four years.
 15. The City should apply diligent oversight to this applicant.

Letter from Chris Hall and Neighbors of 6501 Shattuck

16. The Variance does not meet the necessary criteria to be granted and it will have a significant negative impact on the visual and auditory privacy of our property.
17. Staff selectively chose General Plan policies referenced in the staff report in support of the project's consistency and did not reference other policies which are applicable to the project including:
 - a) Policy N3.9 Orienting Residential Development,
 - b) Policy N8.2 Making Compatible Interfaces between densities, and
 - c) Policy N11.3 Requiring strict compliance with the variance criteria
18. The Minor Variance Findings staff made are incorrect including the statements:
 - a. The variance is "justified because strict compliance of the regulations would preclude an effective design solution" and would "reduce group open space or the units." The roof deck could be expanded or other solutions developed without negatively impacting adjacent properties.
 - b. A similar height building currently exists on the property line. This building is not comparable to a raised public open space that looks directly into the backyard and has no sound or visual buffer.
 - c. The "intent of the rear setback is to restrain the building envelop." However, staff made the finding to support a podium raised 13' in the air for public gathering will have a substantial impact on rear properties.
 - d. "The proposed Variance will not impact neighbors due to screening walls and landscaping to buffer the adjacent properties." The visual and auditory privacy of our rear yards will be impacted by the encroachment.

Letter from Guita Boostani

19. The project irreparably and unnecessarily affects the livability and enjoyment of the house and garden located at 6525 Shattuck Avenue.
20. The staff report is based on drawings that are internally inconsistent and falsely represent critical information, such as the location of property boundaries, depth of sidewalks, conditions on adjacent properties and major building elements.
21. It is possible to modify the design to avoid the Variances and negative impacts on neighbors and neighborhood character, while maintain project viability, increasing operational efficiency and even reducing construction costs.

Letter from Corey McCannon

22. The building is strikingly out of scale with the neighborhood. There are no other buildings of this size along our two-lane stretch of Shattuck Avenue, which extends for many blocks. Our segment of Shattuck Avenue is mostly one- and two-story Craftsman homes with occasional commercial buildings, in contrast to Shattuck Avenue in downtown Berkeley, which has taller buildings on a much wider four-lane road. Since 2011, this part of Shattuck Avenue has been rezoned as CN-3 which places a height limit of three stories. This is much more consistent with our neighborhood character and aligns with the city vision for the neighborhood.
23. The plan reduces privacy for neighbors.
24. The plan will shade the gardens of adjacent residents.
25. Reducing the height to three-stories would help provide privacy for neighbors and improve the chance the current activities can continue on neighboring properties.
26. Computer modeling and streetscape elevations for the block would prove useful for neighbors to

- understand the size of the proposed structure and allow for more informed comment.
27. The application was not complete in 2010 and should be resubmitted to comply with current codes.
 28. Since we do not have reliable information on what auto-motive-related activities occurred in the remaining structure, it would be reassuring to see an assessment showing that there is no residual environmental impacts as the site is redeveloped.
 29. The project moved forward in the past without enforcement of safe building practices. As this project moves forward, increased monitoring would reassure neighbors that no corners are cut during future activities.
 30. The application should have included a landscape plan by a licensed landscape architect. Trees should be placed next to the wall; however, the wall will make the trees hard to maintain and will block views of the trees for the building occupants. The plan should include a plant palette and potted shrubs and trees should be installed throughout the project to create a unifying plant theme. The vines on the trellis should be removed unless a soil medium is included.
 31. The project should include bike racks for people visiting the project.
 32. A portion of the parking lot should be for employees and patrons of the commercial space as parking is very limited.

Appeal 2 was filed by Caitlin Stuart (Appellant 2) on behalf Evan Magers, Siegfred Mall, Chris Hall and Vasilica Hall, Corey McCannon and John Faust, Ian Martin, Vibeke Norgaard, David Vartanoff, Stephen Claudemans and Guita Boostani. The following is a summary of the specific issues raised in Appeal 2 with the exact language found in *Attachment E*. Specifically, the Appeal alleges that:

1. Despite the larger building envelope allowed under the old Zoning, the design seeks multiple variances which underscores how ill-suited the current design is for the available space and negatively impact the site as well as the surrounding neighborhood.
2. The variances for open space preclude the efficient operation of the neighboring properties by blocking sun, creating privacy issues, allowing garage ventilation into neighbors' yards, and creating an imposing presence along the street and sidewalks. The building covers the entire site and taller walls and landscaping up against the fence exacerbate solar access and privacy impacts.
3. Granting the variances constitutes a special privilege because it enables the overbuilding of the site.
4. No other properties have completely covered their site with building, and there exists a clear pattern of open space that makes the small neighboring properties livable.
5. The letters and diagrams we've already submitted clearly show, the proposal has significant and numerous negative impacts on neighboring properties (livability or appropriate development of neighboring properties) which could easily be avoided.
6. The drawings misrepresent the design of the project and surrounding conditions including: 1) not showing the elevator extension to the rooftop open space or the tall rooftop parapet walls needed for safety and privacy; 2) not showing the footprint or analysis of impacts on neighboring properties; and 3) shifting the property line on the elevations so the site appears bigger and the building massing appears as though it steps away from the perimeter, when in fact, it looms over the sidewalk and adjacent neighbors. The lack of complete and accurate information has contributed to an unfair public process since new people have moved here in the past decade who are rightly confused by the unconventional procedures as well as not having access to the old regulations that this project was dubiously grandfathered into so many years ago.
7. The City's justifications for approving the Variances and Use Permit are incorrect:
 - a. The changes (between pre-application and application and relocation of the open space to the roof) do not address the impacts, and aggravate the issues.
 - b. Neighbors have repeatedly demonstrated through letters and diagrams, there are other practical and feasible design changes to the variance for open space that would address the issues without affecting the unit count.
 - c. Without removing the 17-foot tall podium / open space / screening walls from the rear yard setback, this double variance fails to address the neighbors' primary concern.

- d. All the neighbors on the West and the neighbors on the North agree on prioritizing the removal of the podium structure from the rear yard setback because of the severe and extensive negative impacts it poses on all abutting neighbors.
 - e. Staff's Variance Finding D which claims no grant of special privilege because "the project as a whole, with both group and private open space, exceeds the overall requirement..." is a better argument against approving another variance rather than in support of it. The fact that there is an excess of 1000 square feet of group open space on the building means that the offending podium structure can be eliminated.
8. The Conditional Use Permit justifications continue to misrepresent the existing neighborhood context and the impacts on neighbors. The existing context includes a strong neighborhood pattern of organically shaped building footprints with ample rear yards; open spaces between buildings; and building facades that are set back from the edge of the sidewalk thereby allowing room for planting that softens the edges along Shattuck Avenue and 65th street.
9. The City's justifications that the project meets the eight guiding principles in the Design Guidelines for Corridors and Commercial Areas are merely statements without any critical analysis.
- (1) The proposed building does not create a sense of place - in fact it looms over the sidewalks and adjacent neighbors, and is alien to the area in its design, lot coverage, and building type.
 - (2) The proposed massing does not create a sense of place for pedestrians - it looms over the property lines with building projections and an incongruous scale that makes for an uncomfortable pedestrian experience.
 - (3) The proposed design rejects the diversity of the existing neighborhood and proposes a generic building type that is too big for the site and overbearing in its presence, uniform and unremarkable.
 - (4) There is no guarantee that the building construction and materials will be of high quality or that staff will be able to adequately review and hold the developer accountable later on. In fact, the developer is known throughout Oakland and the Bay Area for doing work without proper approvals, building substandard buildings and poorly maintaining his properties.
 - (5) The proposal does not reinforce the character of this corridor. The monolithic building style and lack of ground level open spaces are alien to the neighborhood and detrimental to the positive urban character of the area.
 - (6) The design does not create transitions in height and massing away from neighbors since it places a 17-foot tall mass (the podium) where open space is supposed to be, negating the benefit of stepping that is done at the upper levels (and only on the west side). The design does not step the massing away from the Northern neighbors as the 5-story tall elevator shaft is within five feet of the North side property line, thereby creating an even more imposing scale, and further blocking solar access and light.
 - (7) There are no "sustainable design techniques" employed. The whole property is covered with building and paving. The landscape plan is completely inaccurate and inadequate. And the 3-foot wide strip along the rear fence line, which was supposedly created to address neighbors' concerns, is filled up with a thick masonry wall, a fence, with no room (or access) for trees or planting. At-grade open spaces, gardens and solar access in present COVID-19 era are important to keep people and cities healthy. However, the proposed design blocks sun and air to all its adjacent neighbors as well as to the streets and sidewalks abutting the property.
10. The corridor already has a signature building - the Nomad Cafe - an award-winning design that reinforces the best qualities of our diverse neighborhood in its site planning, building massing, and building materials. It serves as a good example of the kind of a site-specific approach to design.
11. There is a context of architectural styles - just not a uniform one. The context is of diverse building styles with open spaces on all sides of the building, including along Shattuck Avenue and 65th street. The proposed design detracts from the established pattern of buildings that have a good ratio of open space between neighbors, and creates undesirable conditions for neighboring backyards and the street and sidewalks.
12. The design inefficiently and expensively extends the tall concrete and steel podium structure all the way to the rear and creates many issues.

13. The areas shown for landscaping are inadequately sized. A realistic and accurate conceptual landscape plan is required as part of the application for such projects, and should be required and reviewed before an approval is issued.
14. The developer has an established record of cutting corners, breaking laws, misrepresenting data, and avoiding accountability. The City is too understaffed to catch any transgressions. Deferring documents to the review during the building permit process is not fair or even practicable and should be done during the public process (by neighbors). Correct and complete documents should be submitted for public review before further decisions are made on this application.

Discussion of Appeal 1

The following is a discussion of the summarized issues raised in Appeal 1 along with staff's response to each point. Each appeal allegation is shown in **bold** text, and the staff response follows each point in regular type. In some instances, the arguments have been grouped together or re-ordered as they relate to one topic. In all instances, the previous Planning Code as amended April 15, 2010 is used to respond to the allegations; although staff does provide a comparison to the current Planning Code in some instances for reference.

1. **The application was incomplete as it failed to include information required by state law.**
2. **The application was not complete in 2010 and should be resubmitted to comply with current codes.**
3. **The City should not have even accepted the application under its own guidelines.**
4. **The City should not deem this application complete because it contains misrepresentations of fact.**
5. **The area is not zoned for 4-stories, and the decision relies on the mistaken assumption that the applicant has a right to "grandfathered in" the project under the old zoning laws that were in place prior to 2011. Even if the application was "deemed complete" so many years ago, the developer has not obtained a vested right to proceed with the development under the prior zoning as a building permit was not obtained.**
6. **The 3-story height limit effective April 15, 2011 applied to this development.**

(Issues 3, 27, 4, 5, 1, 2)

The above allegations generally contend that the Project was incomplete and inaccurate at the time submittal and should not have been deemed complete. Therefore, the City should not have processed the permit under the Zoning laws that were in place in 2010, and the height of the project should be reduced.

Staff Response

Deemed Complete /Incomplete Application

Per Government Code Section 65943, staff has no later than 30 calendar days after receiving an application to make a determination in writing whether the application is complete or incomplete. If the application is determined to be incomplete, staff is required to provide the Applicant with a list of items that were not complete or submitted, and that list shall be limited only to those items actually required on the submittal requirement checklist. The Government Code goes on the state, that if a written determination is not made within 30 days after submittal, the application shall be "deemed complete" for purposes of this chapter.

The Appellant does not indicate what was required to be submitted that would be inconsistent with state law. As noted above in the *Summary* section, an application for development was submitted on July 12, 2010, and no determination regarding completeness or incompleteness was provided to the Applicant. As such, per the above Government Code, the application was deemed complete 30

days later on August 12, 2010. Furthermore, while staff continued to work with the Applicant to refine the proposal, staff still did not issue a determination of completeness or incompleteness regarding these resubmittals. Even if there were inaccuracies in the application, that is not the litmus for completeness, only submittal of the item per the application checklist (*Attachment I*).

Zoning Update

In September of 2008, staff began the process of updating the zoning for the entire City as part of the Citywide Zoning Update. The purpose of this planning process was to provide new zoning regulations for the City's commercial and residential neighborhoods and continue ongoing efforts to implement the policies of the Oakland General Plan through new development standards, including new zoning designations, zoning map amendments, and related Planning Code amendments. After many community and public meetings, the zoning update Ordinance (13064 C.M.S.) was adopted by the City Council on March 15, 2011 and went into effect 30 days later. Section 6 of the Ordinance notes:

"This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired or (b) to zoning applications approved by the City and not yet expired, or to (c) zoning applications deemed complete by the City as of the final date of the passage. However, zoning applications deemed complete by the City prior to the date of the final passage of the Ordinance may be processed under the provisions of this Ordinance if the applicant chooses to do so."

As noted above, the application was effectively "deemed completed" on August 12, 2010. The Applicant did not express interest in processing the application under the new regulations. As such, the City continued to process the application under the previous Planning Code and C-10 Zoning.

Height Requirements

When the application was submitted, the site was located in the C-10 Zone. This zone permitted a height of 45 feet with a 1-foot setback horizontally for each 1 foot vertically along rear property line. When the zoning changed to the CN-3 Zone, the site was placed in the 35-foot height area, and the maximum height was 35 feet. However, as noted above, the staff continued to process the application under the previous zoning.

Summary

In sum, the project was deemed complete per state law when staff did not issue an incomplete letter in 2010 despite outstanding items on the checklist not being submitted. State law requires staff to only review the application submittal requirements and submittal of inaccurate information is not considered an incomplete submittal. The Ordinance adopting the new Zoning could have applied to this project had the Applicant indicated that they wanted to be processed under the new rules; he did not. As such, staff continued to process the project under the previous zoning.

7. **There are inaccuracies in the application.**
8. **The plans submitted by the applicant do not show the legally required elevator tower and may also lack other important details.**
9. **The staff report is based on drawings that are internally inconsistent and falsely represent critical information, such as the location of property boundaries, depth of sidewalks, conditions on adjacent properties and major building elements.**

(Issues 6, 13, 20)

The Appellants allege that there are inaccuracies in the application and that the plans may also lack important details. However, the Appellant does not describe exactly what the inaccuracies are so staff cannot respond directly to this statement.

Staff Response

Staff agrees that the elevator tower is not shown in all areas or plans as it should be. However, it is shown on the schematic site plan, the floor plans, the section, and side elevation. This provides enough information for staff to review per the Zoning Code and Findings, and for the public to consider and comment on it.

The Appellant alleges that the drawings are internally inconsistent or falsely present critical information such as property boundary, depth of sidewalk, conditions on adjacent properties and major building elements.

- The property boundary dimensions and depths of sidewalks are consistent with the submitted boundary survey.
- The Appellant is correct that the survey does not show the tree on the adjacent parcel. It is unclear how close the tree is to the proposal. The survey does show one of the existing footprints but not the other building. Surveys are only required to show information on the subject site.
- Seven long-term and four short-term bicycle spaces are required for the project. The project is showing bicycle parking in the garage and in the lobby. These areas should be adequate for the parking required. Staff will ensure that the bicycle requirement is met during building plancheck per Condition of Approval #44.
- While the elevations show what look like Cypresses, a final landscape plan has not been submitted. Per Condition of Approval # 17, the project shall submit a landscape plan which includes adequate landscape screening between the wall and the fence.
- Gas room and electric meter sizes are not regulated in the Planning Code. It is expected that they will be located adjacent to the trash area on 65th Street. Per Condition of Approval # 52, meters must be shielded.
- The Planning Code does not dictate the amount of space necessary for trash, only recycling space. The space looks adequate to meet the recycling requirements. However, staff will ensure that the requirement is met during building plancheck per Condition of Approval #50.
- A final landscape plan has not been submitted which notes the street tree species. However, many buildings have awning and projections over the sidewalk that do not interfere with the street trees. Furthermore, the bay windows require a Major Encroachment permit approval from City Council which has not been granted. As such, this issue will be resolved during the encroachment and street tree selection process.
- The Appellants are correct that the elevations do not show the adjacent building and instead show cars and a road section. However, this discrepancy does not change the Findings.
- Privacy and shadowing are discussed in more detail in staff's responses below.

Finally, while staff appreciates the design recommendations by the Appellant, and does believe that the changes would further reduce impacts on neighbors, the proposed changes reduce the building and unit footprints, add additional costs by needing to dig out a basement for parking lifts and enclosure of the garage, and rearrange the floor plan to move the elevator tower toward the middle of the building. Staff has made the Findings for approval of the design proposed by the Applicant.

10. The public does not have enough time or even enough information to comment fully on this proposed development.

- 11. Computer modeling and streetscape elevations for the block would prove useful for neighbors to understand the size of the proposed structure and allow for more informed comment.**

(Issues 7 and 26)

The above allegations generally contend that the public has not had enough information to comment and additional information should have been provided to understand the Project

Staff Response

The Project has been noticed four times and was processed over ten years. As such, the public had a nearly unprecedented amount of time and opportunities to review the plans and submit comments. The plans provide the typical level of detail at the planning stage, as opposed to the construction document stage, to be able to comment on the project. A computer rendering was included in the drawing set. While additional modeling and renderings could prove useful to further understand the Project, since the Project was not more than 20 units, renderings from all vantage points was not required per the Basic Application and is not typically seen for a project of this size.

- 12. There are additional concerns with the design of the proposed building. The proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor and its massing will be sorely out of context.**
- 13. The building is strikingly out of scale with the neighborhood. There are no other buildings of this size along our two-lane stretch of Shattuck Avenue, which extends for many blocks. Our segment of Shattuck Avenue is mostly one- and two-story Craftsman homes with occasional commercial buildings, in contrast to Shattuck Avenue in downtown Berkeley, which has taller buildings on a much wider four-lane road. Since 2011, this part of Shattuck Avenue has been rezoned as CN-3 which places a height limit of three stories. This is much more consistent with our neighborhood character and aligns with the city vision for the neighborhood.**
- 14. Size, massing, height transitions and setbacks are inappropriate for the neighborhood.**
- 15. Reducing the height to three-stories would help provide privacy for neighbors and improve the chance the current activities can continue on neighboring properties.**
- 16. The plan reduces privacy for neighbors.**

(Issues 8, 22, 9, 25, and 23)

The above allegations generally contend that the Project will be the tallest building on the corridor and out of scale with the neighborhood. The size, mass and setbacks are inappropriate and reducing the height will improve privacy for neighbors.

Staff Response

Tallest Building Along Shattuck Avenue and Neighborhood Scale

The length of Shattuck Avenue is divided into several different zones and height areas. Between 45th Street and Highway 24, Shattuck is zoned CN-2 or CN-4 with a 45-foot height limit. From Highway 24 to Alcatraz Avenue, Shattuck is zoned RM-4 or RM-4/C with a 35-foot height limit. From Alcatraz Avenue to the Berkeley border, Shattuck is zoned CN-3 with a 35-foot height limit. Shattuck Avenue between the Berkeley border and Alcatraz Avenue is designated a Secondary Corridor per the Commercial Corridor Guidelines.

The Appellant is correct that the building would be the tallest between the Project site and the Berkeley border considering the current context. It is also true that the Project could be the tallest

even if properties along this Shattuck Avenue were redeveloped as the height has been limited to 35 feet. However, the original C-10 zone for this site permitted a height of 45 feet. Therefore, while the height might seem out of context at the present time, it is likely that the Project will not seem out of context as Shattuck Avenue is further re-developed in the future.

Furthermore, Commercial Corridor Guideline 5.1.2 requires a reduction in the visual scale of a large building. Examples of techniques to reduce the scale include the following: break down large frontages into smaller volumes, establish different building planes, give different sections a distinct design, building two smaller buildings, create vertical volumes for each unit, provide roof variation and articulation, use contrasting colors and materials, apply a light color at the top of the building, include a horizontal element above the ground floor and at the top. However, this Guideline also notes that smaller buildings generally less than 50 feet wide or tall, do not usually require the same volume definition as larger buildings.

In this case, the building design uses many of the above techniques to reduce the visual scale and height of the building. The project's specific techniques include: (1) the top floor is set back away from the front property line 8 feet; (2) the upper floor includes double doors and transparency to "lighten" the top; (3) bay windows give the building verticality while balancing the horizontal design and breaking the building into volumes; (4) open railings on the top of the bays visually "cap" the bay height; and (5) the bays and building façade planes are different materials and colors. These techniques help to reduce the perceived height of the building.

Height and Privacy

While reducing the height to three stories would improve privacy for neighbors, these are not the only techniques available. The windows, decks and open space located to the rear of the project is on the second (podium) level. This area will be screened by trees and plantings as shown on the plans. On the third and fourth floor, the windows, decks and doors are set back 18-28 feet from the rear property line. This is a reasonable privacy setback.

On the interior side, where there is only a 5-foot setback, the windows are smaller and are only in bedrooms, bathrooms, and the elevator, areas that are typically closed or not often inhabited. Staff has included Condition of Approval #49 which requires removal of windows to address privacy issues for the interior side property line. The rooftop open space is set back 5 feet from the side property line and is mostly screened by the elevator and machine room. Furthermore, as part of the approval of the rooftop open space Variance, staff added Condition of Approval # 55, that the open space area on the roof include a barrier along the same plane as the front of the elevator and stair tower and the addition of landscape screening to increase privacy.

17. The proposed bay windows exacerbate massing.

(Issue 10)

The above allegation generally contends that the bay windows do not reduce the overall massing but exacerbate it.

Staff Response

Staff disagrees that the bay windows exacerbate the building mass. Bay windows are a typical architectural feature to reduce the mass of a building. Commercial Corridor Guideline 5.1.2 discusses methods to reduce the visual scale of a large building frontage by breaking down large frontages into smaller volumes to create variety in a façade and a more visually pleasing scale than bulky buildings. One technique involves establishing different planes through surface articulation

on a façade. Each of these planes can be further defined by its own group of coordinated façade elements such as balconies, window types, recesses, reveals, or color. With this technique, different articulations on the same plane, but on different parts of the façade, would have the same grouping of architectural elements.

The bay windows provide the same coordinated effect noted above. The bay windows provide a rhythm of vertical elements on the façade facing Shattuck and 65th Street and help to break up the mass of the building into smaller volumes. Although these are 3-story volumes that could add to the perceived height of the building, the open railings on top of the bays constrain the height visually and the trellis at the top acts as a cornice topping the building and reducing its visual height. Without the bays and façade articulation, the building would look more massive and bulkier.

18. The proposed development causes unnecessary loss of views from our building.

(Issue 11)

The above allegation generally contends that the development would cause loss of views.

Staff Response

Views are also not defined in the Planning Code. Views are only referenced in the Design Manual for One and Two-Unit Residences and are only applicable for one- to two-unit projects on lots with slopes that are greater than 20%. Even then, view protection is specifically defined as to be within view corridors, only from certain areas of the house, and of certain features such views of the bridges, downtown Oakland or San Francisco skyline, a large portion of the bay, a panoramic view of a major natural feature, or a prominent landmark

Since the area surrounding the building is flat, not on a 20% slope, and the Project is not a one- or two-unit building, views are not considered when staff made the Findings for approval.

- 19. The Variances required for the rear setback, density, and driveway add to the excessive bulk and adverse impact on the neighborhood.**
- 20. The Variance does not meet the necessary criteria to be granted and it will have a significant negative impact on the visual and auditory privacy of our property.**
- 21. It is possible to modify the design to avoid the Variances and negative impacts on neighbors and neighborhood character, while maintain project viability, increasing operational efficiency and even reducing construction costs.**
- 22. The Minor Variance Findings staff made are incorrect including the statements:**
 - a. The variance is “justified because strict compliance of the regulations would preclude an effective design solution” and would “reduce group open space or the units.” The roof deck could be expanded or other solutions developed without negatively impacting adjacent properties.**
 - b. A similar height building currently exists on the property line. This building is not comparable to a raised public open space that looks directly into the backyard and has no sound or visual buffer.**
 - c. “The proposed Variance will not impact neighbors due to screening walls and landscaping to buffer the adjacent properties.” The visual and auditory privacy of our rear yards will be impacted by the encroachment.**
 - d. The “intent of the rear setback is to restrain the building envelop.” However, staff made the finding to support a podium raised 13’ in the air for public gathering will have a substantial impact on rear properties.**

(Issues 12, 16, 21 and 18)

The Appellants allege that:

1. Variances required for the rear setback, density, and driveway add to the excessive bulk and adverse impact on the neighborhood,
2. That the Project and staff's Findings do not meet the necessary criteria and will have a significant visual, auditory, and privacy impact;
3. That it is possible to redesign the project to avoid the Variances; and
4. Staff made incorrect statements in the Findings.

Staff Response

A Variance is required for the height of the parking podium in the setback and the amount of open space on the roof. The parking podium does not add or contribute to excessive bulk. The podium is unenclosed, and as such, with the railing for the open space on top, is less than 6' tall. The railing with the landscaping screening does not increase or add to the bulk. The other items require a CUP. Staff disagrees that the driveway location or the density add to the bulk of the building. The building is designed to reduce bulk and massing as discussed throughout this report.

Second, the project requires two Variances: to allow a 13-foot high garage podium structure to project 7 feet into the required 15-foot rear yard and for more than 20% of the group open space on the roof. It is possible to modify the design to avoid the Variances. However, as discussed in the Findings, the Variances are justified and contribute to a more superior design.

The Applicant could have reduced the height of the garage level to the required 9 feet including the railing. However, this would have resulted in the first floor not meeting the Building Code for ceiling heights at the ground floor. Staff also has found that commercial spaces with low ceiling heights are less viable, and the current Planning Code requires a 12-foot tall commercial space. The Applicant could also have moved the garage entirely out of the setback. However, this would have reduced the group and private open space on the 2nd level and required more on the roof to retain the same number of units and resulted in more open parking. Given that a one-story 13-foot high building currently exists on the property and the open space will soften the overall rear façade when seen from the property line, the proposal presents a design that improves efficiency for the building.

The other Variance is for the amount of group open space on the roof. This Variance is justified given the lower-scale residential neighbors and privacy concerns for rear neighbors. The rooftop open space is set back 5 feet from the side property line and is mostly screened by the elevator and machine room. Furthermore, as part of the approval of the rooftop open space Variance, staff added Condition of Approval # 55, that the open space area on the roof include a barrier along the same plane as the front of the elevator and stair tower and add additional landscape screening to increase privacy. Again, the proposal presents a design that improves efficiency for the building.

Third, the Appellants allege that while a similar height building does exist on the property line, that building is not comparable to a raised open space that has no sound or visual buffer. The Variance is for the height of the parking podium structure in the rear yard setback. As such, staff made a comparison between the height of the podium and the existing building. Screening is proposed including a three-foot landscape strip at the ground level for landscaping. In addition, the site plan shows plantings along the edge of the 2nd floor open space to further screen the area. In terms of auditory impacts, those are not a consideration of the Findings. Rear yards almost always abut rear yards, and this space won't be put to any different use than any other rear yard open space or a backyard space at ground level. Further, the landscape screening will likely buffer noise.

Fourth, the Appellants allege that a 13-foot raised podium will have a substantial impact on the rear properties. However, the Appellants do not indicate what the substantial impact would be. The

intent of the rear setback is to restrain the building envelop to provide a consistent neighborhood context and avoid impacts to neighboring building due to living space so close to neighboring living space. The neighboring properties' privacy will be buffered through landscaping at the ground and at the podium level. The podium is not expected to result in significant shadowing except in the morning hours. There are no views. Staff continues to conclude that the podium will not result in substantial impacts on the rear properties.

- 23. The City should not accept the Hobson's choice of approving the applicant's imperfect development project in order to alleviate the blight the applicant created over the past four years.**

(Issue 14)

The above allegation generally contends that staff should not approve the Project just to address the ongoing blight issues.

Staff Response

Staff did not make a decision to approve the Project solely based on the condition of the site. Staff found that the Project met all the required Findings and was consistent with the applicable Design Guidelines and General Plan policies.

- 24. Staff selectively chose General Plan policies referenced in the staff report in support of the project's consistency and did not reference other policies which are applicable to the project including:**

- a) Policy N3.9 Orienting Residential Development,**
- b) Policy N8.2 Making Compatible Interfaces between densities, and**
- c) Policy N11.3 Requiring strict compliance with the variance criteria.**

(Issue 17)

The above allegation generally contends that staff choose which General Plan policies supported the Project while ignoring others.

Staff Response

The CUP, Variance and Design Review Findings all include a requirement that the Project be consistent with the General Plan. Staff cited seven objectives and policies that the Project met. The Appellant does not challenge that these apply but instead cites additional policies that staff did not mention.

- *Policy N3.9 Orienting Residential Development notes "that projects should be oriented to face the street and to orient units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring building, respecting the privacy needs for adjacent residents of surrounding buildings, providing for sufficiently convenient located on-site open space, and avoiding undue noise exposure."*

The Project meets this Policy. The Project is oriented toward Shattuck Avenue. Both the commercial and residential entrances are along this street; the parking is located to the side and rear of the lot; and the Project provides adequate on-site open space with approval of the rooftop open space Variance. The Project's setbacks at the podium and fourth floor, as well as the façade modulation allows for adequate sunlight for the units.

Views are discussed in the response above and are not considered for multi-family projects on flat sites.

A shadow study was not submitted and not required. However, based on the orientation of the building as it relates to north and the Appellant's shadow analysis, it is not likely that the gardens to the rear would be shaded except from morning to noon and only at the very rear of the lots. The building will likely shadow the garden on the adjacent property to the north along Shattuck. However, even if the building were reduced to 35 feet, these gardens would still be shaded. Furthermore, as noted above, the adjacent lot even though it is of low-density is in the CN-3 Zone and Neighborhood Center Mixed Use classification which envisions higher density housing and taller buildings on the corridors.

In addition, the Project does provide privacy for neighboring properties. The podium open space is setback 7 feet from the rear property line, and the plans show trees screening this area from neighbors. The rooftop open space fronts Shattuck Avenue, is further set back 5 feet from the side property line and screened by the elevator and machine room. In addition, staff included Condition of Approval #49 which requires removal of windows to address privacy issues for the interior side property line as well as Condition of Approval # 55, that the open space area on the roof include a barrier along the same plane as the front of the elevator and stair tower and add additional landscape screening to increase privacy.

The proposed open space is conveniently sited and meets the potential areas for open space in Commercial Corridor Guideline 2.1.1 which includes open space on parking podiums, rooftops, upper-story setbacks and areas where there is a transition from corridor development to low density residential neighborhoods.

- *Policy N8.2 Making Compatible Interfaces between Densities notes that "the height of development in urban residential and other high density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between developments."*

The Project meets this Policy and Commercial Corridor Guideline 5.5.2 (Create a transition from larger development on the corridors to lower density residential homes behind the development.) The Project is in the CN-3 Zone and is adjacent to the lower density RM-2 Zone at the rear. The Project is set back from the rear property line, and the building steps to provide this required transition.

The Project does not step back from the property on the adjacent interior side, although a setback is provided. This property, while it is of low-density now, is not in a low-density zone but is also in the CN-3 Zone. Per Commercial Corridor Guideline 5.5.1 (Transition a building to a desirable and consistent height context), a transition is generally only needed in a desirable context near adjacent highly rated structures (those rated "A" or "B" by the City's Office of Cultural Heritage Survey) or within a historically rated district that has a consistent height context. In addition, a transition is not needed if the construction is less than a story above the existing height context. In this case, the height context is 35 feet, and the proposed height is 43 feet (less than a story or 12 feet). Finally, the Guideline notes that "Several areas of the corridors are outside of ASIs and APIs and have a consistent but low height context (usually one- to two-stories), with buildings that have a poor or undistinguished design. New construction does not need to transition to this type of context. In these cases, the General Plan's vision for growth on the corridors takes precedence over providing transitional features in new development."

While the frontage along Shattuck in this area is mostly one-two stories, the Zone envisions a higher density, the area is not in an API or ASI, the adjacent buildings are not historically rated,

and the building designs are a mix of architectural styles. Hence, a transition from the adjacent interior side neighbor is not required.

- *Policy 11.3 Requiring Strict Compliance with the Variance Criteria notes that “as variances are exceptions to the adopted regulations and undermine those regulations when approved in large numbers, they should not be granted lightly and without strict compliance with defined conditions including evidence of hardship caused by unique physical or topographical 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 or grant of 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.”*

The Project and the Zoning Manager’s decisions meet this policy. First, the adopted Variance Findings in the Planning Code implement this policy. These Findings state that for Minor Variances, such as the ones requested by the Applicant, staff can also consider effective design solutions fulfilling the intent of the policy and improving the livability, operational efficiency or appearance. Staff made the applicable Variance Findings in the decision letters, applying the correct criteria. Second, staff does consider how often Variances are granted and does revise the Planning Code when revisions are necessary as noted in the Zoning Table above.

Summary

The project meets the General Plan objectives, goals, and policies including the ones cited above. However, it should be noted that the Oakland General Plan contains many policies that in some cases address different or competing goals. The Zoning Manger, for staff level cases, and the Planning Commission for larger cases and on appeal, in deciding whether to approve project applications, must assess whether the project is consistent with the overall policies of the General Plan and must balance competing General Plan goals and objectives as part of their consideration. Based on substantial evidence in the record, staff has concluded that the Project does meet the General Plan’s intent, character, use and overall goals.

- 25. The project irreparably and unnecessarily affects the livability and enjoyment of the house and garden located at 6525 Shattuck Avenue.**
- 26. The plan will shade the gardens of adjacent residents.**

(Issues 19 and 24)

The Appellants allege that the Project will irreparably and unnecessarily affect the livability and enjoyment of the house and garden. However, the Appellants do not describe exactly what will be affected, so staff cannot directly respond.

Staff Response

The Project will provide a new multi-family infill building on a vacant, former gas station. Again, to address neighbor concerns, the Project has been revised several times to reduce the number of units and parking from 20 to 18, include a 3-foot setback and planting strip to the rear of the project for landscape screening, a 5-foot setback along the adjacent neighbor to the north, a smaller open space area to the rear and more on the roof, a 6-8 foot upper-story setback, smaller fourth floor building footprint, as well as significant façade design changes. These changes were made to improve the livability of the properties to the rear and to the property to the north.

The discussion of compliance with LUTE Policy N3.9 above includes staff’s response to the Project

shading adjacent gardens.

27. **The City should apply diligent oversight to this applicant.**
28. **Since we do not have reliable information on what auto-motive-related activities occurred in the remaining structure, it would be reassuring to see an assessment showing that there is no residual environmental impacts as the site is redeveloped.**
29. **The project moved forward in the past without enforcement of safe building practices. As this project moves forward, increased monitoring would reassure neighbors that no corners are cut during future activities.**

(Issues 15, 28 and 29)

The Appellants allege that the additional oversight should be provided to the Applicant, there should be an assessment showing no additional issues with development based on the prior use and there should be increased monitoring during construction.

Staff Response

First, as noted in the *Environmental Determination* section above, the site is located on the Cortese List due to the former gas station and service center use and site contamination.

Second, the site was evaluated by the ACDEH who accepted an oversight role, and several actions have occurred to ensure the site was suitable for residential development. On September 12, 2016 ACDEH issued a letter concluding that the level of clean-up is suitable for residential and commercial use and no further action is required.

Third, staff prepared a CEQA analysis per CEQA Guidelines Section 15183.3 (Streamlining for Infill Projects). The analysis also concluded that implementation of the Project would not substantially increase the severity of significant impacts identified in previous EIRs nor would it result in new significant impacts related to hazards and hazardous materials. Staff included Conditions of Approval related the contamination, and these have been found to mitigate environmental effects despite the closure letter from ACDEH.

In sum, the site has been deemed acceptable for residential development and no enhanced monitoring or oversight other than what typically occurs during the construction process is necessary. However, given the neighbors' concerns and past issues with unpermitted work, staff did include Conditions of Approval #12 and #13 related to submittal of and adherence to a Compliance Matrix and a Construction Management Plan.

30. **The application should have included a landscape plan by a licensed landscape architect. Trees should be placed next to the wall; however, the wall will make the trees hard to maintain and will block views of the trees for the building occupants. The plan should include a plant palette and potted shrubs and trees should installed throughout the project to create a unifying plant theme. The vines on the trellis should be removed unless a soil medium is included.**

(Issue 30)

The Appellants allege that there should have been a final landscape plan prepared by a professional landscape architect with additional suggestions for the plants and open space.

Staff Response

The Appellant is correct that the Basic Application required submittal of a landscape plan, and one was not submitted. However, as noted above, staff did not issue an Incomplete letter noting this deficiency and the application was “deemed complete”. However, staff has added the standard Condition of Approval #17, applied to all projects, that a landscape plan be submitted, and staff will ensure that the landscape requirement is met during building plancheck.

Per the Application and Planning Code Section 17.124, the landscape plan is not required to be completed by a landscape architect nor is it a requirement to have a unifying palette or plant theme. Finally, while the vines would add interest and soften the top of the building, they were not required for staff to make the Design Review Findings. However, staff agrees that if they are proposed as part of the final landscape plan that that they should be planted in a planter and have adequate soil for optimal growth. Staff will review as part of the final landscape plan.

31. The project should include bike racks for people visiting the project.

(Issue 31)

The Appellants allege that additional bike parking should be included for visitors.

Staff Response

Per Condition of Approval #44, bicycle parking is required. Specifically, per Planning Code Section 17.117.090, five long-term spaces and two-short term spaces are required for the residential units. Per Planning Code Section 17.117.110, two long-term and two short-term spaces are required for the commercial space. The short-term spaces are for guests while the long-term spaces are for residents. Staff will ensure that the bicycle requirement is met during building plan check.

32. A portion of the parking lot should be for employees and patrons of the commercial space as parking is very limited.

(Issue 32)

The Appellants allege that parking should be made for use by the commercial activity.

Staff Response

Per Planning Code Section 17.116.060, one parking space is required for each residential unit. As such, the project provides 18 parking spaces. Per Planning Code Section 17.116.080, the minimum size for which parking is required for commercial spaces is 3,000 square feet. As the size of the commercial space is only 1,975, parking is not required for the employees or patrons of the commercial area. As such, City staff cannot require parking for the commercial use.

Finally, it should be noted that with the current Planning Code, parking for the commercial space is still not required for spaces less than 3,000 square feet. In addition, the City Council adopted Section 17.116.110 (Special parking exemptions and reductions) which allows projects which have at least 5 units to reduce the parking requirement to 50% in transit accessible areas. Shattuck Avenue is considered a transit accessible area as it is near several AC Transit lines and approximately five blocks from the Ashby BART station.

Discussion of Appeal 2

Appeal 2 was filed in response to the August 5, 2020 decision letter on the two additional permits. The following is a discussion of the summarized issues raised in Appeal 2 along with staff's response to each point. The Appellant argues that findings made by the Zoning Manager are not supported by substantial evidence, are erroneous, and constitute abuse of discretion. Each appeal allegation is shown in **bold text**, and the staff response follows each point in regular type. In some instances, the arguments have been grouped together or re-ordered as they relate to one topic. In all instances, the previous Planning Code as amended April 15, 2010 is used to respond to the allegations; although staff does provide a comparison to the current Planning Code in some instances for reference.

1. **Despite the larger building envelope allowed under the old Zoning, the design seeks multiple variances which underscores how ill-suited the current design is for the available space and negatively impact the site as well as the surrounding neighborhood.**
2. **Granting the variances constitutes a special privilege because it enables the overbuilding of the site.**
(Issue 1 and 3)

The above allegation generally contends that the Project with the Variances is ill-suited to the site and neighborhood. incomplete and inaccurate at the time submittal and should not have been deemed complete.

Staff Response

The Project only requires two Variances, one for the podium height in the setback and the other for open space on the roof. Variance findings A-B allow staff to consider an effective design solution improving livability, operational efficiency, or appearance of the building as part granting the permit. In terms of the open space Variance, staff sees no other alternative to the Variance for open space which would not affect some other aspect of the Project. If the open space were to be placed on the ground level, then a Variance for a parking reduction would be needed or the commercial area reduced which would be contrary to the Commercial Corridor Guidelines. If the open space were to be increased on the podium without intruding into the setback, the unit count may stay the same, but the unit sizes would need to be reduced. Furthermore, the neighbors are already concerned about impacts arising from the rear yard open space such as noise and privacy. Adding a larger podium space would only exacerbate these issues. Adding additional private open space balconies to substitute for the group open space on the 2nd and 3rd floors in between the bay windows would result in a flat and bulky building. The balconies would need to be further extended by about an additional 2 feet over the sidewalk, though this could meet the open space requirement. In terms of the podium in the setback Variance, the only alternative is to either move the entire podium out of the 15-foot setback area, the constraints of which are discussed above, or reduce the height of the podium to 9 feet including railings. This would make the ground floor building unable to meet Building Code with only 6-foot ceilings.

Variance C requires staff consider the character, livability, or appropriate development of abutting properties or the surrounding area. Staff has responded to the argument that the project would result in these impacts in Appeal 1 argument 19-21, 23, 24, 25, and 26 above.

Variance D requires staff to consider special privilege of granting the exception as well as inconsistencies with the purpose of zoning requirement. Staff discusses the issue of special privilege in response to Appeal 2 arguments 6e and 3 below.

In sum, staff found, that the Variances could be supported, and the design was well-suited to the site and a commercial corridor.

3. **The variances for open space preclude the efficient operation of the neighboring properties by blocking sun, creating privacy issues, allowing garage ventilation into neighbors' yards, and creating an imposing presence along the street and sidewalks. The building covers the entire site and taller walls and landscaping up against the fence exacerbate solar access and privacy impacts.**
4. **The letters and diagrams we've already submitted clearly show, the proposal has significant and numerous negative impacts on neighboring properties (livability or appropriate development of neighboring properties) which could easily be avoided.**

(Issues 2 and 5)

The above allegation generally contends that the Project with the Variances creates impacts on neighbors and that these impacts could be avoided with a different design which would improve livability for neighbors.

Staff Response

See staff's response to the Appellant's assertion that the project will cause numerous negative impacts and impact the livability and appropriate development of surrounding properties in Appeal 1 argument 15-16, 18, 20, 22, 24-26 above.

5. **The drawings misrepresent the design of the project and surrounding conditions including: 1) not showing the elevator extension to the rooftop open space or the tall rooftop parapet walls needed for safety and privacy; 2) not showing the footprint or analysis of impacts on neighboring properties; and 3) shifting the property line on the elevations so the site appears bigger and the building massing appears as though it steps away from the perimeter, when in fact, it looms over the sidewalk and adjacent neighbors. The lack of complete and accurate information has contributed to an unfair public process since new people have moved here in the past decade who are rightly confused by the unconventional procedures as well as not having access to the old regulations that this project was dubiously grandfathered into so many years ago.**

(Issue 6)

The above allegation generally contends that the Project with the drawings misrepresent the site, and as such, this lack of information has led to an unfair process especially given the amount of time that has passed since the application and the Zoning Update.

Staff Response

See staff's response to the misrepresentation of the drawings and lack of or accurate information in Appeal 1 argument 9 above.

The Project has been in review for 10 years and was noticed four times (2011, 2015, 2018, and 2019). As such, the public had ample time to review plans, ask for clarification on the plans, participate in the Zoning Update process which changed the zoning for the site but exempted "deemed complete applications", or request a copy of the old and current Zoning Codes.

6. **The City's justifications for approving the Variances and Use Permit are incorrect:**
 - a. **The changes (between pre-application and application and relocation of the open space to the roof) do not address the impacts, and aggravate the issues.**

- b. Neighbors have repeatedly demonstrated through letters and diagrams, there are other practical and feasible design changes to the variance for open space that would address the issues without affecting the unit count.**
- c. Without removing the 17-foot tall podium / open space / screening walls from the rear yard setback, this double variance fails to address the neighbors' primary concern.**
- d. All the neighbors on the West and the neighbors on the North agree on prioritizing the removal of the podium structure from the rear yard setback because of the severe and extensive negative impacts it poses on all abutting neighbors.**
- e. Staff's Variance Finding D which claims no grant of special privilege because "the project as a whole, with both group and private open space, exceeds the overall requirement..." is a better argument against approving another variance rather than in support of it. The fact that there is an excess of 1000 square feet of group open space on the building means that the offending podium structure can be eliminated.**

(Issues 7a-e)

The above allegations generally contend that staff's justifications in the Findings for approval are incorrect as the changes between pre-application and application do not address the impacts on neighbors, there are other feasible designs avoiding the Variances, and this is a grant of special privilege.

Staff Response

In response to statement a), staff disagrees. The changes between the pre-application and application included reducing the number of units, moving open space to the roof, including a 5-foot setback along the interior side property line and a 3-foot setback along the rear, moving the stair and elevator away from the property line, stepping the building, and setting the upper floor back. These changes were implemented to address neighborhood concerns and alleviate the issues albeit not to the full extent that neighbors wished.

In response to statement b), see response to Appeal 1 at issue 21 above.

In response to statement c) and d), staff would be supportive of removal of the open space on the podium and including this on the roof. However, this does not seem feasible. First, the project is providing 1,350 sq. ft. of group open space and of that, 682 sq. ft. is on the roof. This means that an additional 668 of group open space would need to move to the roof. In addition, the podium includes 233 sf of private open space. As such, moving this private open space into the rooftop for group open space would require 233 more square feet on the roof for a total of 1,816 sq. ft. (682 +668 +233). This is almost half the footprint of the roof and does not leave room for mechanical equipment, the elevator and stair tower, slope necessary to drain water from the roof, etc. Second, removal of the open space on the parking podium would result in more parking not covered by a structure.

In response to statement e), the intent of the open space requirement is to provide an outdoor amenity to residents in an urban environment need for leisure, recreation, and space within the City. The Planning Code also includes standards such as the location, size and shape of open space with the understanding that the closer a resident is to it and the larger it is the more the space will be used. The requested Variance is for the location of the open space. Staff concluded that open space Variance was justified in part since the project is providing almost 1,000 square feet more required open space. In addition, if the new zoning requirements were considered, the Project would be providing more than double the requirement. In sum, staff found that there was no grant of special privilege because the project was consistent with the purposes of the zoning regulations. Staff has taken a similar approach on other projects.

7. **The City's justifications that the project meets the eight guiding principles in the Design Guidelines for Corridors and Commercial Areas are merely statements without any critical analysis.**
- (1) The proposed building does not create a sense of place - in fact it looms over the sidewalks and adjacent neighbors, and is alien to the area in its design, lot coverage, and building type.**
- (2) The proposed massing does not create a sense of place for pedestrians - it looms over the property lines with building projections and an incongruous scale that makes for an uncomfortable pedestrian experience.**
- (3) The proposed design rejects the diversity of the existing neighborhood and proposes a generic building type that is too big for the site and overbearing in its presence, uniform and unremarkable.**
- (6) The design does not create transitions in height and massing away from neighbors since it places a 17-foot tall mass (the podium) where open space is supposed to be, negating the benefit of stepping that is done at the upper levels (and only on the west side). The design does not step the massing away from the Northern neighbors as the 5-story tall elevator shaft is within five feet of the North side property line, thereby creating an even more imposing scale, and further blocking solar access and light.**
- (7) There are no "sustainable design techniques" employed. The whole property is covered with building and paving. The landscape plan is completely inaccurate and inadequate. And the 3-foot wide strip along the rear fence line, which was supposedly created to address neighbors' concerns, is filled up with a thick masonry wall, a fence, with no room (or access) for trees or planting. At-grade open spaces, gardens and solar access in present COVID-19 era are important to keep people and cities healthy. However, the proposed design blocks sun and air to all its adjacent neighbors as well as to the streets and sidewalks abutting the property.**

(Issues 9 (1-3, and 6-7))

The above allegations generally contend that staff's justifications in the Findings for approval regarding Project compliance with the eight guiding principles in the Design Guidelines for Corridors and Commercial Areas is incorrect as the Project looms over the sidewalk and neighbors, is not compatible in design, lot coverage, and building type, creates an unpleasant pedestrian experience, does not transition away from neighbors or include sustainable building techniques the landscape plan is inaccurate and there are solar impacts to neighbors.

Staff Response

In response to sub-argument 1 and 2 that the building looms over the sidewalk and adjacent neighbors, is alien to the area in its design, lot coverage, and building type, and its massing does not create a sense of place for pedestrians. (See the City's response to Appeal 1 arguments 12-14, 17 and 19). Furthermore, Commercial Corridor Guideline 4.4.1 includes the following "Couple the tree canopy with projections from the building, such as an awning, to define the pedestrian space." In this instance the street trees with the projecting bay windows help to define and improve the pedestrian space. In addition, the Project provides a large storefront area and a stone tile base per Guideline 4.2.4 which provides visual interest to pedestrians and distinguishes the ground floor from upper floors.

In response to sub-argument 3, see the City's response to Appeal 1 arguments 12-14, 17 and 19 regarding massing and height. In response to the argument that the design is uniform and unremarkable, staff found that the project met the Commercial Corridor Guidelines and Design Review Findings. Specifically, the building has a base, middle, and top, had different planes and masses, has a consistent use of materials, colors, window orientation and pattern, and proportions.

In response to sub-argument 6, the Project does create a transition in height and massing away from neighbors to the rear. The Project provides an 8' setback at the rear. Then the Project rises to 13 feet plus an approximate 4-foot railing for the podium and group open space patios. However, given the open nature of the garage only the podium ceiling and railing is visible. The building façade is set back 18 feet from the podium edge. At the 4th level, the building is 25 feet away from the rear property line. This transition is consistent with Commercial Corridor Design Guideline 5.5.2.

On the northern side, along Shattuck, there is a 5-foot interior setback which is not required per the Planning Code. Also, see the City's response to Appeal 1 arguments 12-14 and 24-26 above.

In response to sub argument 7, the Project is employing the sustainable design techniques noted in the Commercial Corridor Design Guideline 6.4.1, which requires that stormwater be treated on-site, and the Project use green building techniques. Per Condition of Approval #32 and state law, the Project will comply with the Municipal Regional Stormwater Permit to treat stormwater on-site. Per Condition of Approval #46 and 51, the Project will add Plug-In Electric Vehicle (PEV) Charging Infrastructure and comply with the City and state Green Building requirements. Concerns regarding the landscape plan in Appeal 2 argument 14 are discussed below. The purpose of the wall/fence at the rear of the property is to screen the open parking under the cantilevered building from neighbors. Staff believes that the area is also adequate for planting purposes, and staff will be reviewing the final landscape plan to ensure this area is planted. Concerns regarding the proposed Project's solar impact on neighbors is addressed in staff's response to Appeal 1 arguments 24-26 above.

8. **The corridor already has a signature building - the Nomad Cafe - an award-winning design that reinforces the best qualities of our diverse neighborhood in its site planning, building massing, and building materials. It serves as a good example of the kind of a site-specific approach to design.**

(Issue 10)

The Appellants argue that the area already has a signature building which is a good example of site-specific design.

Staff Response

While the exterior design of the proposed Project is different and less modern than the building that contains the Nomad Café, both were found to meet the Residential Design Review Findings. Both Projects have a signature element that define the corner, in accordance with the Commercial Corridor Design Guideline 7.1.1 about providing visual interest and activity at street corners, and both Projects have a similar design program as detailed in Appeal 2 arguments 9-12 below.

9. **The Conditional Use Permit justifications continue to misrepresent the existing neighborhood context and the impacts on neighbors. The existing context includes a strong neighborhood pattern of organically shaped building footprints with ample rear yards; open spaces between buildings; and building facades that are set back from the edge of the sidewalk thereby allowing room for planting that softens the edges along Shattuck Avenue and 65th street.**
10. **The proposal does not reinforce the character of this corridor. The monolithic building style and lack of ground level open spaces are alien to the neighborhood and detrimental to the positive urban character of the area.**
11. **There is a context of architectural styles - just not a uniform one. The context is of diverse building styles with open spaces on all sides of the building, including along Shattuck Avenue and 65th street. The proposed design detracts from the established pattern of buildings that**

have a good ratio of open space between neighbors, and creates undesirable conditions for neighboring backyards and the street and sidewalks.

- 12. No other properties have completely covered their site with building, and there exists a clear pattern of open space that makes the small neighboring properties livable.**

(Issues 8, 9(5), 11 and 4)

The Appellants argue that the CUP Findings misrepresent the neighborhood and there is a context of buildings surrounded by open space which the Project does not have.

Staff Response

In the January 18, 2019 Decision Letter and the August 5, 2020 Decision Letter Findings, staff noted that 1) the buildings in the area are a variety of architectural styles and materials, 2) the Project is in a mixed-use area, surrounded by a mix of building types and heights and 3) there is no harmful effect on the neighborhood considering the mixed planning context and the Zoning, which envisions higher density on the corridors such as Shattuck Avenue. Furthermore, as noted in the *Property and Surrounding Area* section of this report, the neighborhood includes low to medium density residential and commercial buildings which are one- to three-stories.

Appellant 2 is correct that for residential properties along Shattuck as well as on the side streets, the buildings are set back from the street, have open areas for driveways, and have rear yards. However, for mixed-use and commercial uses, the buildings are located directly at the sidewalk, are built to the side lot lines, and have minimal rear yard open spaces like the proposed Project, usually for parking.

In sum, there is a mixed context related to building setting between the residential and commercial properties along Shattuck. The Project meets the Commercial Corridor Guidelines regarding building placement near the sidewalks and close to side property lines. However, staff found that Guideline 5.2.1 did not apply as there was no strong “design vocabulary,” such as a particular building pattern, entrance location, building scale and proportion, or massing.” The Project will provide street trees and a large commercial storefront defining and providing street activity.

- 13. The design inefficiently and expensively extends the tall concrete and steel podium structure all the way to the rear and creates many issues.**

(Issue 12)

The Appellants argue that the design is inefficient, expensive and creates issues.

Staff Response

Staff did note in the Residential Design Review Findings that the design is both efficient and functional. The design is typical of almost all mid-rise buildings on corridors, including the multi-family building across the street on Shattuck, in that the ground floor and lobby are located along the corridor, driveways are located off the corridor with parking underneath and open toward the rear, open space is located toward the rear with balconies to ensure a continuation of the street wall along the corridor, and residential units are located above. As such, the design is efficient and functional.

The proposed Project does not extend all the way to the rear. There is an approximately 8-foot setback from the property line to the podium ceiling and railing. Appellant 2 does not note which

issues the podium creates. However, staff has addressed the supposed privacy, noise, views, sunlight, issues of the podium structure in Appeal 1 arguments 15-16, 18, 20, 22, and 24-26.

- 14. The areas shown for landscaping are inadequately sized. A realistic and accurate conceptual landscape plan is required as part of the application for such projects, and should be required and reviewed before an approval is issued.**

(Issue 13)

The Appellants argue that the landscaping is inadequately sized, and that a realistic and accurate landscape plan should be submitted now for review.

Staff Response

First, the C-10 Zone requires 150 sq. ft. of group open space per unit (2,700 sq. ft. open space for 18 units) or 30 sq. ft. if private open space is substituted. The Project is providing 1,350 sq. ft. of group open space and 4,380 sq. ft. of private open space for a total of 5,730 sq. ft. which meets the C-10 Zone requirements. The Planning Code in Section 17.124 requires that a landscape plan be submitted but does not require a specific amount of landscaping. Planning Code Section 17.126 describes the size and shape of the required open space. The proposed group and private open space meet the size and shape requirements. As such, the open space is appropriately sized.

Also, see Appeal 1 argument 30 for additional City response related to the submittal of a landscape plan and the standard Condition of Approval #17, applied to all projects regarding submittal of a landscape plan.

- 15. There is no guarantee that the building construction and materials will be of high quality or that staff will be able to adequately review and hold the developer accountable later on. In fact, the developer is known throughout Oakland and the Bay Area for doing work without proper approvals, building substandard buildings and poorly maintaining his properties.**
- 16. The developer has an established record of cutting corners, breaking laws, misrepresenting data, and avoiding accountability. The City is too understaffed to catch any transgressions. Deferring documents to the review during the building permit process is not fair or even practicable and should be done during the public process (by neighbors). Correct and complete documents should be submitted for public review before further decisions are made on this application.**

(Issues 9(4) and 14)

The Appellants argue that there is no guarantee the building will be of high-quality, staff will not be able to hold the developer accountable later, and that the developer has a habit of not compiling with the Conditions or requirements, and deferring documents is not fair or practicable as part of the public process.

Staff Response

Staff has included Condition of Approval #48 related to architectural detailing and building materials and #49 related to windows to ensure a high-quality design.

As noted above in Appeal 1, given the neighbors' concerns and past issues with unpermitted work, staff did include Conditions of Approval #12 and #13 related to submittal of and adherence to a Compliance Matrix and a Construction Management Plan which both Planning and Building staff will review upon submittal.

The plans provide sufficient detail for the public to review and staff to make a decision on based on the required Findings. Building permit level plans are not required at this stage. The City always requires submittal of a final landscape plan for both residential and non-residential projects per standard Condition of Approval #17. This Condition recognizes that the landscape plan and other details may change as the Project moves from planning related drawings to building permit plans.

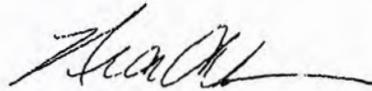
CONCLUSION

The Appellants have not demonstrated an error or abuse in discretion by the Zoning Manager, thus City staff believes that the Decisions are valid, accurate, and reasonable, and supported by substantial evidence in the entire record. There is no reasonable basis for overturning staff's determination, as reflected in the Findings for and Conditions of Approval. As such, staff recommends that the Planning Commission uphold the Zoning Manager's decisions and deny the Appeals.

RECOMMENDATIONS:

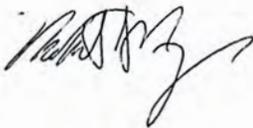
1. Affirm staff's environmental determination, and
2. Uphold the Zoning Manager's decisions and CEQA determination based on the Findings and Conditions of Approval.

Prepared by:



HEATHER KLEIN
Planner IV

Reviewed by:



ROBERT MERKAMP
Zoning Manager

Approved for forwarding to the
City Planning Commission:



EDWARD MANASSE
Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Approved Project Plans, dated August 9, 2015

- B. Zoning Manager's Decision dated January 18, 2019 with CEQA Findings
- C. Appeal 1 filed by Chris Hall on behalf the Neighbors of 6501 Shattuck with supplemental information, dated January 28, 2019
- D. Zoning Manager's Decision dated August 5, 2020
- E. Appeal 2 filed by Caitlin Stuart on behalf of on behalf Evan Magers, Siegfred Mall, Chris Hall and Vasilica Hall, Corey McCannon and John Faust, Ian Martin, Vibeke Norgaard, David Vartanoff, Stephen Glaudemans and Guita Boostani
- F. Project Consistency with the General Plan.
- G. CN-3 and C-10 Zoning Regulation Comparison Table
- H. 6501 Shattuck Avenue Mixed-Use Project CEQA Analysis (can also be found via the following [link:http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157](http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157).)
- I. Basic Application submitted by the Applicant, received July 14, 2010.
- J Public Comments

LEGAL NOTICE:

ANY PARTY SEEKING TO CHALLENGE THIS DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE ANNOUNCEMENT OF A FINAL DECISION, PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.

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CORNER STREET VIEW

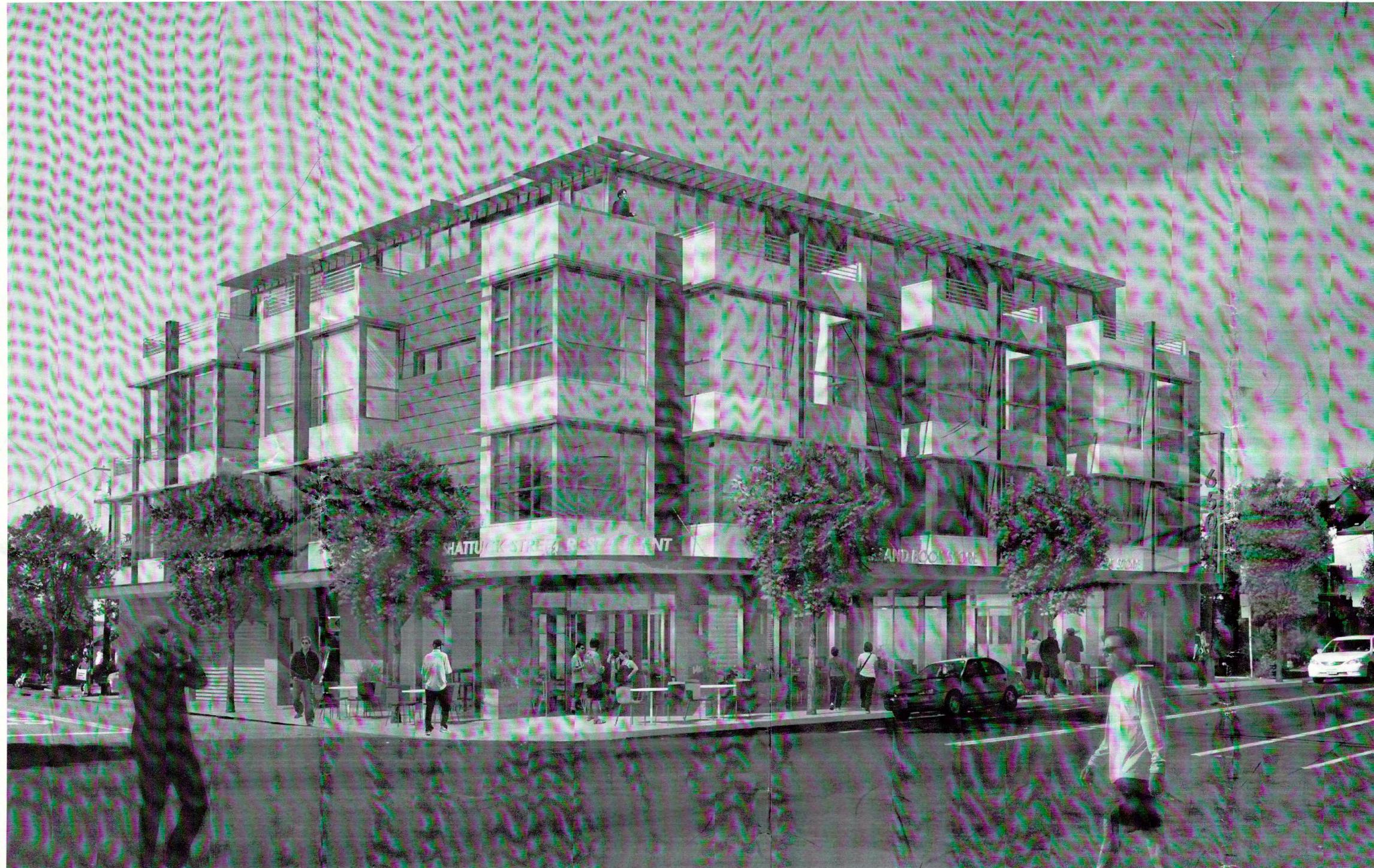
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6501 SHATTUCK AVENUE

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August 9, '15

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CORNER STREET VIEW

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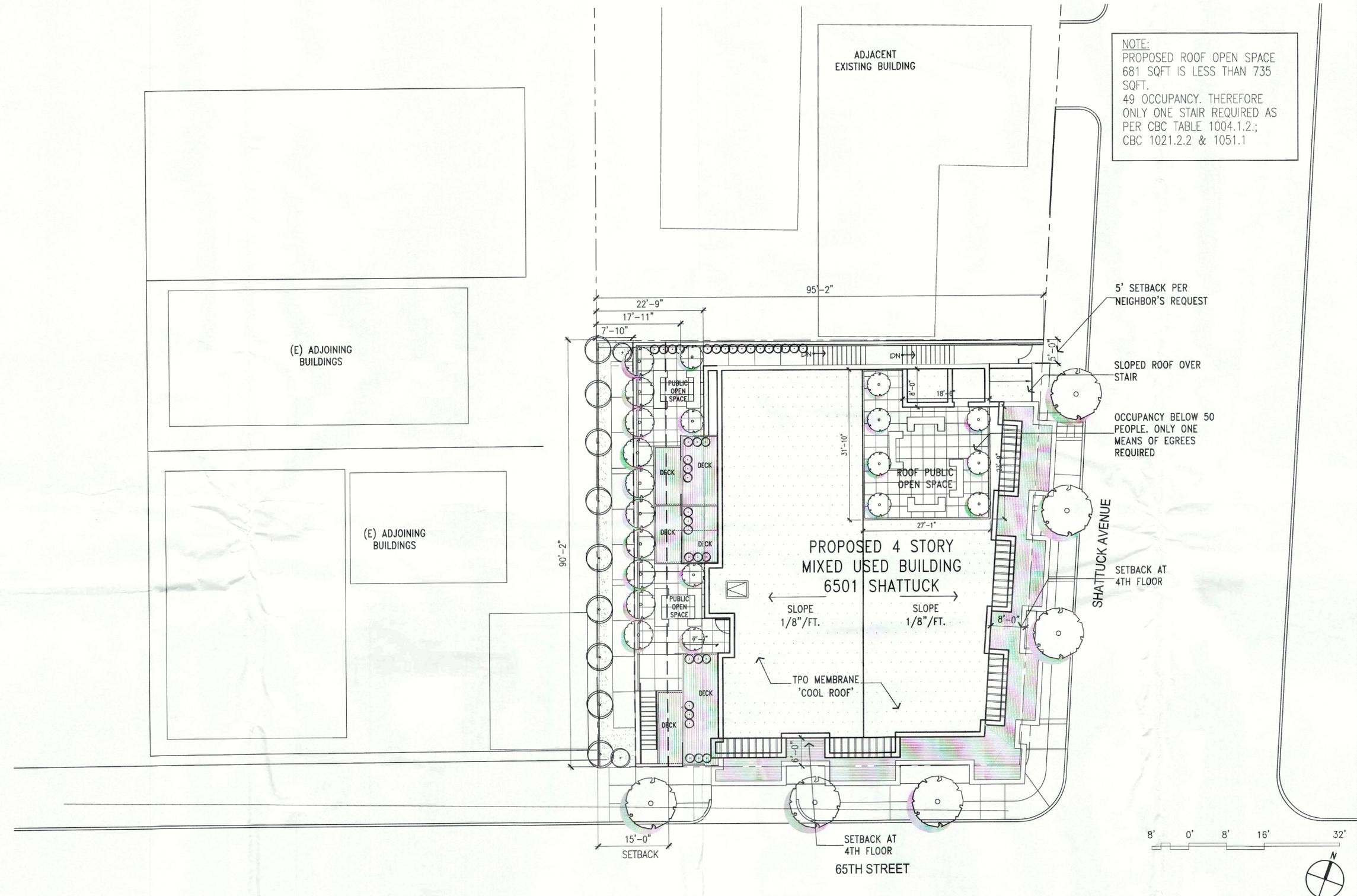
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NOTE:
PROPOSED ROOF OPEN SPACE
681 SQFT IS LESS THAN 735
SQFT.
49 OCCUPANCY. THEREFORE
ONLY ONE STAIR REQUIRED AS
PER CBC TABLE 1004.1.2.;
CBC 1021.2.2 & 1051.1

5' SETBACK PER
NEIGHBOR'S REQUEST

SLOPED ROOF OVER
STAIR

OCCUPANCY BELOW 50
PEOPLE. ONLY ONE
MEANS OF EGRESSES
REQUIRED

SETBACK AT
4TH FLOOR

PROPOSED 4 STORY
MIXED USED BUILDING
6501 SHATTUCK

SLOPE
1/8" / FT.

SLOPE
1/8" / FT.

TPO MEMBRANE
'COOL ROOF'

SETBACK AT
4TH FLOOR
65TH STREET

8' 0' 8' 16' 32'



SCHEMATIC SITE PLAN

SCALE: 3/32" = 1'-0"

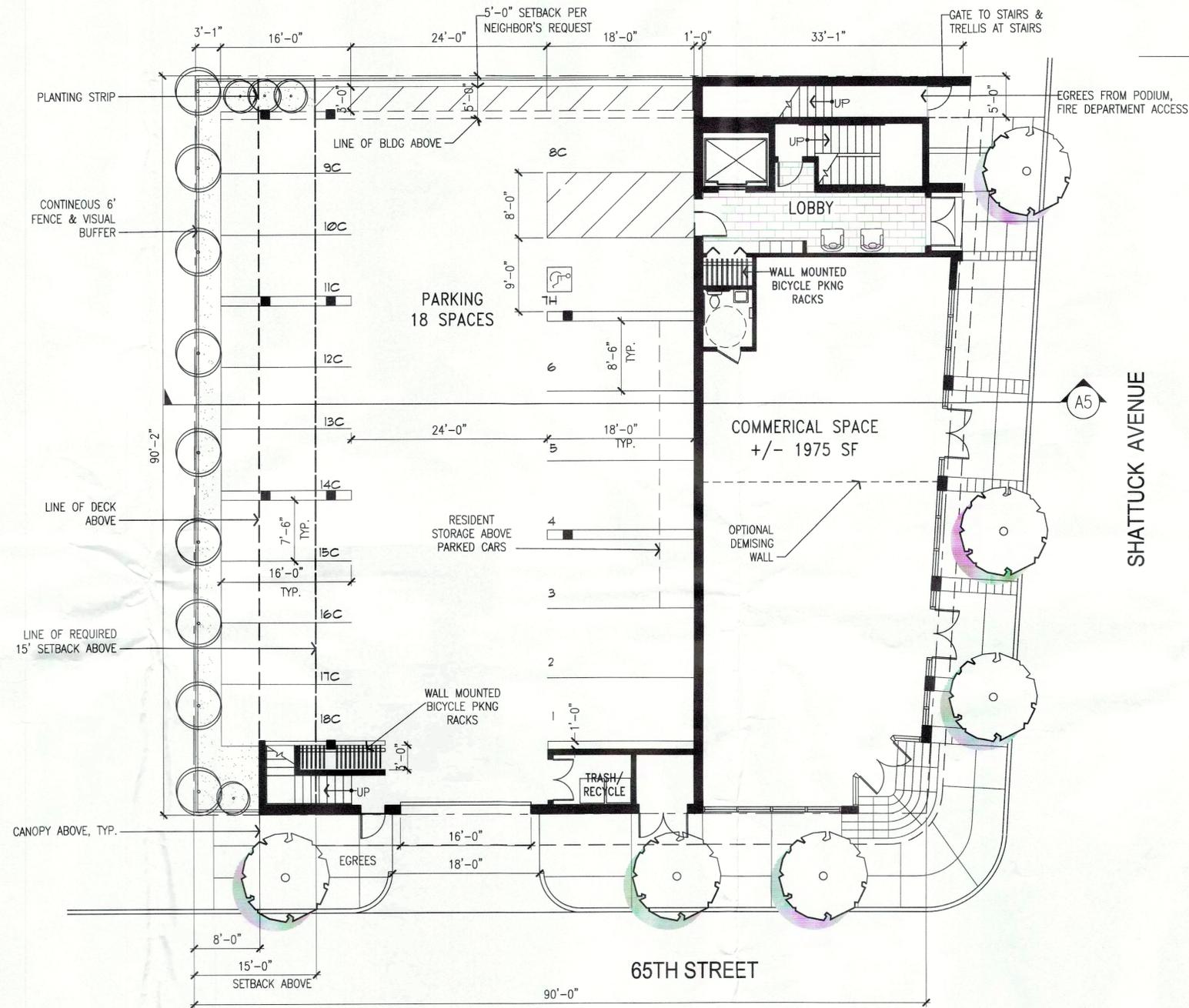
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SUMMARY

LOT SIZE	8334 SF
COMMERCIAL	1975 SF
RESIDENTIAL	
2ND FLOOR	5641 SF
3RD FLOOR	5641 SF
4TH FLOOR	4223 SF
	15505 SF
JR. 1 BR	6 UNITS
1BR	6 UNITS
2BR	6 UNITS
	18 UNITS
PARKING	18 SPACES
STANDARD	6 SPACES
COMPACT	11 SPACES
VAN ACCESSIBLE	1 SPACE
REQ. OPEN SPACE 18 UNITS * 200 SF/UNIT	3600 SF
PROVIDED OPEN SPACE	4759 SF
REQ. PUBLIC OPEN SPACE 18 UNITS * 75 SF/UNIT	1350 SF
ROOF PUBLIC OPEN SPACE NOT TO EXCEED 720 SF (20% OF TOTAL)	682 SF
PODIUM LEVEL PUBLIC OPEN SPACE	901 SF
PROVIDED PUBLIC OPEN SPACE	1583 SF
REQ. PRIVATE OPEN SPACE (1:2) (3600 SF-1350 SF)/2 = 1125 SF	1125 SF
2ND FLOOR	233 SF
4TH FLOOR	1340 SF
PROVIDED PRIVATE OPEN SPACE	1573 SF
1573 SF * 2 = 3146 SF	3146 SF

GROUND FLOOR PLAN

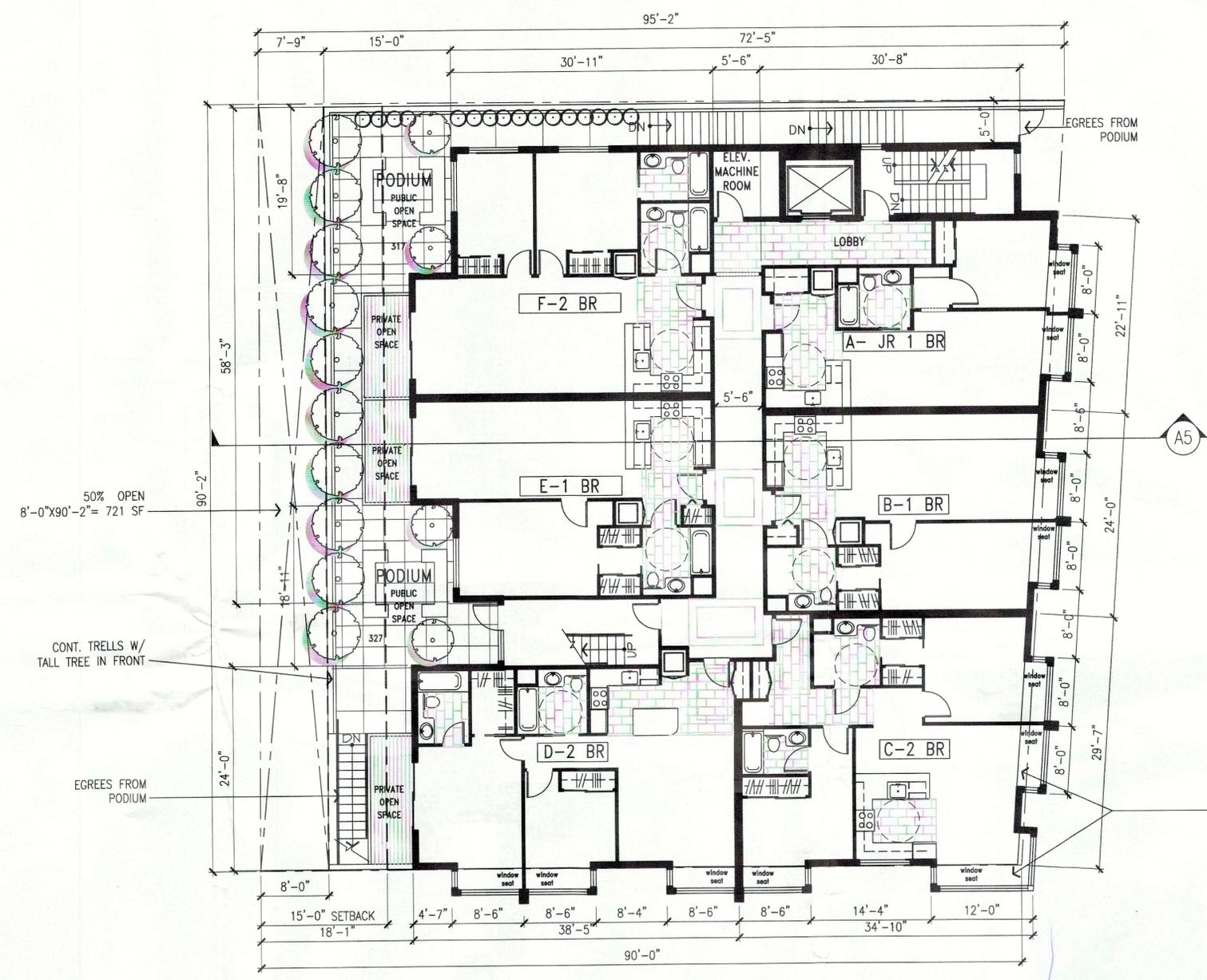


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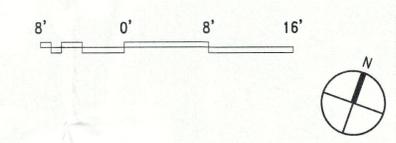
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UNIT AREAS:

UNIT A - JR 1 BEDROOM	443 SF
UNIT B - 1 BEDROOM	783 SF
UNIT C - 2 BEDROOMS	951 SF
UNIT D - 2 BEDROOMS	928 SF
UNIT E - 1 BEDROOM	795 SF
UNIT F - 2 BEDROOM	980 SF
UNIT G - JR. 1 BEDROOM	659 SF
UNIT H - 1 BEDROOM	778 SF
UNIT I - 2 BEDROOM	958 SF
UNIT J - JR. 1 BEDROOM	547 SF
UNIT K - 1 BEDROOM	668 SF
UNIT L - 1 BEDROOM	824 SF
UNIT M - JR. 1 BEDROOM	592 SF
UNIT N - JR. 1 BEDROOM	604 SF

WINDOW SEATS AT ORIOLE WINDOWS TYP.



2ND PODIUM FLOOR PLAN

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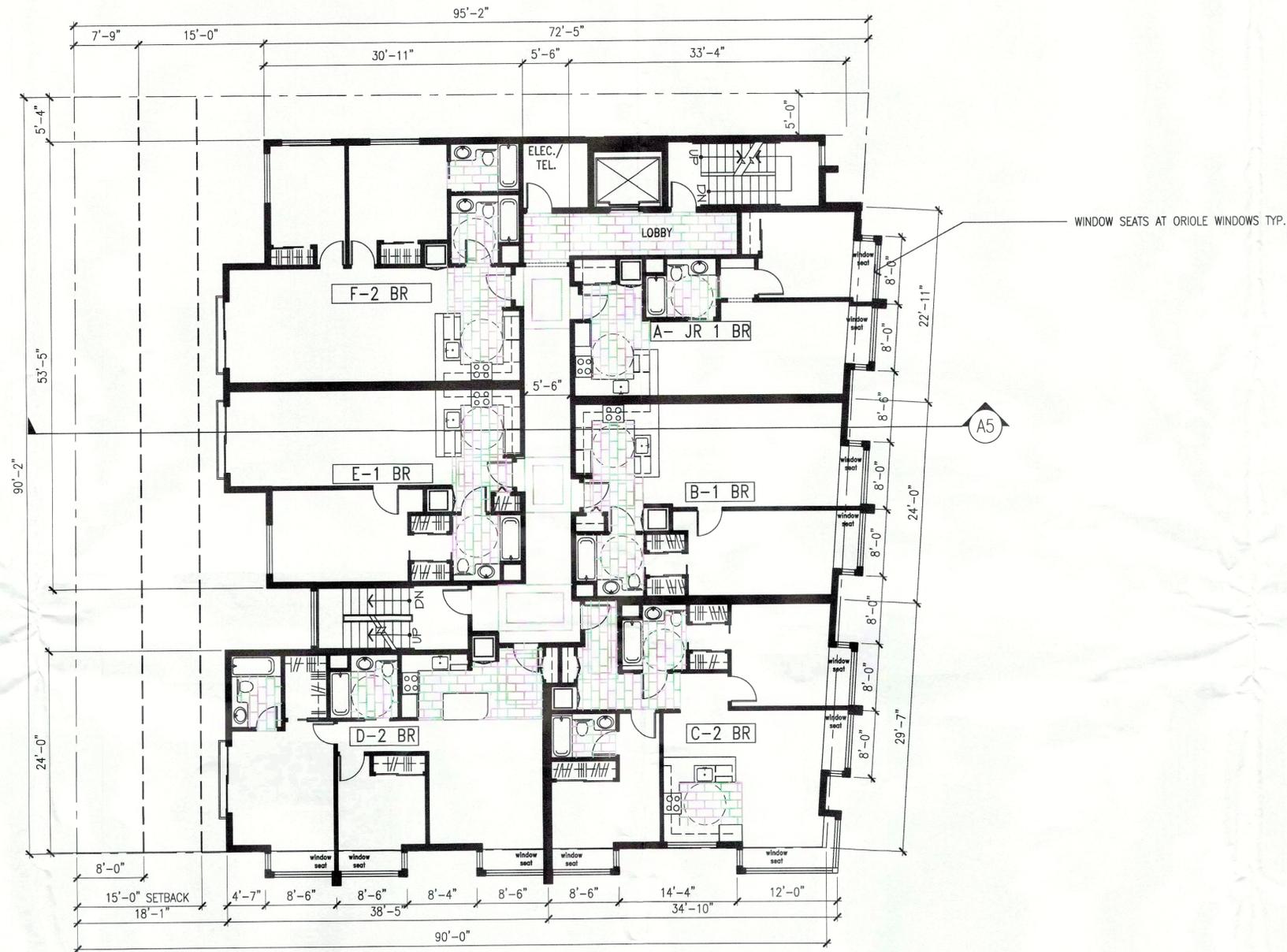
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3RD FLOOR PLAN

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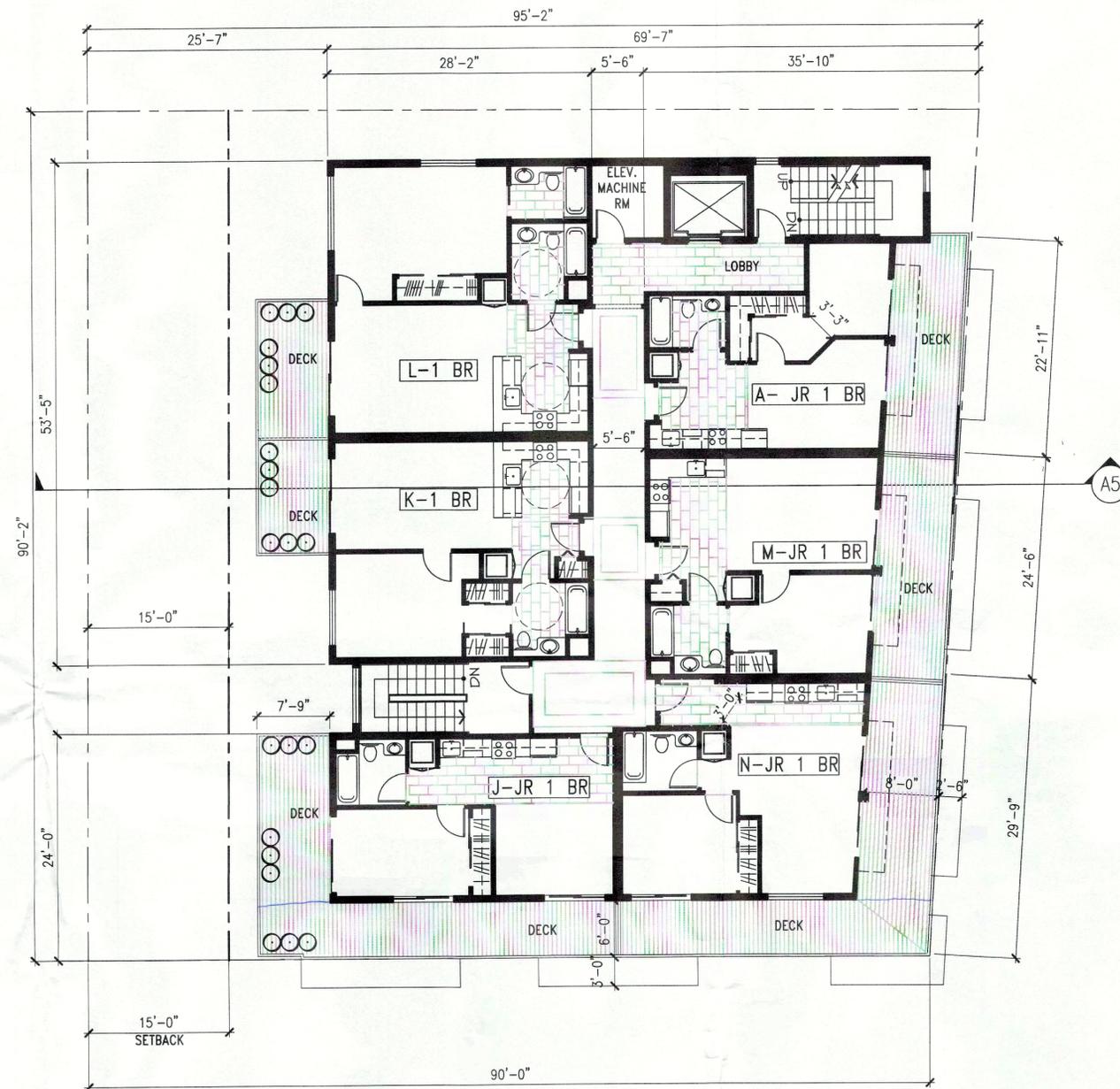
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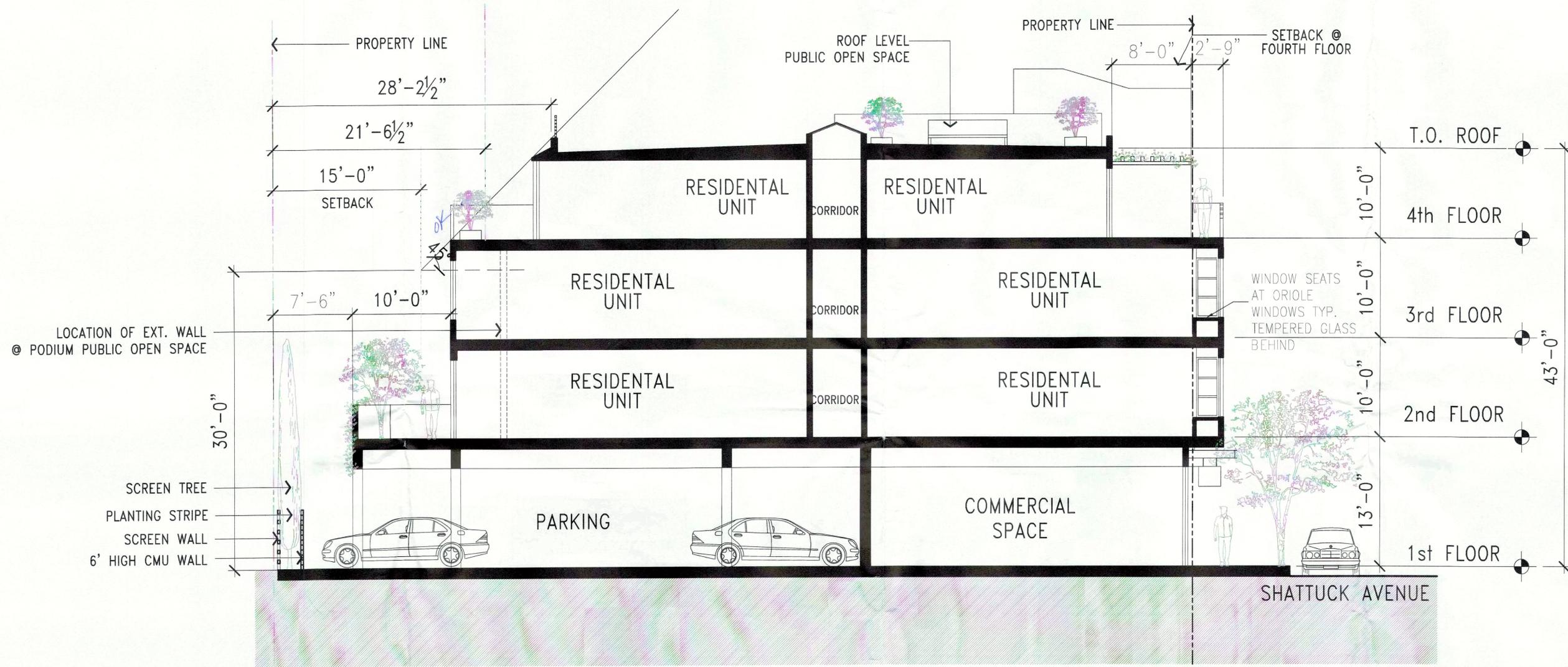
4TH LEVEL PLAN

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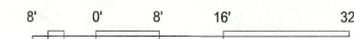
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SECTION

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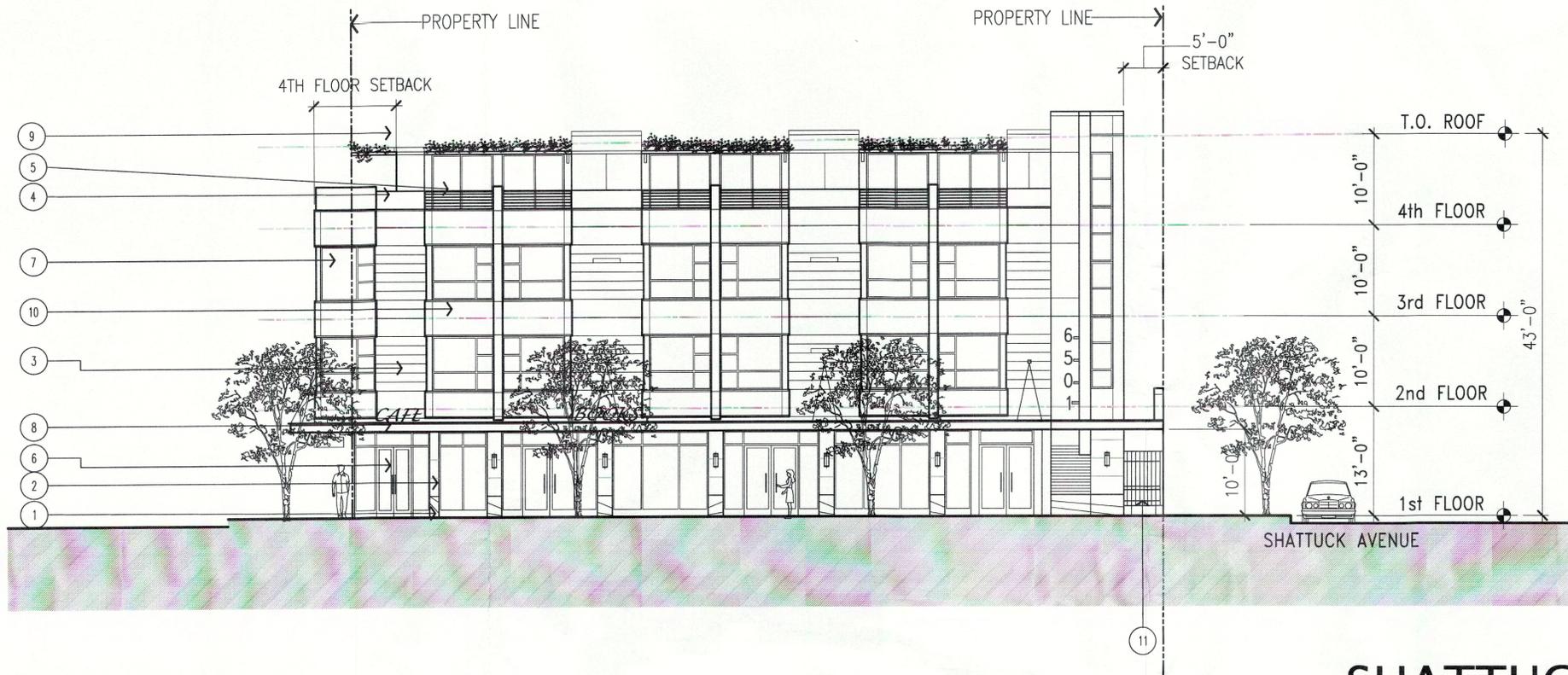
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REVISION August 9, '15

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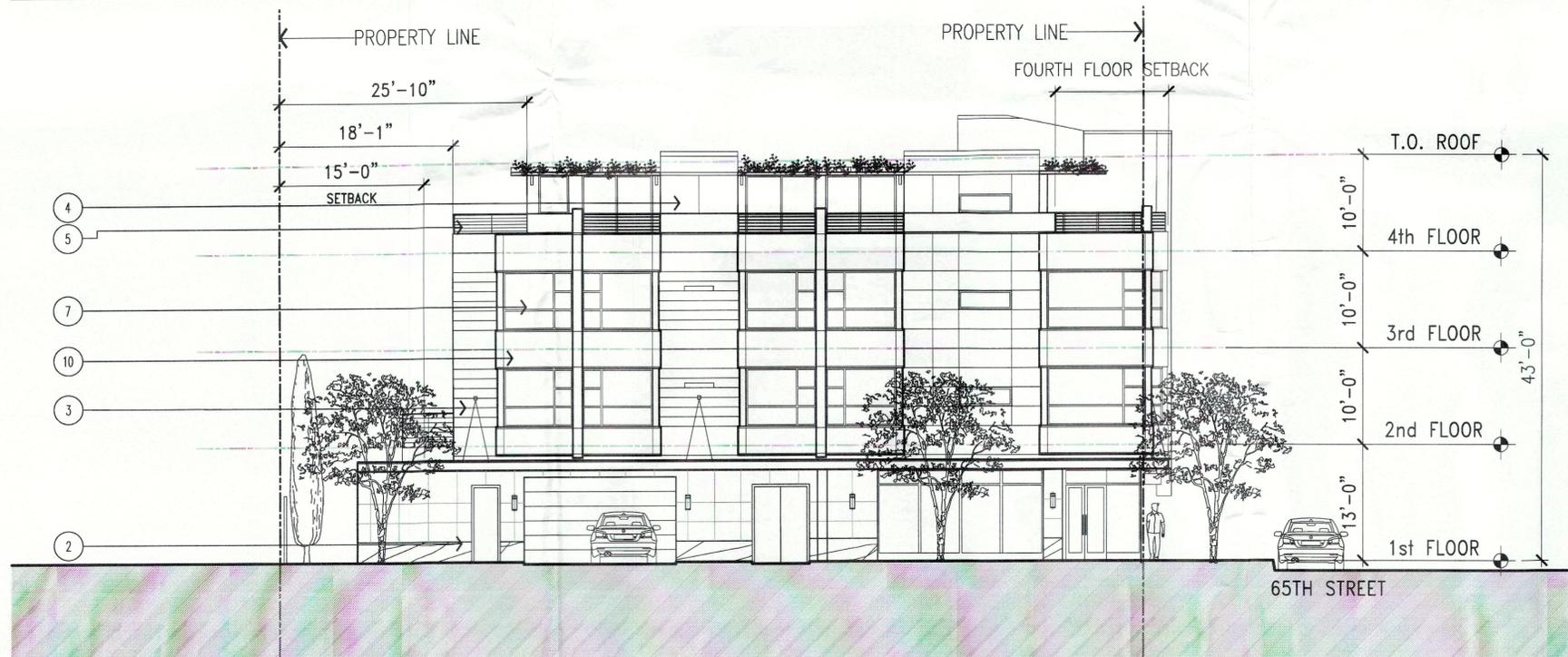
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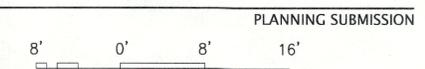
- ① STONE TILE @ BASE LOWER LEVEL
- ② CEMENT PLASTER PAINTED COLOR #1, LOWER LEVEL
- ③ CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- ④ SMOOTH CEMENT PLASTER ACCENT COLOR
- ⑤ METAL RAILING W/ WOOD TOPRAIL
- ⑥ TEMPERED GLASS & ALUMINUM STOREFRONT
- ⑦ DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
- ⑧ SUSPENDED METAL & FABRIC CANOPY
- ⑨ CEMENT PLASTER & GSM METAL COPING
- ⑩ CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- ⑪ DECORATIVE METAL GATE

SHATTUCK AVENUE ELEVATION



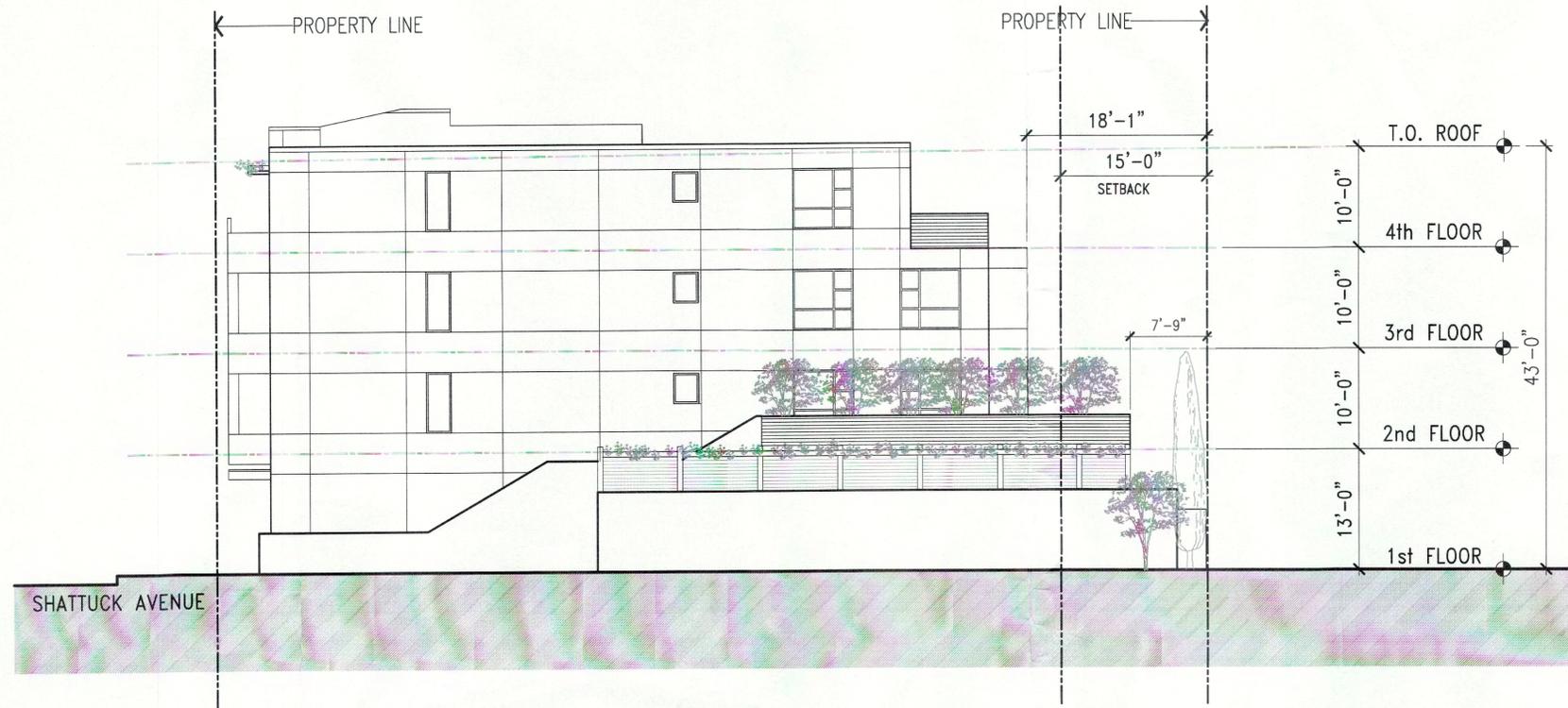
- ① STONE TILE @ BASE LOWER LEVEL
- ② CEMENT PLASTER PAINTED COLOR #1, LOWER LEVEL
- ③ CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- ④ SMOOTH CEMENT PLASTER ACCENT COLOR
- ⑤ METAL RAILING W/ WOOD TOPRAIL
- ⑥ TEMPERED GLASS & ALUMINUM STOREFRONT
- ⑦ DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
- ⑧ SUSPENDED METAL & FABRIC CANOPY
- ⑨ CEMENT PLASTER & GSM METAL COPING
- ⑩ CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- ⑪ DECORATIVE METAL GATE

65TH STREET ELEVATION



6501 SHATTUCK AVENUE

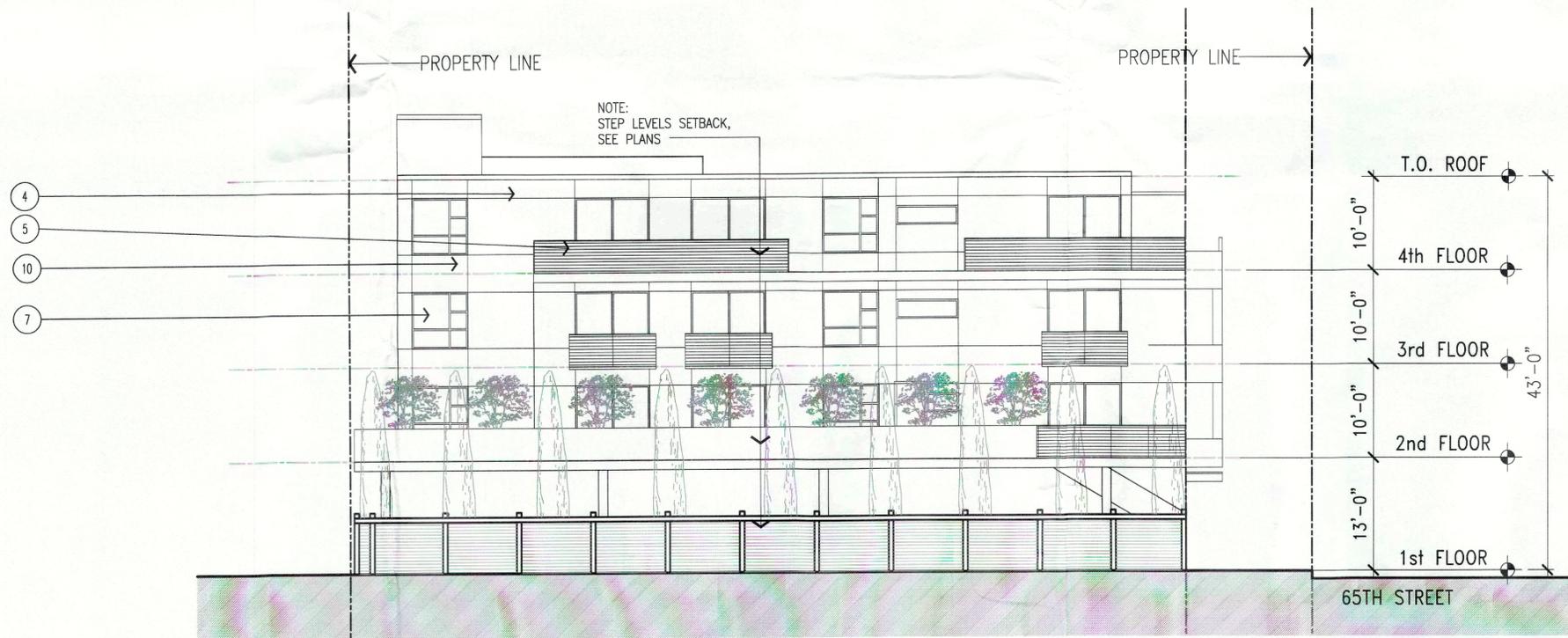
REVISION 5
August 9, '15



- 1 STONE TILE @ BASE LOWER LEVEL
- 2 CEMENT PLASTER PAINTED COLOR #1, LOWER LEVEL
- 3 CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- 4 SMOOTH CEMENT PLASTER ACCENT COLOR
- 5 METAL RAILING W/ WOOD TOPRAIL
- 6 TEMPERED GLASS & ALUMINUM STOREFRONT
- 7 DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
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- 9 CEMENT PLASTER & GSM METAL COPING
- 10 CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- 11 DECORATIVE METAL GATE

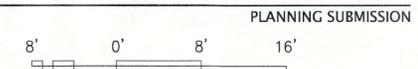
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SIDE ELEVATION



- 1 STONE TILE @ BASE LOWER LEVEL
- 2 CEMENT PLASTER PAINTED COLOR #1, LOWER LEVEL
- 3 CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- 4 SMOOTH CEMENT PLASTER ACCENT COLOR
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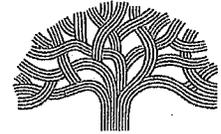
SIDE ELEVATION



6501 SHATTUCK AVENUE

REVISION
August 9, '15

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
FAX (510) 238-6538
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January 18, 2019

Moshe Dinar, AIA
P.O. Box 70601
Oakland, CA 94612

RE: Case File No. CDV10185; 6501 Shattuck Avenue; APN: 016-1428-011-02

Dear Mr. Dinar,

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

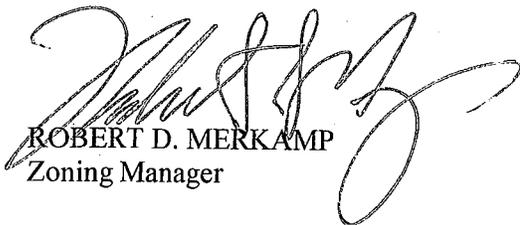
Proposal:	To construct a 4-story mixed-use building, with commercial space and parking on the ground floor, and 18 residential units above.
Planning Permits Required:	Regular Design Review for new construction of a building facility; Minor Conditional Use Permit for 1) Interim Conditional Use Permit for a density of 18 residential units, 2) for parking to be setback less than 75' from the front property line; Minor Variance to allow the 13' high garage podium structure to project 7' into the required 15' read yard setback.
General Plan:	Neighborhood Center Mixed Use.
Zoning:	C-10 (previously when project deemed complete) / CN-3 (current)
Environmental Determination:	Exempt, Section 15183.3 of the State CEQA Guidelines: Streamlining for Infill Projects and Section 15183: Projects consistent with a Community Plan, General Plan or Zoning. A CEQA Analysis can be found on the City's Environmental Review Documents webpage via the following link: http://www.2oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009157 This item is number #77
Historic Status:	Not a Potential Designated Historic Property; Survey Rating: D3
City Council District:	1

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on January 23, 2019**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Michael Bradley, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **\$1,622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal 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.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOE and the Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Bureau of Planning, to the attention of **Michael Bradley, Planner III**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, **Michael Bradley, Planner III** at (510) 238-6935 or mbradley@oaklandca.gov, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Zoning Manager

cc: Ian Martin, Marlene Martin and Vibeke Norgaard
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Carmel, CA 93921

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Oakland, CA 94609

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Attachments:

- A. Findings
- B. Conditions of Approval, including Standard Conditions of Approvals

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the Regular Design Review findings (Section 17.136.050A); General Use Permit Criteria (OMC Sec. 17.134.050); and the Minor Variance criteria (Section 17.148.050), 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 your proposal satisfies them are shown in normal type.

17.136.050A - RESIDENTIAL DESIGN REVIEW CRITERIA:

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

The 18-unit mixed-use proposal is located in the North Oakland neighborhood between Alcatraz and Ashby Avenues. The site is within walking distance to the Ashby BART station on Shattuck Avenue on a vacant site which was formally an auto servicing facility. Neighborhood characteristics include low to medium density residential buildings which are one to two to three stories, with ground floor commercial uses in the area including cafes and auto related businesses. The buildings are a variety of architectural styles, materials and heights.

The Design Guidelines for Corridors and Commercial Areas applies eight guiding principles to which each development project must meet. The principles include: (1) building upon patterns of urban development that lend a special sense of place; (2) provide elements that define the street and the place for pedestrians; (3) allow for diversity of architectural expression to prevent monotony; (4) encourage high quality design and construction; (5) design buildings that reinforce the urban character of the different corridor and place types; (6) created transitions in height, massing, and scale; (7) use sustainable design techniques; (8) and create a safe urban environment.

The proposed project is designed to meet the intent of the principles described above. Due to the prominent corner location, the project will establish a signature building for the corridor. While, the proposed building is four-stories and 43 feet tall with allowable projections for elevator and stair tower penthouses, the location on the corner of a commercial corridor is an appropriate location for increased height. The design also steps downward in height to the lower scale residential neighborhood behind it similar to the building across Shattuck Avenue. This technique, along with the architectural details reduce the scale, bulk and mass of the building.

Due to a lack of neighborhood context with regard to architectural style and materials, the subject project will not detract from a neighborhood context but will rather strengthen it by further providing a variety of architectural styles and an additional ground floor ground floor commercial space for street activity and eyes on the street.

The proposed design applies a combination of materials including smooth cement plaster, aluminum windows and storefront, metal and fabric canopies and decorative metal gates which will work well to integrate the building with the neighboring contemporary structures in the area. Further, the design is both efficient and functional. Also, the site will receive new landscaping, and paving. The proposed materials are consistent with that of other existing contemporary neighboring dwellings in the area.

Finally, the project complies with the Oakland Commercial/Corridor Design Guidelines as further discussed below.

- 2. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The North Oakland neighborhood of the subject site has a desirable mix of commercial and multi-family dwellings consisting of one, two and three stories in a variety of architectural styles. The proposal will enhance the surrounding area by adding desirable site improvements in the form of a new four-story mixed use building. Thus, this new development would enhance the operation of the area as a mixed density commercial and residential neighborhood and develop the unused blighted lot of a former automotive servicing facility for housing stock on one of the City's major corridors.

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

The site is a flat lot and has limited landscape and vegetation due to the former automotive use at the site. The proposed design creates a great deal of new landscaping, street trees and adds privacy fencing and plantings to the adjacent parcels on 65th Street and Shattuck Avenue. In addition, the project proposes group open space and functional private open space balconies.

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

The site is a relatively flat lot on Shattuck Avenue at 65th Street.

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

The subject site is located in the Neighborhood Center Mixed Use classification of the City of Oakland's Land Use and Transportation Element (LUTE) of the General Plan classification. The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. The proposed project conforms to the Neighborhood Center Mixed Use classifications of the Oakland General Plan. The proposal is consistent with the following LUTE objectives and policies:

Policy N1.1 Concentrating Commercial Development. Commercial development should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail. The proposal will include approximately 1,975 sf of commercial space on Shattuck Avenue which is a commercial corridor. This space will provide neighborhood services and is compatible with the smaller-scale commercial across Shattuck.

Objective N3 states: "Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future needs of the Oakland community". *The project will facilitate construction of 18 units on a vacant, blighted lot on a commercial corridor.*

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the city of Oakland. *The project will facilitate construction of 18 units on a vacant, blighted lot on a commercial corridor.*

Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland. *The project will facilitate construction of 18 units on a vacant, underutilized blighted lot on a commercial corridor.*

Policy N3.8 Required High Quality Design. High-quality design standards should be required for all new residential construction. *The proposal is of high-quality design including a prominent corner with retail space, architectural details such as the fins, sunshades, balconies that are integral to the architecture and not tacked on, smooth stucco and a stone tile base, and aluminum windows.*

Policy N3.10 Guiding the Development of Parking. Off-street parking for residential buildings should be adequate in amount and conveniently located and laid out, but it's visual prominence should be minimized. *The project provides the required number of parking spaces. The parking is accessed off 65th Street to ensure that the entire frontage along Shattuck is devoted to commercial uses and the residential lobby. While the parking is open along the side and rear property line, the parking and any associated lighting shall be minimized through the use of vegetation, walls, and fences.*

Objective N6- Encourage a mix of housing costs, unit sizes, types and ownership structures. *The proposal provides a mix of one and two bedroom residential units.*

This proposal, to create a new 18 residential building conforms to the City of Oakland Comprehensive General Plan and is consistent with the Neighborhood Center Mixed Use general plan designation. The Neighborhood Center Mixed Use classification allows 32 residential dwelling units at the subject site.

The project is also consistent with the City's Design Guidelines for corridors and commercial areas and was found generally compatible with neighborhood characteristics.

Guideline 1.1.1: Spatially define the storefront by locating storefronts near the property lines facing the corridor and adjacent to one another. The project utilizes the corner and places 1,975 square-foot commercial space with large corridor fronting windows and access doors on Shattuck Avenue.

Guidelines 3.1.1: Placing parking areas and parking podiums behind active space or underground and 3.1.2 Limit driveways, garage doors, and curb cuts on the corridor. The project places the garage and driveway behind the commercial space with the only access from 65th Street to avoid interruptions of pedestrian and vehicle movement on the Shattuck corridor.

Guidelines 4.2.1: Provide a high proportion of glazed surfaces versus solid wall areas in all storefronts and 4.2.2 Provide the elements of a successful storefront. The project provides a large storefront system with a great deal of glazing including transoms, piers and large window displays in a contemporary design to encourage ground floor commercial retail success with eyes on the street.

Guideline 5.5.2: Create a transition from larger new development on the corridors to lower-density residential homes behind the development. The project successfully steps the building downward at the rear to the lower scale residential developments behind the proposal.

Guidelines 6.1.1 Install durable and attractive materials on the ground floor façade of buildings and 6.2.1 Recess exterior street-facing windows. The project proposes a durable stone tile base with double glazed recessed aluminum windows and sliding doors.

Guideline 7.1.1: Corner Buildings – Provide visual emphasis and activity to buildings at street corners. The project proposes a prominent corner with double entry doors and signage above that wraps from 65th Street to Shattuck Avenue.

Finally, the proposal provides a comprehensive design, harmonious uses and attractive, healthful and efficient living environment consistent with the Oakland Commercial/Corridor Guidelines.

17.134.050 GENERAL USE PERMIT FINDINGS:

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The project requires an Interim Conditional Use Permit for a density of 18 units and a Minor Conditional Use Permit for parking to be setback less than 75' from the front property line.

Interim Conditional Use Permit

On March 24, 1998, the City Council passed Resolution No. 74129 C.M.S. approving the new Land Use and Transportation Element of the Oakland General Plan. That resolution stipulates that "Until the City's zoning regulations are updated, the City shall apply land use designations, zoning controls and subdivision controls as specified by the planning code and subdivision regulations, except where such action would expressly conflict with the updated General Plan. Where an express conflict does arise, the City will apply the updated General Plan policies and land use designation." On May 12, 1998, the City Council passed Ordinance No. 12054 C.M.S. adopting interim controls for implementing the General Plan prior to the adoption of revisions to the Oakland Planning Code. This ordinance adds Chapter 17.01 to the Planning Code entitled "General Provisions of Planning Code and General Plan Conformity". In these instances, the General Plan Conformity Guidelines noted that the General Plan prevails, and permits would be processed under an Interim Conditional Use Permit.

As the Zoning had not be updated yet (the project was deemed complete prior to the April 11, 2014 Zoning Update), there was an express conflict between the C-10 Local Retail Commercial regulations and the Neighborhood Center Mixed Use classification in terms of density. As such, the project sponsor submitted a request to use the General Plan density of density on July 12, 2010.

The General Plan would allow for 32 residential units. The project is proposing 18 units based on the General Plan Conformity Guidelines, applicable at the time, which is one unit per 261 square-feet of lot area.

The location, size, use and design of the development will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood. The scale is within that allowed by the Zoning Code when the project was deemed complete. The bulk and mass are designed to step in at one to one, 45-degree setback at the rear of the building to transition to the lower scale residential neighborhood behind the project. There is no harmful effect on the neighborhood considering the mixed context as described in detail above. The proposal will not generate substantial traffic or parking impacts with 18 spaces, and adds substantial vegetation. The General Plan density would allow for 32 units and only 18 are proposed and proposed project meeting the required Design Review criteria.

Parking

In the C-10 Zoning (prior to April 14, 2011 Planning Code update), accessory off-street parking and loading activities, areas, and driveways were prohibited from being be located within seventy-five (75) feet from the front lot line. Shattuck Avenue is deemed the front lot line based on the major corridor status and it being the shorter side of the corner parcel. The intent of the 75' parking setback was to protect and allow creation of a suitable retail space as the project currently proposes.

Furthermore, justification for this Minor Conditional Use Permit is based on the following. The lot is largely square and ranges from 90-95' wide. The parking and driveway location will not adversely affect, the livability or appropriate development of abutting properties as it is located on a side-street, off the major corridor. The parking will be minimized through the use of vegetation, fences and walls. The parking is accessed off of a subordinate street, thus not impacting retail and pedestrians on Shattuck Avenue.

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

The proposal to construct a new 18-unit mixed-use building will provide density on a commercial corridor within walking distance to transportation, shopping and civic facilities. The frontage along Shattuck Ave is largely devoted to ground floor commercial space and a small residential lobby consistent with the Commercial Corridor Guidelines while the parking is located to the rear and sides. The design is both efficient and functional within the context of the Zone by constructing a building in a manner that is consistent with the character of the neighborhood and steps down to the smaller structures of the corridor. The development will enhance the operation of the area as a mixed density commercial and residential

neighborhood and develop the unused blighted lot of a former automotive servicing facility for housing stock on one of the City's major corridors.

The lot is only 90-95' wide where the requirement is to locate parking 75' from the front property line. The project enhances the successful operation of the surrounding area by providing off-street parking as well as providing a commercial space with adequate width. The parking and any associated vehicle lighting will be minimized through the use of vegetation, fences, and walls.

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

The North Oakland neighborhood of the subject site has a desirable mix of commercial and multi-family dwellings consisting of one, two and three stories. The proposal will enhance the surrounding area by adding desirable site improvements in the form of a new four-story residential building with 18-residential units and ground floor retail on a major commercial corridor in Oakland. Furthermore, the project will develop a historically underused, contaminated and blighted lot.

The lot is only 90-95' wide where the requirement is to locate parking 75' from the front property line. The project enhances the successful operation of the surrounding area by providing off-street parking as well as providing a commercial space with adequate width.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

The proposal conforms with all significant aspects of the design review criteria set forth in Chapter 17.136 of the Oakland Planning Code as described above.

E. For proposals involving a One- or Two-Family Residential Facility: If the Conditional Use Permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

1. 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 conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height,

- OR -

2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, 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 closest lots on each side of the project site plus the ten 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 conditional use permit.

The finding is, therefore, non-applicable as the proposal involves 18 residential units and not a one or two-family development. Furthermore, the Conditional Use Permit is not for the maximum height, yards, lot coverage or building length.

F. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposed is consistent with the LUTE as described above (no specific plan applies to the site).

SECTION 17.148.050(A) - MINOR VARIANCE FINDINGS:

- A. 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.**

A Minor Variance is requested for a rear 7'-10" rear setback where 15' are required in the C-10 zone.

The Minor Variance for rear setback is justified because strict compliance of the regulations would preclude an effective design solution and conformance with the normal requirements would unnecessarily impact the design and functionality of the proposed building. Specifically, strict compliance would eliminate the rear yard podium level group open space, which is required to have a 15-foot dimension and the exterior egress stairs or require a reduction in the unit sizes. The units are already small ranging from 795-980 for a two-bedroom unit. Furthermore, the group open space provides a further reduction to the bulk and mass at the rear property line. Additionally, the former one-story auto servicing building was located at the rear property line was a similar height as the one story, 13-foot-tall podium. As such, the design improves the operational efficiency of the mixed-use building and appearance of the neighborhood.

The proposed variances will not impact the neighbors, due to screening walls and landscaping to buffer the adjacent properties.

- B. 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 basic intent of the rear setback regulation is to restrain the building envelope to provide a consistent neighborhood context and to avoid impacts to adjacent neighboring building due to living space close to neighboring living space. As noted above, the context includes buildings of many heights. The project provides an effective design solution by stepping the massing down from Shattuck Avenue toward the more residential uses. As noted above strict compliance would reduce the required open space or units. As the project is in a mixed-use area, surrounded by a mix of building types the reduced setback is an effective design solution fulfilling the intent of the regulation.

- C. 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 reduced rear yard setback will be consistent with the surrounding pattern of development, and will not result in an impact to the adjacent neighbors. The Minor Variance for the setback is justified because strict compliance of the regulations would preclude an effective design solution, as noted above, and conformance with the normal requirements would unnecessarily impact the design and functionality of the proposed building.

The Variance will not affect the character, livability, or appropriate development of abutting properties. Additionally, the rear, adjacent four-unit residential building at 6500 Whitney Avenue has a one-story carport at the shared property line and has living space setback approximately 17 feet from the shared property line (approximately 25 feet from the garage podium) with 6512 Whitney Avenue setback approximately 30 feet away from the property line (approximately 38 feet from the garage podium). Additionally, the former one-story auto servicing building was located at the rear property line with a similar height as the one story, 13-foot-tall podium. The character of the street will be enhanced with another building of transitioning height. The Variance will not be detrimental to the public welfare or adopted plans.

D. 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 granting of this Variance will not be inconsistent with the purposes of the zoning regulations. As noted above, the former one-story building was at around the same height and in the same location as the open space podium. Strict compliance would reduce the group open space or the units. With the necessary controls, it will enable the site to be improved and used to the benefit of the community in accordance with the purpose of the Zoning Regulations. The requested variance for a reduced rear setback will make the design more functional and occupants of the building future tenants of the commercial space, and strict compliance of the regulations would preclude an effective design solution and would unnecessarily impact the design and functionality of the proposed building.

E. For proposals involving one or two dwelling units on a lot: 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 design review criteria set forth in the design review procedure at Section 17.136.050.

This finding is not applicable. The proposed project is an 18-unit mixed-use building and not a one or two-family development.

F. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following 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 60 percent 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 closest lots on each side of the project site plus the ten 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.

The finding is, therefore, non-applicable as the proposal involves 18 residential units and not a one or two-family development.

ATTACHMENT B: CONDITIONS OF APPROVAL

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials and the approved plans dated **August 9, 2015** and submitted on **August 10, 2015**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.

- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement ("p-job") permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Compliance Matrix

The project applicant shall submit a Compliance Matrix, in both written and electronic form, for review and approval by the Bureau of Planning and the Bureau of Building that lists each Condition of Approval (including each mitigation measure if applicable) in a sortable spreadsheet. The Compliance Matrix shall contain, at a minimum, each required Condition of Approval, when compliance with the Condition is required, and the status of compliance with each Condition. For multi-phased projects, the Compliance Matrix shall indicate which Condition applies to each phase. The project applicant shall submit the initial Compliance Matrix prior to the issuance of the first construction-related permit and shall submit an updated matrix upon request by the City.

13. Construction Management Plan

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments such as the Fire Department, Department of Transportation, and the Public Works Department as directed. The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, Stormwater pollution prevention, noise control, complaint management, and cultural resource management (see applicable Conditions below). The CMP shall provide project-specific information including descriptive procedures, approval documentation, and drawings (such as a site logistics plan, fire safety plan, construction phasing plan, proposed truck routes, traffic control plan, complaint management plan, construction worker parking plan, and litter/debris clean-up plan) that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the project.

14. Regulatory Permits and Authorizations from Other Agencies

Requirement: The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

15. Trash and Blight Removal

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Landscape Plan

a. Landscape Plan Required

- **Requirement:** The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at <http://www2.oaklandnet.com/oakcal/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakcal/groups/pwa/documents/form/oak025595.pdf>, respectively), and with any applicable streetscape plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. Landscape Installation

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. Landscape Maintenance

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Lighting

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. Dust Controls – Construction Related

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f. All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

20. Criteria Air Pollutant Controls - Construction Related

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- b. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").

- c. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- d. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- e. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- f. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

22. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible,

preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

23. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

24. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

25. Soils Report

Requirement: The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

26. Seismic Hazards Zone (Landslide/Liquefaction)

Requirement: The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the

site, an evaluation of site specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

27. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

28. Hazardous Building Materials and Site Contamination

a. Hazardous Building Materials Assessment

Requirement: The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Environmental Site Assessment Required

Requirement: The project applicant shall submit a Phase I Environmental Site Assessment report, and Phase II Environmental Site Assessment report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of construction-related permit.

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

c. Health and Safety Plan Required

Requirement: The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

d. Best Management Practices (BMPs) Required for Contaminated Sites

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:

- i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state, and federal requirements.
- ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

29. Erosion and Sedimentation Control Measures for Construction

Requirement: The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

30. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

31. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets "No Dumping – Drains to Bay;"
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
 - i. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
 - ii. Dumpster drips from covered trash, food waste, and compactor enclosures;
 - iii. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
 - iv. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
 - v. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

32. NPDES C.3 Stormwater Requirements for Small Projects

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

33. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

34. Trash Capture Devices

Requirement: Plans shall be submitted for review and approval by the City of Oakland that show a full trash capture device installed at all storm drain inlets or catch basins located on the property and on the adjacent right of way. The plans shall show the design of the device. The Director of Public Works or his/her designee may require that the plans also show the device installed near projects that may generate a large quantity of trash. The applicant shall install these devices according to the approved plans. The owner is responsible for the maintenance of the devices.

When Required: Prior to approval of construction-related permit

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

35. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such

as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

36. Extreme Construction Noise

a. **Construction Noise Management Plan Required**

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. **Public Notification Required**

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

37. Project-Specific Construction Noise Reduction Measures

Requirement: The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site specific noise attenuation measures to further reduce construction noise impacts. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

38. Construction Noise Complaints

Requirement: The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:

- a. Designation of an on-site construction complaint and enforcement manager for the project;
- b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;
- c. Protocols for receiving, responding to, and tracking received complaints; and
- d. Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

39. Exposure to Community Noise

Requirement: The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:

- a. 45 dBA: Residential activities, civic activities, hotels
- b. 50 dBA: Administrative offices; group assembly activities
- c. 55 dBA: Commercial activities
- d. 65 dBA: Industrial activities

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

40. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

41. Affordable Housing Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Affordable Housing Impact Fee Ordinance (chapter 15.72 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit; subsequent milestones pursuant to ordinance

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

42. Capital Improvements Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

43. Construction Activity in the Public Right-of-Way

a. Obstruction Permit Required

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

b. Traffic Control Plan Required

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

c. Repair of City Streets

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

44. Bicycle Parking

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

45. Transportation Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

46. Plug-In Electric Vehicle (PEV) Charging Infrastructure

a. PEV-Ready Parking Spaces

Requirement: The applicant shall submit, for review and approval of the Building Official and the Zoning Manager, plans that show the location of parking spaces equipped with full electrical circuits designated for future PEV charging (i.e. "PEV-Ready") per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-Ready parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. PEV-Capable Parking Spaces

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

c. ADA-Accessible Spaces

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

47. Tree Permit

a. Tree Permit Required

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Tree Protection During Construction

Requirement: Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

c. Tree Replacement Plantings

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- ii. Replacement tree species shall consist of Sequoia sempervirens (Coast Redwood), Quercus agrifolia (Coast Live Oak), Arbutus menziesii (Madrone), Aesculus californica (California Buckeye), Umbellularia californica (California Bay Laurel), or other tree species acceptable to the Tree Division.

- iii. Replacement trees shall be at least twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- iv. Minimum planting areas must be available on site as follows:
 - a. For Sequoia sempervirens, three hundred fifteen (315) square feet per tree;
 - b. For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

48. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

49. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

50. Recycling Collection and Storage Space

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall

contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

51. Green Building Requirements

a. Compliance with Green Building Requirements During Plan-Check

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

i. The following information shall be submitted to the City for review and approval with the application for a building permit:

- Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
- Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
- Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
- Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
- Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
- Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
- Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

ii. The set of plans in subsection (i) shall demonstrate compliance with the following:

- CALGreen mandatory measures.
- per the appropriate checklist approved during the Planning entitlement process.
- All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
- The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. Compliance with Green Building Requirements During Construction

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.

- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. Compliance with Green Building Requirements After Construction

Requirement: Prior to the finaling the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.

When Required: Prior to Final Approval

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

Project Specific Conditions

47. Landscaping and Irrigation

Ongoing

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

48. Architectural Detailing and Building Materials

Ongoing.

All cement plaster stucco shall be smooth finish and applied wet at the job site. The garage door shall be high quality with frosted glass not a chain roll-up door. The store front shall be designed with clear transparent glazing with a minimum of 65% open, clear, non-reflective glass.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

49. Window Removal

Ongoing.

Windows shall be removed from the 3rd floor, 2-F unit corner bedroom unit on the interior side property line side and from the 4th floor L-1 unit corner bedroom unit on the interior side property line. The applicant shall submit to the Planning and Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations, and final architectural details of the front and side elevations.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

50. Path Lighting***Ongoing.***

All proposed lighting shall be shielded with the egress path lighting from the podium to be lit from below the railing wall and facing downward. The applicant shall submit a lighting plan for review and approval by the Bureau of Planning prior to issuance of a construction-related permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

51. Encroachment Permit***Prior to issuance of building permit.***

The applicant shall obtain any encroachment permits, waiver of damages or other approvals required by the Bureau of Building, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

52. Meter Shielding.***Prior to issuance of building permits.***

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

53. Street Trees.***Prior to issuance of building permit.***

The applicant shall provide street trees in front of the building on Shattuck Avenue and 65th Street per approved plans with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Planning and Building Department.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

54. Signage***Ongoing.***

All proposed signage must be applied for with the proper City of Oakland Planning and Building permits. Signage must meet the City of Oakland Small Project Design Guidelines.

Applicant Statement

I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

Name of Project Applicant

Signature of Project Applicant

Date

City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: Case No. CDV10185

Project Applicant: Moshe Dinar

Project Location: 6501 Shattuck Ave. Oakland CA (APN: 016-1428-011-02)

Project Description: To construct a 4-story mixed-use building, with commercial space and parking on the ground floor, and 18 residential units above.

Exempt Status:

Statutory Exemptions

Categorical Exemptions

- | | |
|---|--|
| <input type="checkbox"/> Ministerial {Sec.15268} | <input type="checkbox"/> Existing Facilities {Sec.15301} |
| <input type="checkbox"/> Feasibility/Planning Study {Sec.15262} | <input type="checkbox"/> Replacement or Reconstruction {Sec.15302} |
| <input type="checkbox"/> Emergency Project {Sec.15269} | <input type="checkbox"/> Small Structures {Sec.15303} |
| <input type="checkbox"/> Other: {Sec._____} | <input type="checkbox"/> Minor Alterations {Sec.15304} |
| | <input type="checkbox"/> In-fill Development {Sec. 15332} |
| | <input type="checkbox"/> General Rule {Sec.15061(b)(3)} |

Other

- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- Streamlining for In-Fill Development Projects { Sec. 15183.3}

Reasons why project is exempt: The construction of a new 18-unit mixed-use building that conforms to the Zoning and General Plan will not have a significant impact on the environment and is exempt from environmental review per the CEQA analysis completed pursuant to Section 15183.3.

Lead Agency: City of Oakland, Planning and Building Department, Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: Michael Bradley, Planner III

Phone: 510-238-6935

Signature (Robert D. Merkamp for Ed Manasse, Environmental Review Officer)

1/18/18
Date:

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

*ENVIRONMENTAL DECLARATION

(CALIFORNIA FISH AND GAME CODE SECTION 711.4)

LEAD AGENCY NAME AND ADDRESS

City of Oakland - Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
Contact: Michael Bradley, Planner III

FOR COUNTY CLERK USE ONLY

FILE NO: _____

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

(PLEASE MARK ONLY ONE CLASSIFICATION)

1. NOTICE OF EXEMPTION / STATEMENT OF EXEMPTION

A - STATUTORILY OR CATEGORICALLY EXEMPT

\$ 50.00 - COUNTY CLERK HANDLING FEE

2. NOTICE OF DETERMINATION (NOD)

A - NEGATIVE DECLARATION (OR MITIGATED NEG. DEC.)

\$ 2,280.75 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

B - ENVIRONMENTAL IMPACT REPORT (EIR)

\$ 3,168.25 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

****A COPY OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH EACH COPY OF AN ENVIRONMENTAL DECLARATION BEING FILED WITH THE ALAMEDA COUNTY CLERK.**

BY MAIL FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND TWO (2) SELF-ADDRESSED ENVELOPES.

IN PERSON FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND ONE (1) SELF-ADDRESSED ENVELOPE.

ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING.

FEES ARE EFFECTIVE JANUARY 1, 2018

MAKE CHECKS PAYABLE TO: ALAMEDA COUNTY CLERK

Dear Mr. Bradley,

We are appealing the approval of CDV10185 for the building proposed at 6501 Shattuck Avenue. Please find our supporting documents attached.

The approval is based on an error and/or abuse of discretion by the Zoning Manager as it relies on the mistaken assumption that the application for this project was "deemed complete" in 2011 thus "grandfathering in" this proposed building under the zoning laws from over eight years ago. As the attached letter states, the application could never have been deemed complete. We have raised this issue with the City over the past years and have yet to receive a response. For the third time, we are providing our legal analysis of this significant error by the City, which was previously provided during the public comment periods in 2015 and again last year. The proposed building needs to be considered under current zoning laws not the outmoded ones. Furthermore, the approval does not make clear how the "grandfathered-in" right to the old zoning could have extended indefinitely until 2019, even if the application from prior to 2011 had been complete.

Also included in this appeal is home-owner Chris Halls' letter stating errors made in the approval analysis. He shares a property line with 6501 Shattuck Avenue as does Guita Boostani. She has provided a graphical analysis of the errors and inconsistencies of the plans that the planning department relied upon to arrive at their approval. All of the points set forth in the attached letters were raised during the public comment period.

Ian Martin and Vibeke Norgaard

Owners of 6500 Shattuck Ave (Nomad Café Bldg)

Ian Martin
Marlene Martin
Vibeke Norgaard
P. O. Box 183
Carmel, CA 93921
(415) 516 6674

January 26, 2015

Ann Clevenger
Steve Miller
City of Oakland
Bureau of Planning – Zoning Division
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Re: Case File No. CDV10185/6501 Shattuck Ave.

Dear Ms. Clevenger and Mr. Miller,

As the owners of the property at 6500 Shattuck (the Nomad Café Building), we are writing to you to request that you deny the application for development proposed at 6501 Shattuck Ave, Case File No. CDV10185 (“the Application”). This Application should be denied on the following grounds:

I. The 3-Story Height Limit Effective 15, 2011 Applies To This Development.

On January 9, 2015 the public received notice that an application to develop 6501 Shattuck Ave filed on July 14, 2010¹ had been “deemed complete,” thus allowing the project to go forward under the old zoning laws that were in effect prior to April 15, 2011. The effect of this decision is that you appear to be applying the older 4-story

¹ Despite the statement in the public notice, the exact date on which the City received the Application is unclear. The Application was not date stamped, and the Application fee section not filled out. It was signed by the Applicant on 7/15/2010, but Clevenger notes on the Application it was “rec’d 7/14/2010”. In an email dated 7/30/10, Clevenger said it was received on 7/12/2010. On 7/21/2010, Applicant and his architect met with neighbors and led them to believe they had not yet filed a formal application.

zoning to a building in a neighborhood that is currently zoned for three stories. However, the Application was, and remains, incomplete.

The City of Oakland's ("the City's") decision to deem this Application complete as of April 15, 2011 violates state law, the City's own application process, rules and zoning ordinance. As set forth below, deeming the incomplete application complete is a violation of state law. In fact, under the City's own rules the City should not even have *accepted* the application due to its incompleteness, let alone deemed it complete. And because it was not complete, it cannot fit in under the limited exception to the new zoning. In addition, the submitted Application is rife with outright misrepresentations and omissions. Further, to the extent the Application was deemed complete by operation of law, the new zoning would have to apply.

This Applicant should not be allowed to get in through the backdoor what he could never have got in through the front door when he filed this Application.

(1) The Application Was Incomplete As It Failed to Include Information Required by State Law.

The owner of the property, Mr. Magganas and his architect Moshe Dinar (combined, "the Applicant"), submitted a Basic Application for Development Review to the City of Oakland Planning Department (the City) on or around July 14, 2010 ("the Application"). However, the Application was incomplete.²

The Application was incomplete because the Applicant left the entire Hazardous Waste and Substance Statement section of the Application blank. (See Application, Section 8, p.6). According to California state law, before the City "accepts" a Basic Application "as complete" the Applicant must consult the state lists of sites affected by hazardous waste and substances, and must "submit a signed statement" to the City indicating whether the project is located on a site that is included on any of the lists. (Cal. Gov. Code §§ 65962.5 (f), 65929). In fact, 6501 Shattuck Avenue, a former gas station with leaking underground tanks, was identified on the state lists as a site affected by hazardous substances. Thus, the Application failed to include information that is required by state law. Because of this omission, the Application was incomplete as of April 11, 2015 and cannot now be "deemed complete."

² It should be noted that the incompleteness of the Application cannot be dismissed as the result of mistakes or ignorance on the part of the Applicant: Mr. Magganas is a seasoned developer with many large developments in Alameda County under his belt.

Conversations with Ann Clevenger suggest that the City may be taking the position that the site at 6501 has since been fully remediated and therefore it is now besides-the-point that the Applicant did not complete this section at the time of the Application. Even though the site may now be remediated, at least as far as Alameda County is concerned, allowing the Applicant to circumvent the process required by state law is not acceptable. Such an approach leaves the public with no assurance that remediation of building sites will occur with proper oversight, and leaves open the possibility that that developments can go ahead despite being on the state hazardous waste list without any special permits.

If the City's position is that the incompleteness of the Application was somehow remedied by subsequent information received, that argument also fails as none of the documents in the City's file (as of a review of it on January 20, 2015) appear to have alerted the City prior to April 15, 2011 that the site was hazardous.

A conclusion by the City that this incomplete Application can nonetheless be "deemed complete" runs an end-run around the state law intended to protect the quality of our environment and our health. Furthermore, regardless of the City's rationale, state law requires all applications to include the Hazardous Waste and Substance Statement. Since the Application fails to include this statement, the City lacks authority to deem the Application complete.

(2) The City Should Not Have Even Accepted the Application Under Its Own Guidelines.

In addition, the City cannot deem this Application complete under its own permit application guidelines. The Applicant did not have all the items that the City requires before it even is able to *accept* the Application, let alone deem it "complete".

Section 9 of the application form is a checklist of everything required in order for the application to be accepted by the City. It has a large, bolded, bordered and partly capitalized header which notifies applicants of this rule:

"[T]he following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED." (Emphasis in original).

The first item explicitly requires that the Applicant has submitted a "completed" application form "including ... the Hazardous Waste and Substances Statement." The Applicant represented on his Application that he had submitted this Statement, when, as set forth above, he had not. This inaccuracy likely misled the City into accepting an application that should never even have been accepted.

Further, the Application appears to never have been fully processed by the City. It appears from the Application in the City's project file that the required Application fee was never paid. The section requiring the City to note the fee received and date it was received is left blank. (See Application, p.1.)

(3) The Application Does Not Fall Within the Limited Exceptions to the Amended Zoning Ordinance.

There is nothing in the Planning Department's project file on 6501 Shattuck that indicates when or how this Application was "deemed complete." For example, there is no letter to the Applicant alerting him that his application has been deemed complete, nor any letter from the Applicant demanding that the city deem his application complete.³ On January 20, 2015, Vibeke Norgaard spoke with Ann Clevenger and received no further clarification as to when or exactly how or when it was deemed complete.⁴

Oakland City Council's Ordinance No. 13064 ("the Ordinance"), which amended the zoning laws and changed the zoning for the parcel under consideration, allows for exceptions to the new zoning for some applications that have already been deemed complete but only if they are "deemed complete...as of the date of final passage" of the ordinance. (Oakland City Council's Ordinance No. 13064, Section 6). If the Application were "deemed complete" after April 15, 2011, the development would thus be subject to the current amended zoning under the Ordinance.

The Ordinance requires that the Application be deemed complete as of April 15, 2011 to fall under the exception. As set forth above, this Application was not complete as of that date because it lacked information required by state law. The city therefore has not authority to deem it complete as of that date. Because it is not encompassed by this exception to the new zoning, this Application falls under the new zoning. (Oakland

³ The Oakland Planning Department's file on this Application was remarkably sparse. Much correspondence that we and other neighbors have had with the Planning department about this site was not in it.

⁴ In this conversation between Ms. Clevenger and Vibeke Norgaard, Ms. Clevenger did vaguely indicate there were "some meetings" in which the language of the ordinance was carefully considered and the decision to deem the application complete made. It was not clear when these meetings were held or why there was no indication of them in the public file. If the ordinance was being reviewed when the decision was made, that would strongly suggest the application was deemed complete *after* April 15, 2011.

Planning Code § 17.114.030; see also e.g., *Avco Cmty. Developers, Inc. v. S. Coast Reg'l Com.*, 17 Cal. 3d 785 (1976)).

Furthermore, if the City's position is that the Application was deemed complete by operation of law 30 days after it was received under the Permit Streamlining Act (Cal. Gov. Code § 65920 et. seq), then the new zoning also must be applied to this proposed development. The exceptions set forth in section 6 of the City's ordinance only apply to those applications deemed complete "by the City", not those applications deemed complete by operation of law. (Oakland City Council's Ordinance No. 13064, Section 6). It should also be noted that the Permit Streamlining Act was created to protect Applicants from foot-dragging by public officials. It can hardly be a valid use of that Act to allow foot-dragging by Applicants, who only complete half of their applications, to help them be grandfathered into old zoning laws.

(4) The City Should Not Deem This Application Complete Because It Contains Misrepresentations of Fact.

Not only is the Application, as set forth above, incomplete, but it also should not be deemed complete as it contains several outright misrepresentations of fact. As set forth above, the Applicant noted, under penalty of perjury, that he had filled out section 8, when he in fact had not.

In addition, in Section 6 of his Application, which requires an applicant to attest whether there are any existing Protected Trees "anywhere on the subject property or within 10 feet of the proposed construction activities (including neighbor's properties or the adjacent public right-of-way)" this Applicant informed the City there are no such trees. In fact, there is a large 36" diameter redwood on the back corner of the adjacent property, within ten feet of his proposed construction activity. The Applicant's Proposed site plan also does not show the protected Redwood tree.⁵

For the City to now say this Application has been "deemed complete" means that not only is it acceptable to leave required sections entirely blank, but that actually making outright misrepresentations on an application is acceptable.

(5) Additional Inaccuracies In The Application.

⁵ The Applicant's proposal shows a concrete masonry fence, 16-foot tall walls, a paved driveway and parking all within 10 feet of this tree. The Applicant, in an email to Guita Boostani, dated 7/30/2012, threatened legal action against the neighbor if they did not remove this tree.

In addition, there were several other aspects of the Application that make it both inaccurate and incomplete: (1) The variance justifications are not updated to reflect the latest design; (2) The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, or lot coverage; (3) There are no photographs of neighboring properties; (4) The elevation drawings do not show adjacent houses; (5) No materials and color board was submitted; (6) The survey is not stamped by a licensed surveyor; (7) The building elevations do not reflect the slope of the site, which slopes over two feet from front to back - this means that the building walls will be taller near neighbors' properties, and will have greater impact than shown; (8) It contains an incorrect rendition of neighboring houses and setbacks: The perspective drawing misleadingly shows the adjacent neighbor on the North (the Muse) as a narrow two-story structure where it is actually a one-story structure on a lot that is wider than the applicant's lot. The site plan does not show the correct configuration and relationship of the site to the neighbor's property on the North (the Muse). The site plan still does not accurately show the neighbors' properties, location on the lot, and setbacks. (9) The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden). This will significantly add to the height and impacts on neighbors, but this aspect of the proposed building is not shown.

(II) The Public Does Not Have Enough Time Or Enough Information To Comment Fully On This Proposed Development.

The neighborhood received only 17 days notice to comment on this proposed development. This is insufficient time for a project of this magnitude.

First, given the proposed four-story height in a neighborhood zoned only for three stories, story polls should be required so that the public can better consider the impact of this massive building on the neighboring community. The public comment period should be extended at least 30 days, once the story poles are installed, so that the public can consider and comment on them to the City.

Second, it has proved impossible during this short time to obtain the information necessary to fully evaluate and comment on this Application. For example, we have attempted in vain to obtain information about the process in which this Application was deemed complete. On January 20, 2015, Vibeke Norgaard went to the Planning Department and requested to see the file on 6501 Shattuck. She was given a very small and very incomplete file. Many pieces of correspondence between neighbors and Ms. Clevenger about this project over the past years were not in the project file. Most notably, nothing in the project file references either the meetings Clevenger referred to, or any other process by which the decision was made to deem the Application complete. When Vibeke Norgaard requested to see such documents, she was directed to file a Public Records Act request. Such a request would, of course have been futile in the short period given to the public to comment on this major development. Ian Martin had, in fact, filed

one on January 15th, 2015 (Public Records Act request No. 7559) for certain documents and has to date heard nothing back.

Third, to the extent this project is being analyzed under the old zoning laws from 2010 in its entirety (which is not clear to us based on the public notice) after much searching, we are unable to find those old zoning laws online. It would be necessary to analyze the entire project under those older laws in order to be able to fully comment. We therefore request that the City perform, or require that the Applicant perform, a detailed comparison of the proposed development under old and new zoning.

Fourth, in order to fully comment, the public should be able to see a composite building elevation that shows the proposed building and its relationship to adjacent buildings in order to demonstrate how issues of scale, massing, open space, and privacy are being addressed.

Fifth, we also request that a shadow study be performed in order to understand how our building's solar access will be impacted in the afternoon by the development.

For all of the above reasons, we request that the public notification period be extended.

(III) Additional Concerns About the Design of the Proposed Building.

This proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor, and its massing will be sorely out of context. While we support greater density near transit nodes, this building, as proposed, will work against efforts to bring greater density to our urban areas. In fact, it will serve as a poster child of poorly considered urban planning by people who are against greater density. Increased density cannot be the only guiding design principle, but must be balanced with a proposed buildings' impact on the surrounding community. This building, at three stories with appropriate modifications to break up its massing would be a welcome addition to our neighborhood. As it is proposed now, it is entirely unacceptable.

(a) Size, Massing, Height Transitions, And Set-backs Are Inappropriate For The Neighborhood.

From the west on the residential 65th Street, the proposed building leaps from single-story, single family homes to its full-four-story height, dwarfing them. Under Oakland's General Plan (housing element) Policy N8.2 regarding compatible interfaces between densities, the height of a development should step down as it nears lower-density residential areas in order to minimize conflicts at the interface between the different types of development. This proposed development does not do that.

The next building to the south (across 65th Street) of the proposed development is a two-story home with substantial setbacks on all sides. The proposed development has no setbacks and, due to the bay windows, jumps immediately to nearly its full height—outside its own property lines and over the narrow right-of-way.

On the north side of the development there is a simple, single-story mid-century modern building adapted to create affordable housing. The proposed development will tower over it when viewed from Shattuck Ave by a full-three stories, and, even higher when the legally-required elevator tower is included.⁶

From the east, our Nomad Café building—which is three stories—is tapered down in height from south to north, and the third floor is set back from Shattuck, as well as from the north, in order to reduce its massing. The third floor of our building is clad in cedar on its western elevation, in order to reduce its visual impact when viewed against the Oakland hills when the building is viewed from street level down 65th Street. We incorporated these design elements in order to reduce our building’s impact on this neighborhood of predominantly single-family homes and single and two story commercial buildings, as well as to allow the large palms on our property to be seen from the west.

Further, it appears that the massive building profile will shade the street and surrounding sidewalks for most of the day.

(b) The Proposed Bay Windows Exacerbate Massing.

In addition, the bay windows of the proposed building should be eliminated on 65th and Shattuck. The looming nature of the proposed building will be exacerbated by the bay windows that project out over the narrow right of way of the 66’-wide Shattuck Corridor, with its 43’-wide roadway and minimal 6’ sidewalks, and the residentially-scaled 65th Street.

While we encourage the Applicant to break up the massing of these four-story walls, this can be done by withdrawing sections of the walls from the property lines on Shattuck and 65th Street, thus providing massing relief to the neighborhood.

(c) The Proposed Development Causes Unnecessary Loss of Views From Our Building.

The bay windows overlooking 65th Street will eliminate our building’s view of San Francisco and the Bay Bridge. This would adversely affect the property value and

⁶ As set forth above, this elevator is not shown in the Application plans.

our tenant's enjoyment of our building. The view of the Golden Gate Bridge and San Francisco Bay from our building will be eliminated by the sheer height of the proposed four stories. This violates the spirit of Oakland's General Plan Policy N3.9. ("Residential developments should be encouraged to...avoid[] unreasonably blocking sunlight and views for neighboring buildings".) Removing the bay windows from 65th street will likely save our view of San Francisco and the Bay Bridge, and limiting the building to 3 stories, as required by current zoning, would at least partially save our views of the Golden Gate Bridge and San Francisco Bay.

(d) Variances.

The variances required, for the rear setback, density, and driveway, add to the excessive bulk and adverse impact on the neighborhood as described above. We therefore feel staff is being too generous in designating them as "minor" variances. See Oakland's General Plan Policy N11.3 which states that "variances ... **should not be granted lightly** and 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 of privileges enjoyed by similar properties, **as well as the fact that the variance will not adversely effect the surrounding area nor will it grant special privilege to the property.**" (emphasis added).

Furthermore, as the plans submitted with the Application do not show the legally-required elevator tower, we are concerned that they may also lack other important details. If so, additional variances or use permits may be required.

We respectfully request that the City force the Applicant to take the above concerns into consideration and revise their design accordingly.

(IV) Don't Reward The Applicant's Creation Of An Eyesore.

We would also like to urge the City to not accept the Hobson's choice of approving Applicant's imperfect development project in order to the alleviate the blight Applicant has created over the past four years.

As you are hopefully aware, the Applicant has left his site in disrepair over the past four years. Starting in 2010, neighbors contacted the City about the site's poor condition, requesting that the City do something to force the Applicant to clean up his site. The blight on this property has included graffiti covering the front of buildings, black cloths on the fences flapping into the sidewalk area, trash building up on a regular

basis, and mosquitos breeding in the large pits of standing water.⁷ Neighbors have for years reported illegal activity and the poor condition of the site. Some neighbors now will put up with anything just to see an end to this blight.

Please do not end the message to developers in Oakland that creating blight and nuisance in any way speeds up the approval process. It is better for the neighborhood that this be a well-maintained vacant lot for another decade than it be developed in a way that is way too big and massive for the narrow Shattuck Corridor.

(V) The City Should Apply Diligent Oversight To This Applicant.

Given the Applicant's history of rule-breaking and shortcut-taking, we urge the City to carefully scrutinize the Applicant's construction process to ensure that he does not deviate from his approved plans.

As documented by the City's own inspectors, ourselves and other neighbors in numerous phone calls, letters and photos over the last five years, the Applicant has shown willful disregard for the rules and procedures of development.⁸ Since none of these actions appear in Applicant's project file, they are summarized here: (1) The Applicant demolished a building on the site on 3/17/10 without any permit, without the required public notification and without the asbestos survey required by the Bay Area Air Quality Management District. The City issued a permit for this demolition on 3/27/10 -- *after* the building was demolished; (2) According to a neighbor, Applicant began remediating the underground tanks in the middle of the night; (3) According to a conversation with Oakland Fire Department Inspector, Keith Matthews, the Applicant pulled the UST tanks with incomplete plans in place, including no dust abatement plan⁹; (4) Although, according to the Fire department, Applicant was supposed to stop the tank removal work during high winds the Applicant removed the tanks on an extremely windy day in 2010 causing gasoline smelling dust to blow around the neighborhood: Our family, including

⁷ Applicant has even gone so far as to blame neighbors for the blighted condition of his own property in an email to Ms. Guita Boostani on December 18, 2013.

⁸ As noted above, since the Applicant is a seasoned developer, his ignoring building and remediation rules and regulations cannot be dismissed as the result of mistake or ignorance.

⁹ A Public Records Act request was mailed by registered mail in or around early 2012 to the Fire Department in order to obtain more details about the UST removals and whether or not Applicant had a proper permit in place when they were begun. To date we have had no response to this request.

our then 5 year old daughter and myself, a then pregnant mother, experienced having particles of this gasoline-infused soil blow around us as we entered and exited our home; (5) Two swimming pool-sized pits, where the underground storage tanks had rested were not lined with plastic and backfilled with clean soil as is normally required, according to a Fire Department Inspector. Although he was ordered by the Oakland Fire Department to backfill the pits on March 4, 2010, as late as July 2011, Applicant had not yet complied; (6) Although once tanks were discovered to have leaked into soil, Applicant was not supposed to further disturb the soil, he did so, on several occasions in 2010; (7) Although the contaminated soil was supposed to be transported through the City in covered dump trucks, we documented the trucks driving away uncovered, with contaminated soil spilling into City streets; (8) Pools of water gathered in the pits, pools most likely filled with hazardous substances because the tanks had leaked into the surrounding soil; (9) An agent of Applicant was seen draining the pools of this water into the back building, where there was a public sewer access, possibly into the public sewer. Although he told neighbors he was draining the toxic water into a tank, which would later be hauled away, he refused to let them see the tank. According to Erica Fisker, the senior environmental consultant for SOMA, the company engaged by Applicant to remediate the site, this siphoning of water was not authorized by SOMA, and she knew nothing about it.

Further, in a lawsuit against the City over fines assessed against him for blight on his property prior to his ownership, a hearing officer found “not credible [Magganas’] claim he was unaware of the existence of violations when he purchased the building.” The hearing officer also found “Magganas had engaged in either subterfuge or studied ignorance in his testimony regarding the continuing existence of code violations” and concluded he was “either ...not genuinely confused about the existence of violations” or “kept his eyes closed to avoid seeing any problems while he was there.” The hearing officer ultimately found that several violations existed, and affirmed the City's finding that the property constituted a public nuisance. (See *Bruder, LLC v. City of Oakland*, Case No. A136256, Court of Appeals of California, First District, Division One (Filed August 29, 2013).)

Given this Applicant’s history of acting first and dealing with the consequences later, the City should apply diligent oversight to any construction process they approve.

VI. This Application Should be Denied.

Due to the glaring inaccuracies and omissions on this Application, and all the additional concerns raised above, we respectfully request that you revoke your decision to deem this Application complete, and require that the Applicant submit an accurate and completed Application.

You have the authority to do so. On your own application form, the Applicant was clearly warned that “inaccuracies may result in revocation of planning permits as determined by the Planning Director.” (cite) Therefore, when the Applicant decided to omit and misrepresent on his Application, he was on notice that doing so might mean that any permit he received as a result of the inaccurate and incomplete application could be revoked.

Please also be on notice that given the issues mentioned in this letter, we will appeal any decision to approve this development to the Planning Commission and if necessary, to the Superior Court.

Sincerely,

Ian Martin, Marlene Martin and Vibeke Norgaard

Michael Casey Bradley, Planner III
City Of Oakland, Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

1/27/2019

Dear Mr. Bradley,

We are appealing the approval of CDV10185 for the building proposed at 6501 Shattuck Avenue. Please find our supporting documents attached.

The approval is based on an error and/or abuse of discretion by the Zoning Manager as it allows a 4-story building in an area that is not zoned for 4-stories. The decision relies on the mistaken assumption that the applicant has a right to "grandfather in" the project under old zoning laws that were in place prior to 2011. For the third time, we are providing our legal analysis of this significant error by the City, which was previously provided during the public comment periods in 2015 and again last year. Furthermore, as far as we are aware, no building permit has been obtained by the Applicant prior to the approval we are appealing, and thus the Zoning Manager erred in finding that the Applicant has a right to proceed under the zoning laws in place prior to 2011, even if the application had been correctly "deemed complete" so many years ago, (which it was not as set forth in the included letter). See e.g. *Avco Cmty. Developers, Inc. v. S. Coast Reg'l Com.*, 17 Cal. 3d 785, 801 (1976) (developer had not acquired vested right to proceed with its development under prior zoning); *Anderson v. City Council of City of Pleasant Hill*, 229 Cal. App. 2d 79 (1964) ("respondents have been unable to cite a single California decision in which a property owner has been held to have acquired a vested right against future zoning without having first acquired a building permit to construct a specific type of building and having

thereafter expended a considerable sum in reliance upon said permit. Such authority would appear nonexistent ...").

Also included in this appeal is home-owner Chris Halls' letter stating errors made in the approval analysis. He shares a propertyline with 6501 Shattuck Avenue as does Guita Boostani. She has provided a graphical analysis of the errors and inconsistencies of the plans that the planning department relied upon to arrive at their approval.

Sincerely,

Ian Martin and Vibeke Norgaard
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January 26, 2015

Ann Clevenger
Steve Miller
City of Oakland
Bureau of Planning – Zoning Division
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

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This Applicant should not be allowed to get in through the backdoor what he could never have got in through the front door when he filed this Application.

(1) The Application Was Incomplete As It Failed to Include Information Required by State Law.

The owner of the property, Mr. Magganas and his architect Moshe Dinar (combined, "the Applicant"), submitted a Basic Application for Development Review to the City of Oakland Planning Department (the City) on or around July 14, 2010 ("the Application"). However, the Application was incomplete.²

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² It should be noted that the incompleteness of the Application cannot be dismissed as the result of mistakes or ignorance on the part of the Applicant: Mr. Magganas is a seasoned developer with many large developments in Alameda County under his belt.

Conversations with Ann Clevenger suggest that the City may be taking the position that the site at 6501 has since been fully remediated and therefore it is now besides-the-point that the Applicant did not complete this section at the time of the Application. Even though the site may now be remediated, at least as far as Alameda County is concerned, allowing the Applicant to circumvent the process required by state law is not acceptable. Such an approach leaves the public with no assurance that remediation of building sites will occur with proper oversight, and leaves open the possibility that that developments can go ahead despite being on the state hazardous waste list without any special permits.

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A conclusion by the City that this incomplete Application can nonetheless be "deemed complete" runs an end-run around the state law intended to protect the quality of our environment and our health. Furthermore, regardless of the City's rationale, state law requires all applications to include the Hazardous Waste and Substance Statement. Since the Application fails to include this statement, the City lacks authority to deem the Application complete.

(2) The City Should Not Have Even Accepted the Application Under Its Own Guidelines.

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Section 9 of the application form is a checklist of everything required in order for the application to be accepted by the City. It has a large, bolded, bordered and partly capitalized header which notifies applicants of this rule:

"[T]he following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED." (Emphasis in original).

The first item explicitly requires that the Applicant has submitted a "completed" application form "including ... the Hazardous Waste and Substances Statement." The Applicant represented on his Application that he had submitted this Statement, when, as set forth above, he had not. This inaccuracy likely misled the City into accepting an application that should never even have been accepted.

Further, the Application appears to never have been fully processed by the City. It appears from the Application in the City's project file that the required Application fee was never paid. The section requiring the City to note the fee received and date it was received is left blank. (See Application, p.1.)

(3) The Application Does Not Fall Within the Limited Exceptions to the Amended Zoning Ordinance.

There is nothing in the Planning Department's project file on 6501 Shattuck that indicates when or how this Application was "deemed complete." For example, there is no letter to the Applicant alerting him that his application has been deemed complete, nor any letter from the Applicant demanding that the city deem his application complete.³ On January 20, 2015, Vibeke Norgaard spoke with Ann Clevenger and received no further clarification as to when or exactly how or when it was deemed complete.⁴

Oakland City Council's Ordinance No. 13064 ("the Ordinance"), which amended the zoning laws and changed the zoning for the parcel under consideration, allows for exceptions to the new zoning for some applications that have already been deemed complete but only if they are "deemed complete...as of the date of final passage" of the ordinance. (Oakland City Council's Ordinance No. 13064, Section 6). If the Application were "deemed complete" after April 15, 2011, the development would thus be subject to the current amended zoning under the Ordinance.

The Ordinance requires that the Application be deemed complete as of April 15, 2011 to fall under the exception. As set forth above, this Application was not complete as of that date because it lacked information required by state law. The city therefore has not authority to deem it complete as of that date. Because it is not encompassed by this exception to the new zoning, this Application falls under the new zoning. (Oakland

³ The Oakland Planning Department's file on this Application was remarkably sparse. Much correspondence that we and other neighbors have had with the Planning department about this site was not in it.

⁴ In this conversation between Ms. Clevenger and Vibeke Norgaard, Ms. Clevenger did vaguely indicate there were "some meetings" in which the language of the ordinance was carefully considered and the decision to deem the application complete made. It was not clear when these meetings were held or why there was no indication of them in the public file. If the ordinance was being reviewed when the decision was made, that would strongly suggest the application was deemed complete *after* April 15, 2011.

Planning Code § 17.114.030; see also e.g., *Avco Cmty. Developers, Inc. v. S. Coast Reg'l Com.*, 17 Cal. 3d 785 (1976)).

Furthermore, if the City's position is that the Application was deemed complete by operation of law 30 days after it was received under the Permit Streamlining Act (Cal. Gov. Code § 65920 et. seq), then the new zoning also must be applied to this proposed development. The exceptions set forth in section 6 of the City's ordinance only apply to those applications deemed complete "by the City", not those applications deemed complete by operation of law. (Oakland City Council's Ordinance No. 13064, Section 6). It should also be noted that the Permit Streamlining Act was created to protect Applicants from foot-dragging by public officials. It can hardly be a valid use of that Act to allow foot-dragging by Applicants, who only complete half of their applications, to help them be grandfathered into old zoning laws.

(4) The City Should Not Deem This Application Complete Because It Contains Misrepresentations of Fact.

Not only is the Application, as set forth above, incomplete, but it also should not be deemed complete as it contains several outright misrepresentations of fact. As set forth above, the Applicant noted, under penalty of perjury, that he had filled out section 8, when he in fact had not.

In addition, in Section 6 of his Application, which requires an applicant to attest whether there are any existing Protected Trees "anywhere on the subject property or within 10 feet of the proposed construction activities (including neighbor's properties or the adjacent public right-of-way)" this Applicant informed the City there are no such trees. In fact, there is a large 36" diameter redwood on the back corner of the adjacent property, within ten feet of his proposed construction activity. The Applicant's Proposed site plan also does not show the protected Redwood tree.⁵

For the City to now say this Application has been "deemed complete" means that not only is it acceptable to leave required sections entirely blank, but that actually making outright misrepresentations on an application is acceptable.

(5) Additional Inaccuracies In The Application.

⁵ The Applicant's proposal shows a concrete masonry fence, 16-foot tall walls, a paved driveway and parking all within 10 feet of this tree. The Applicant, in an email to Guita Boostani, dated 7/30/2012, threatened legal action against the neighbor if they did not remove this tree.

In addition, there were several other aspects of the Application that make it both inaccurate and incomplete: (1) The variance justifications are not updated to reflect the latest design; (2) The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, or lot coverage; (3) There are no photographs of neighboring properties; (4) The elevation drawings do not show adjacent houses; (5) No materials and color board was submitted; (6) The survey is not stamped by a licensed surveyor; (7) The building elevations do not reflect the slope of the site, which slopes over two feet from front to back - this means that the building walls will be taller near neighbors' properties, and will have greater impact than shown; (8) It contains an incorrect rendition of neighboring houses and setbacks: The perspective drawing misleadingly shows the adjacent neighbor on the North (the Muse) as a narrow two-story structure where it is actually a one-story structure on a lot that is wider than the applicant's lot. The site plan does not show the correct configuration and relationship of the site to the neighbor's property on the North (the Muse). The site plan still does not accurately show the neighbors' properties, location on the lot, and setbacks. (9) The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden). This will significantly add to the height and impacts on neighbors, but this aspect of the proposed building is not shown.

(II) The Public Does Not Have Enough Time Or Enough Information To Comment Fully On This Proposed Development.

The neighborhood received only 17 days notice to comment on this proposed development. This is insufficient time for a project of this magnitude.

First, given the proposed four-story height in a neighborhood zoned only for three stories, story polls should be required so that the public can better consider the impact of this massive building on the neighboring community. The public comment period should be extended at least 30 days, once the story poles are installed, so that the public can consider and comment on them to the City.

Second, it has proved impossible during this short time to obtain the information necessary to fully evaluate and comment on this Application. For example, we have attempted in vain to obtain information about the process in which this Application was deemed complete. On January 20, 2015, Vibeke Norgaard went to the Planning Department and requested to see the file on 6501 Shattuck. She was given a very small and very incomplete file. Many pieces of correspondence between neighbors and Ms. Clevenger about this project over the past years were not in the project file. Most notably, nothing in the project file references either the meetings Clevenger referred to, or any other process by which the decision was made to deem the Application complete. When Vibeke Norgaard requested to see such documents, she was directed to file a Public Records Act request. Such a request would, of course have been futile in the short period given to the public to comment on this major development. Ian Martin had, in fact, filed

one on January 15th, 2015 (Public Records Act request No. 7559) for certain documents and has to date heard nothing back.

Third, to the extent this project is being analyzed under the old zoning laws from 2010 in its entirety (which is not clear to us based on the public notice) after much searching, we are unable to find those old zoning laws online. It would be necessary to analyze the entire project under those older laws in order to be able to fully comment. We therefore request that the City perform, or require that the Applicant perform, a detailed comparison of the proposed development under old and new zoning.

Fourth, in order to fully comment, the public should be able to see a composite building elevation that shows the proposed building and its relationship to adjacent buildings in order to demonstrate how issues of scale, massing, open space, and privacy are being addressed.

Fifth, we also request that a shadow study be performed in order to understand how our building's solar access will be impacted in the afternoon by the development.

For all of the above reasons, we request that the public notification period be extended.

(III) Additional Concerns About the Design of the Proposed Building.

This proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor, and its massing will be sorely out of context. While we support greater density near transit nodes, this building, as proposed, will work against efforts to bring greater density to our urban areas. In fact, it will serve as a poster child of poorly considered urban planning by people who are against greater density. Increased density cannot be the only guiding design principle, but must be balanced with a proposed buildings' impact on the surrounding community. This building, at three stories with appropriate modifications to break up its massing would be a welcome addition to our neighborhood. As it is proposed now, it is entirely unacceptable.

(a) Size, Massing, Height Transitions, And Set-backs Are Inappropriate For The Neighborhood.

From the west on the residential 65th Street, the proposed building leaps from single-story, single family homes to its full-four-story height, dwarfing them. Under Oakland's General Plan (housing element) Policy N8.2 regarding compatible interfaces between densities, the height of a development should step down as it nears lower-density residential areas in order to minimize conflicts at the interface between the different types of development. This proposed development does not do that.

The next building to the south (across 65th Street) of the proposed development is a two-story home with substantial setbacks on all sides. The proposed development has no setbacks and, due to the bay windows, jumps immediately to nearly its full height—outside its own property lines and over the narrow right-of-way.

On the north side of the development there is a simple, single-story mid-century modern building adapted to create affordable housing. The proposed development will tower over it when viewed from Shattuck Ave by a full-three stories, and, even higher when the legally-required elevator tower is included.⁶

From the east, our Nomad Café building—which is three stories—is tapered down in height from south to north, and the third floor is set back from Shattuck, as well as from the north, in order to reduce its massing. The third floor of our building is clad in cedar on its western elevation, in order to reduce its visual impact when viewed against the Oakland hills when the building is viewed from street level down 65th Street. We incorporated these design elements in order to reduce our building’s impact on this neighborhood of predominantly single-family homes and single and two story commercial buildings, as well as to allow the large palms on our property to be seen from the west.

Further, it appears that the massive building profile will shade the street and surrounding sidewalks for most of the day.

(b) The Proposed Bay Windows Exacerbate Massing.

In addition, the bay windows of the proposed building should be eliminated on 65th and Shattuck. The looming nature of the proposed building will be exacerbated by the bay windows that project out over the narrow right of way of the 66’-wide Shattuck Corridor, with its 43’-wide roadway and minimal 6’ sidewalks, and the residentially-scaled 65th Street.

While we encourage the Applicant to break up the massing of these four-story walls, this can be done by withdrawing sections of the walls from the property lines on Shattuck and 65th Street, thus providing massing relief to the neighborhood.

(c) The Proposed Development Causes Unnecessary Loss of Views From Our Building.

The bay windows overlooking 65th Street will eliminate our building’s view of San Francisco and the Bay Bridge. This would adversely affect the property value and

⁶ As set forth above, this elevator is not shown in the Application plans.

our tenant's enjoyment of our building. The view of the Golden Gate Bridge and San Francisco Bay from our building will be eliminated by the sheer height of the proposed four stories. This violates the spirit of Oakland's General Plan Policy N3.9. ("Residential developments should be encouraged to...avoid[] unreasonably blocking sunlight and views for neighboring buildings".) Removing the bay windows from 65th street will likely save our view of San Francisco and the Bay Bridge, and limiting the building to 3 stories, as required by current zoning, would at least partially save our views of the Golden Gate Bridge and San Francisco Bay.

(d) Variances.

The variances required, for the rear setback, density, and driveway, add to the excessive bulk and adverse impact on the neighborhood as described above. We therefore feel staff is being too generous in designating them as "minor" variances. See Oakland's General Plan Policy N11.3 which states that "variances ... **should not be granted lightly** and 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 of privileges enjoyed by similar properties, **as well as the fact that the variance will not adversely effect the surrounding area nor will it grant special privilege to the property.**" (emphasis added).

Furthermore, as the plans submitted with the Application do not show the legally-required elevator tower, we are concerned that they may also lack other important details. If so, additional variances or use permits may be required.

We respectfully request that the City force the Applicant to take the above concerns into consideration and revise their design accordingly.

(IV) Don't Reward The Applicant's Creation Of An Eyesore.

We would also like to urge the City to not accept the Hobson's choice of approving Applicant's imperfect development project in order to the alleviate the blight Applicant has created over the past four years.

As you are hopefully aware, the Applicant has left his site in disrepair over the past four years. Starting in 2010, neighbors contacted the City about the site's poor condition, requesting that the City do something to force the Applicant to clean up his site. The blight on this property has included graffiti covering the front of buildings, black cloths on the fences flapping into the sidewalk area, trash building up on a regular

basis, and mosquitos breeding in the large pits of standing water.⁷ Neighbors have for years reported illegal activity and the poor condition of the site. Some neighbors now will put up with anything just to see an end to this blight.

Please do not end the message to developers in Oakland that creating blight and nuisance in any way speeds up the approval process. It is better for the neighborhood that this be a well-maintained vacant lot for another decade than it be developed in a way that is way too big and massive for the narrow Shattuck Corridor.

(V) The City Should Apply Diligent Oversight To This Applicant.

Given the Applicant's history of rule-breaking and shortcut-taking, we urge the City to carefully scrutinize the Applicant's construction process to ensure that he does not deviate from his approved plans.

As documented by the City's own inspectors, ourselves and other neighbors in numerous phone calls, letters and photos over the last five years, the Applicant has shown willful disregard for the rules and procedures of development.⁸ Since none of these actions appear in Applicant's project file, they are summarized here: (1) The Applicant demolished a building on the site on 3/17/10 without any permit, without the required public notification and without the asbestos survey required by the Bay Area Air Quality Management District. The City issued a permit for this demolition on 3/27/10 -- *after* the building was demolished; (2) According to a neighbor, Applicant began remediating the underground tanks in the middle of the night; (3) According to a conversation with Oakland Fire Department Inspector, Keith Matthews, the Applicant pulled the UST tanks with incomplete plans in place, including no dust abatement plan⁹; (4) Although, according to the Fire department, Applicant was supposed to stop the tank removal work during high winds the Applicant removed the tanks on an extremely windy day in 2010 causing gasoline smelling dust to blow around the neighborhood: Our family, including

⁷ Applicant has even gone so far as to blame neighbors for the blighted condition of his own property in an email to Ms. Guita Boostani on December 18, 2013.

⁸ As noted above, since the Applicant is a seasoned developer, his ignoring building and remediation rules and regulations cannot be dismissed as the result of mistake or ignorance.

⁹ A Public Records Act request was mailed by registered mail in or around early 2012 to the Fire Department in order to obtain more details about the UST removals and whether or not Applicant had a proper permit in place when they were begun. To date we have had no response to this request.

our then 5 year old daughter and myself, a then pregnant mother, experienced having particles of this gasoline-infused soil blow around us as we entered and exited our home; (5) Two swimming pool-sized pits, where the underground storage tanks had rested were not lined with plastic and backfilled with clean soil as is normally required, according to a Fire Department Inspector. Although he was ordered by the Oakland Fire Department to backfill the pits on March 4, 2010, as late as July 2011, Applicant had not yet complied; (6) Although once tanks were discovered to have leaked into soil, Applicant was not supposed to further disturb the soil, he did so, on several occasions in 2010; (7) Although the contaminated soil was supposed to be transported through the City in covered dump trucks, we documented the trucks driving away uncovered, with contaminated soil spilling into City streets; (8) Pools of water gathered in the pits, pools most likely filled with hazardous substances because the tanks had leaked into the surrounding soil; (9) An agent of Applicant was seen draining the pools of this water into the back building, where there was a public sewer access, possibly into the public sewer. Although he told neighbors he was draining the toxic water into a tank, which would later be hauled away, he refused to let them see the tank. According to Erica Fisker, the senior environmental consultant for SOMA, the company engaged by Applicant to remediate the site, this siphoning of water was not authorized by SOMA, and she knew nothing about it.

Further, in a lawsuit against the City over fines assessed against him for blight on his property prior to his ownership, a hearing officer found “not credible [Magganas’] claim he was unaware of the existence of violations when he purchased the building.” The hearing officer also found “Magganas had engaged in either subterfuge or studied ignorance in his testimony regarding the continuing existence of code violations” and concluded he was “either ...not genuinely confused about the existence of violations” or “kept his eyes closed to avoid seeing any problems while he was there.” The hearing officer ultimately found that several violations existed, and affirmed the City's finding that the property constituted a public nuisance. (See *Bruder, LLC v. City of Oakland*, Case No. A136256, Court of Appeals of California, First District, Division One (Filed August 29, 2013).)

Given this Applicant’s history of acting first and dealing with the consequences later, the City should apply diligent oversight to any construction process they approve.

VI. This Application Should be Denied.

Due to the glaring inaccuracies and omissions on this Application, and all the additional concerns raised above, we respectfully request that you revoke your decision to deem this Application complete, and require that the Applicant submit an accurate and completed Application.

You have the authority to do so. On your own application form, the Applicant was clearly warned that “inaccuracies may result in revocation of planning permits as determined by the Planning Director.” (cite) Therefore, when the Applicant decided to omit and misrepresent on his Application, he was on notice that doing so might mean that any permit he received as a result of the inaccurate and incomplete application could be revoked.

Please also be on notice that given the issues mentioned in this letter, we will appeal any decision to approve this development to the Planning Commission and if necessary, to the Superior Court.

Sincerely,

Ian Martin, Marlene Martin and Vibeke Norgaard

To: Oakland Planning Department and Planning Commission Members.

From: Rear Neighbors of 6501 Shattuck (the project)

Chris Hall and Vasilica Hall, owners and residents of 6512 Whitney St.

Siegfried and Claudia Mall, owners of 6500 Whitney St

Evan Majors and Caitlin Stuart, owners and residents of 6518 Whitney St

Dear Commissioners and Staff,

We are writing this letter in response to the proposed project at 6501 Shattuck St, referred to as Case File Number **CDV 10185**. We live at 6512 Whitney St the residential lot that abuts the project towards the west along the rear lot line. We are also writing on behalf of both of our adjacent neighbors (6500 and 6518) who also are to the back of the property.

When we received the public notice for this project, we voiced to the planning department our strong opposition to the granting of a variance allowing significant encroachment into the rear yard for the construction of a raised public terrace serving the proposed 18 Unit Bldg. We have also attached another document that addresses the specific findings that were made in the staff report which supported the granting of this variance, and which we believe contain misinformation. **We do not believe this variance meets the necessary criteria to be granted, and it will have a significant negative impact on the visual and auditory privacy of our property.** We believe it will therefore also have a substantial impact on the livability and future value of our home. We furthermore do not believe it is necessary for the successful execution of the project. There is already a roof deck being planned for the building and necessary public open space can be provided to meet code by expanding upon that deck. This would place the open space where it has the least impact on neighbors, and would not require the granting of a variance. We therefore respectfully request the commissioners and staff apply the following conditions to the project:

1. Remove the deck encroachment from the plan and expand the roof terrace to provide the additional open space
2. Replace the current 13' high brick wall that currently is on the rear lot line with a 10' high cinderblock wall between the proposed parking garage and the rear and side adjacent properties. This will provide the necessary visual and sound buffer as well as protect neighbors from fumes generated from the vehicles

In the appeal period we intend to reach out to the applicants directly to request these changes, and we do not believe that they come at unwarranted expense to the project.

We also support the comments submitted by other neighbors, notably the requests for modifications to the landscape plan in order to better integrate the building into the streetscape and surroundings.

We welcome the addition of medium density housing to our neighborhood, and request that it respect the setbacks and development standards that are carefully written to form a transition from higher to lower densities and from commercial to residential zones, as is the case with this project. As the neighborhood adjusts to the need for more housing, this will set a welcome precedent.

Response to Staff Report

While the staff report references several policies in the General Plan, it selectively chooses them. Please see the below policies that were not referenced in the report and that we think are applicable to the issue of transition between higher density and lower density and impact on adjacent properties. We think there should be particular attention to ‘respecting the privacy needs of residents of the development and the surrounding properties’. We feel that is best addressed by putting the group open space on the roof deck.

1. General Plan Policy N3.9 Orienting Residential Development *"Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure"*

2. General Plan Policy N8.2 Making compatible interfaces between densities

"The height of development in urban residential and other higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between the different types of development"

3. General Plan 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 and 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 effect 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."

In the ‘Minor Variance Findings’ section of the staff report (page 9) there are several claims made that we do not believe are correct. The staff report claims that the variance is *‘justified because strict compliance of the regulations would preclude an effective design solution’* and would *‘reduce the group open space or the units’*. This is not true with respect to the podium open space. There is already a roof deck and the roof deck could presumably be expanded. There are several ways to solve the issue without negatively impacting adjacent properties through variances.

The staff report also justifies the encroachment of the Open Space Podium because a similar height building currently exists on the property line. The building that currently exists acts as a visual and auditory buffer between our property and Shattuck Ave and is in no way comparable to having a raised public open space (the purpose of which is to gather on) that looks directly into our back yard and house and has no sound or visual buffer.

The Staff Report also says that the *‘intent of the rear setback is to restrain the building envelope’*. The purpose of a setback is that the building should not extend into it. While encroachments into setbacks are allowed for things like window bays, entry porches (front setback), stairs, and chimneys, the

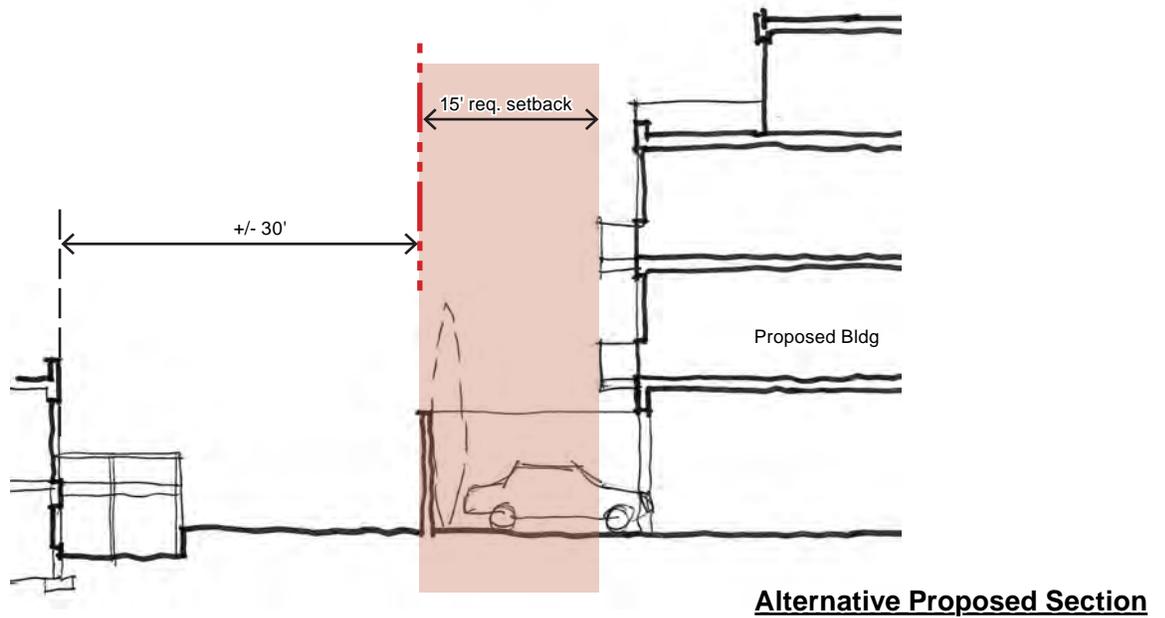
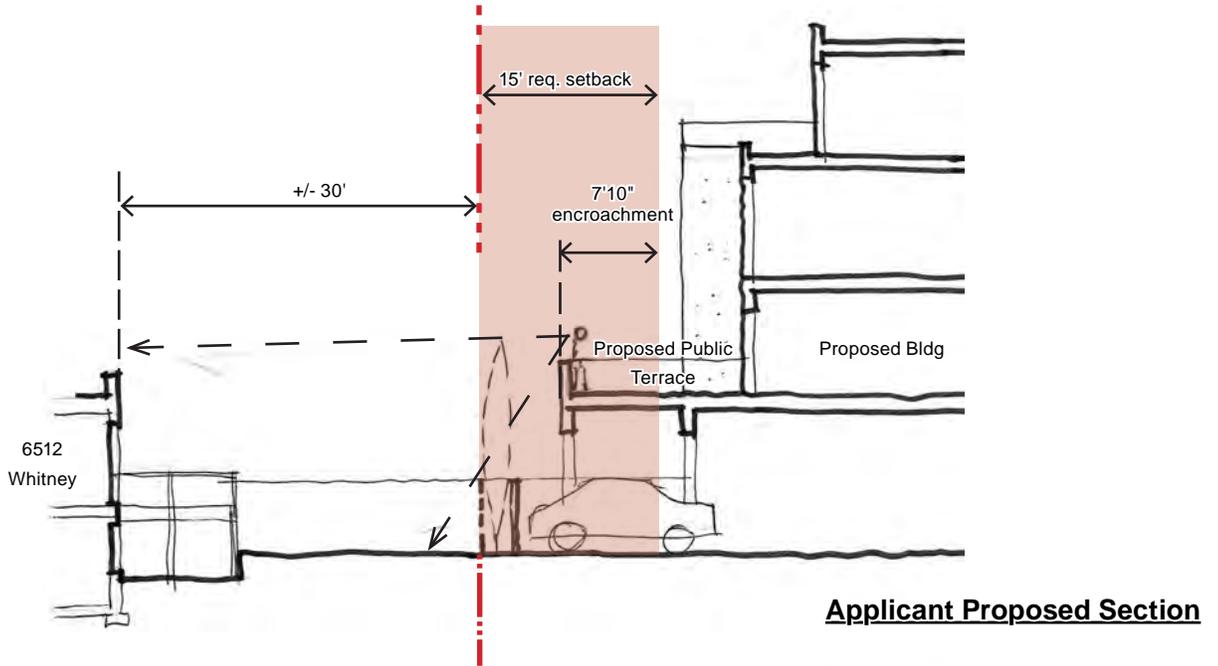
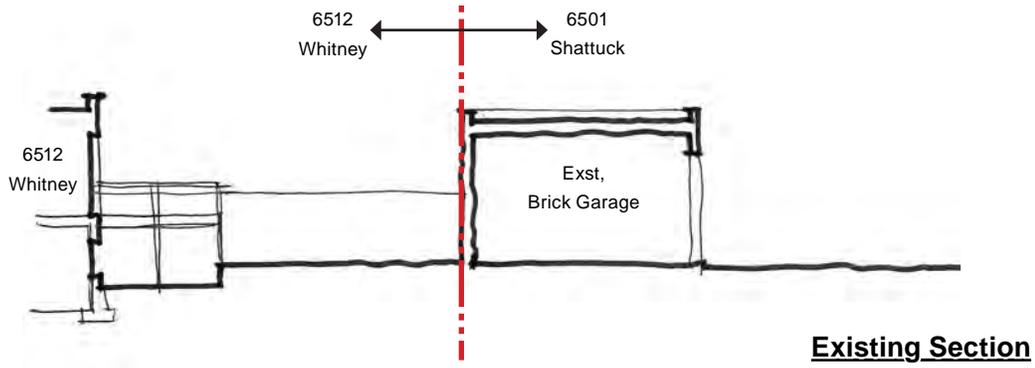
encroachment here is for a podium raised 13' in the air for public gathering that will have a substantial impact on rear properties.

The Staff Report states that the proposed variance *'will not impact the neighbors due to screening walls and landscaping to buffer the adjacent properties'*. This is just false and seems to indicate that the plans were not carefully reviewed, and our complaint letters did not register. If you look at the location of the proposed podium open space and the design of the screen walls and landscape, you can clearly see that the visual and auditory privacy of rear properties will be severely impacted by this encroachment into the rear setback. There is a direct line for sight and sound to travel into our property. Our children are literally sleeping facing the back yard and we do not want to constantly be telling groups of people to quiet down. We respectfully ask that the Planning Commissioners and Staff carefully review the plan and sections.

Respectfully,

Chris Hall

6512 Whitney St
Oakland, CA 94609



0 8 16 32'

1/16" = 1'-0" at full size (8.5 x 11")

6501 SHATTUCK AVE
Oakland, CA

Rear Yard Section Studies
January 27, 2019

List of Appellants:

Name:

Chris Hall & Vasilica Hall
Guita Boostani & Stephen Glaudemanns
Ian Martin & Vibeke Norgaard
Corey McCannon & John Faust
Evan Majors & Caitlin Stuart
Siegfried and Claudia Mall
David Vartanoff
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January 27, 2019

To the City Planning Commission

Re: Appeal of the the approval of project at 6501 Shattuck Avenue
Case File # CDV 10185

Dear Planning Commissioners and staff,

I am the co-owner and creator of the Muse group house directly adjacent to the proposed development at 6501 Shattuck Avenue. I have reviewed the plans and findings for approval and am submitting the attached graphic analysis for your consideration of the appeal.

As a housing advocate and architect, as well as a long time resident in the neighborhood, I would support a well-designed, medium density mixed-use project that is of good quality materials and construction. I would also support a four-story building that presents an appropriate scale and connection to the land and neighboring spaces. However, the proposed design does not meet these criteria, and severely impacts neighbors in ways that are unnecessary, and completely avoidable.

Additionally, the staff report is based on drawings that are internally inconsistent, and which falsely represent critical information, such as the location of property boundaries, the depth of sidewalks, and the conditions on adjacent properties. They also don't show major building elements, such as the elevator extension to the rooftop open space, which exacerbate the negative impacts of the building. These misrepresentations create a false impression of the design and distort the analysis.

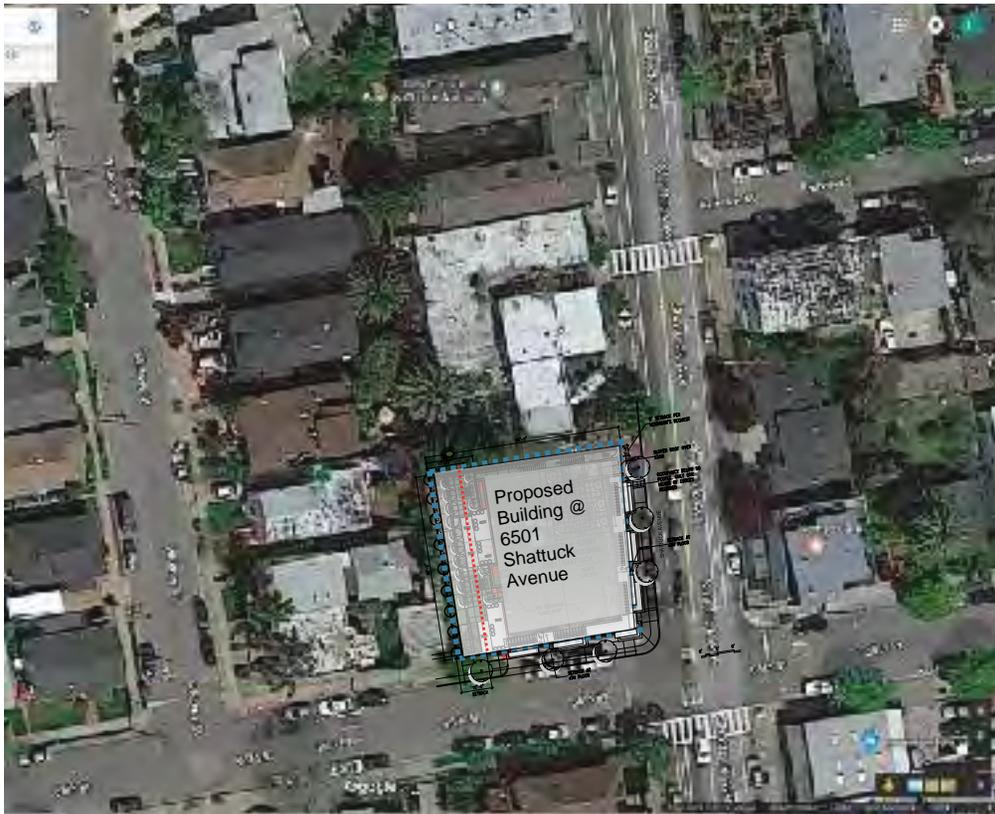
As demonstrated in the attached graphic analysis, it's possible to modify the design to avoid variances and negative impacts on neighbors and neighborhood character, while maintaining project viability, increasing operational efficiency, and even reducing construction costs. We hope that the City will consider these alternatives and work with the community and project sponsor to achieve a more appropriate development here.

Sincerely,

Guita Boostani
739-65th street
Oakland, CA 94609

Attachment:

Zoning and Design Analysis (graphic exhibits) 6501 Shattuck Avenue



ZONING AND DESIGN ANALYSIS

PRESENTED BY NEIGHBORS
IN THE APPEAL OF THE PROJECT AT
6501 Shattuck Avenue
CASE FILE #
CDV 10185

EXHIBITS

1 : Cover Page

Summary, Main Issues, and Exhibit List

2: Neighborhood Context

Clarification of the neighborhood characteristics and existing context that were not acknowledged in the findings.

3-8 : Zoning and Design Analysis

Incorrect, incomplete and misleading, information on the drawings; direct negative impacts on neighbors which were not sufficiently addressed in the analysis and findings for approvals.

9 : Alternative Design Solutions

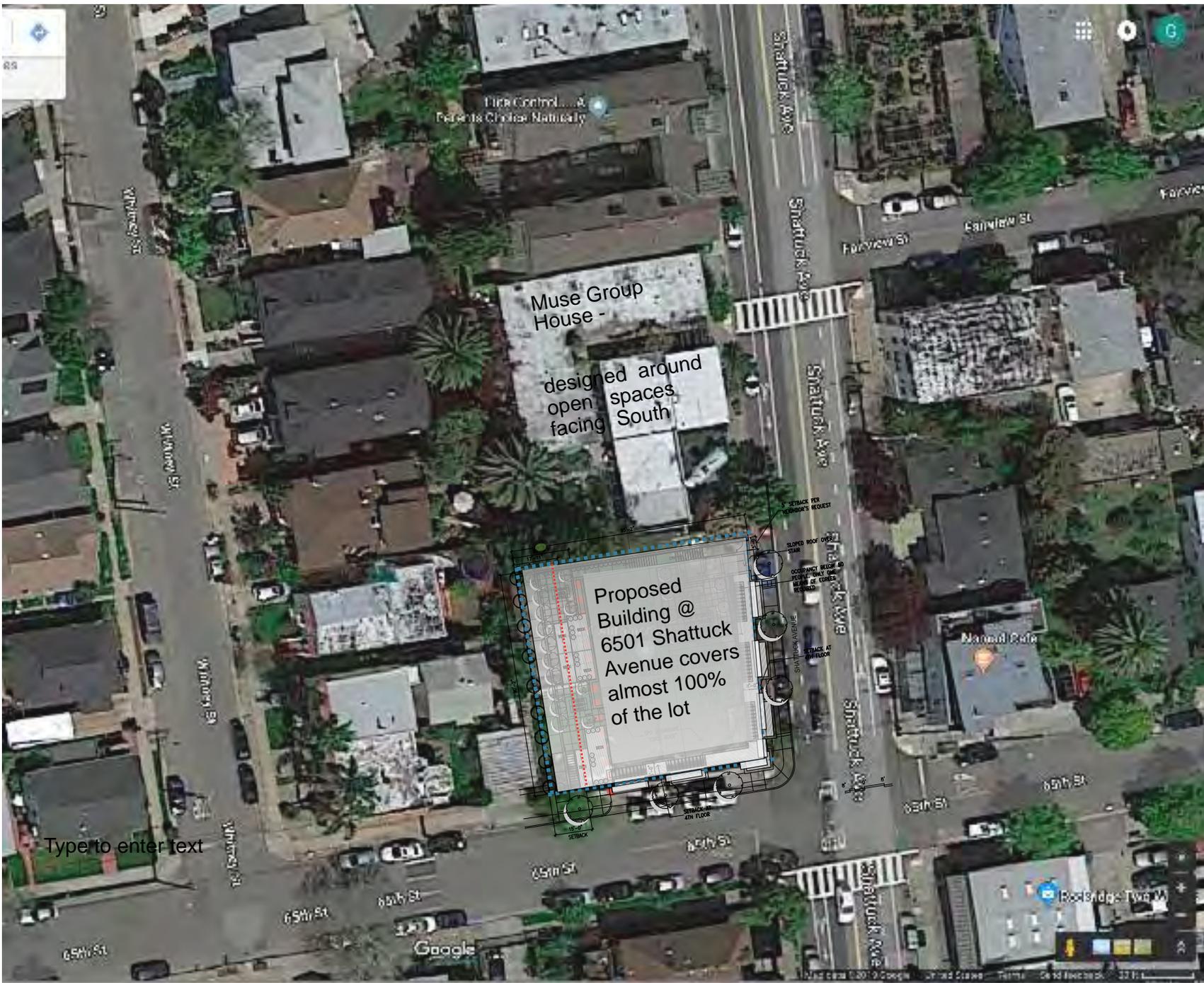
Reasonable and cost-efficient design changes that would alleviate severe negative impacts on neighbors and increase project viability.

SUMMARY

Appeal of the granting of Use Permits and Variances to expand an already large building into the required rear yard setback, use the rear yard setback exclusively for parking, add a podium level, then use the podium as required group open space; and diminish its usefulness as 'group open space' by using it as the emergency egress - all of which impact the livability of neighboring properties; in addition to design and zoning decisions based on an incomplete application that was rushed through under the old rules, and drawings that are internally inconsistent and incorrect in key areas.

MAIN ISSUES

- The lot will be completely covered by building
- The podium structure in the rear yard setback disrupts the neighborhood pattern of rear yard open spaces.
- Building massing and tall walls shades adjacent buildings and back yards
- Privacy and noise impacts from elevated structures and open spaces directly on property lines
- Major building elements that impact neighbors are not shown on the drawings.
- Building projections over the sidewalk create an imposing presence and bulky scale.
- Inadequate space provided for bike storage, trash containers, meters, landscape elements, and planting.
- Conditions on adjacent properties are not shown correctly.
- Property boundaries and sidewalk depths are shown as being larger than they actually are.
- Open garage ventilation on the property lines directly vents fumes into adjacent backyards
- Existing neighborhood characteristics are not represented accurately or respected.
- Viable design alternatives alleviating these issues were not explored.



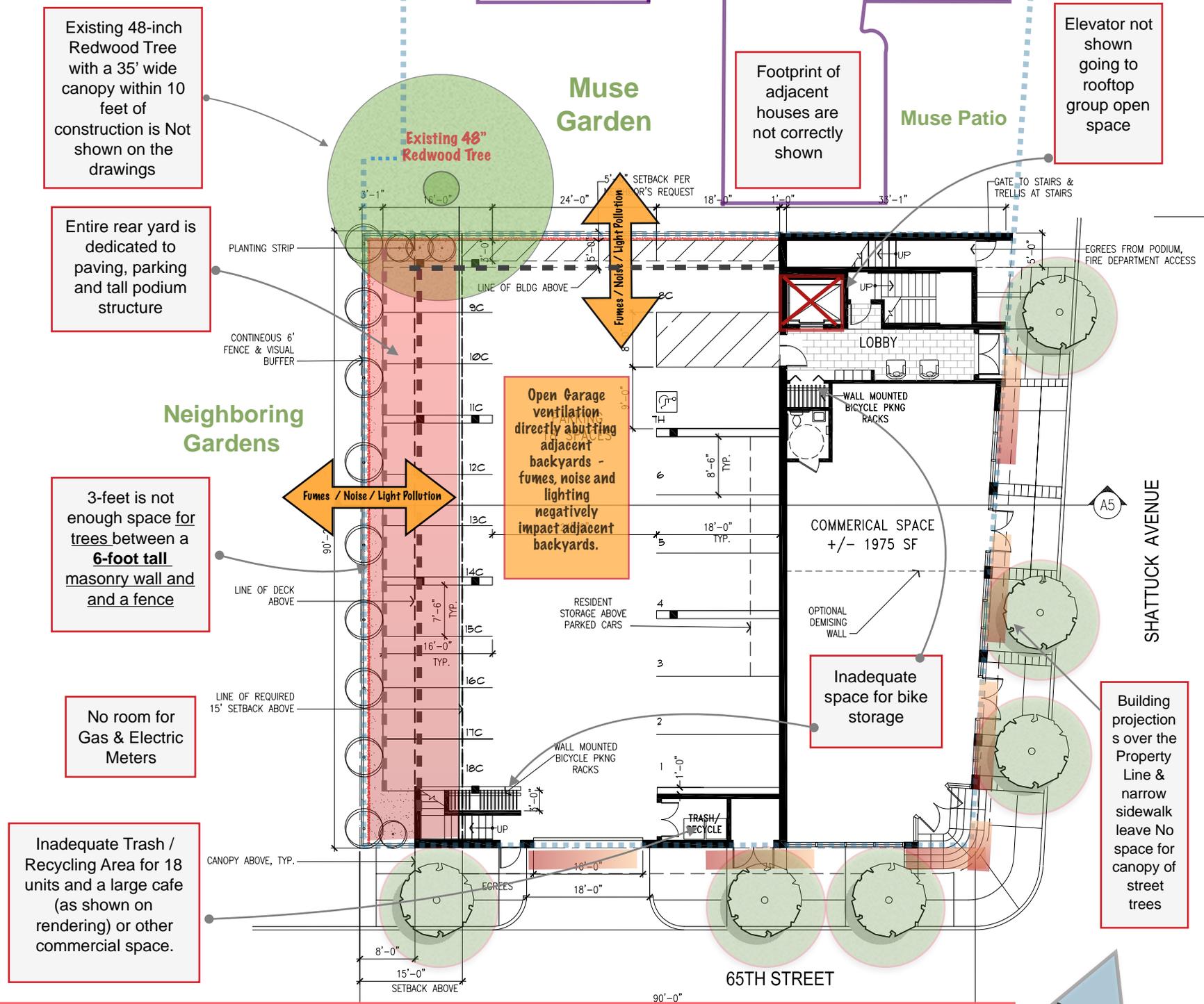
6501 Shattuck Neighborhood Context

- Low and Medium Density buildings on small lots
- Rear Yard Setbacks and fruitful gardens
- An appropriate ratio of buildings to open space (not 100% lot coverage)
- Crenulated building footprints (not uniform walls directly on the sidewalk.)
- dynamic building volumes & sustainable site planning (not monolithic lot coverage)
- Distinctive, site specific architectural styles (not generic condos)
- Conventional building types that fit in with neighborhood scale (not podium style)
- Building volumes that step away from the street (not imposing building projections over the sidewalks)
- The Muse group house and gardens that provide a unique presence and lush respite.
- Neighborhood defining Nomad Cafe Building - an award winning design that sets the standard for new development in our neighborhood.

SHATTUCK AVENUE @ 65TH STREET

January 2019

Exhibit 2



Existing 48-inch Redwood Tree with a 35' wide canopy within 10 feet of construction is Not shown on the drawings

Entire rear yard is dedicated to paving, parking and tall podium structure

Elevator not shown going to rooftop group open space

Footprint of adjacent houses are not correctly shown

3-feet is not enough space for trees between a 6-foot tall masonry wall and a fence

Open Garage ventilation directly abutting adjacent backyards - fumes, noise and lighting negatively impact adjacent backyards.

No room for Gas & Electric Meters

Inadequate Trash / Recycling Area for 18 units and a large cafe (as shown on rendering) or other commercial space.

Inadequate space for bike storage

Building projections over the Property Line & narrow sidewalk leave No space for canopy of street trees

Area of Variances to expand already large building into required open space, using the rear yard setback exclusively for parking; adding a podium level within the rear yard setback, then using the podium as required open space, and using that 'open space' as the emergency egress; based on an incomplete application that was rushed through under the old rules



- Open Space
- Privacy
- Solar Access
- Building scale
- Livability
- Air quality / light pollution

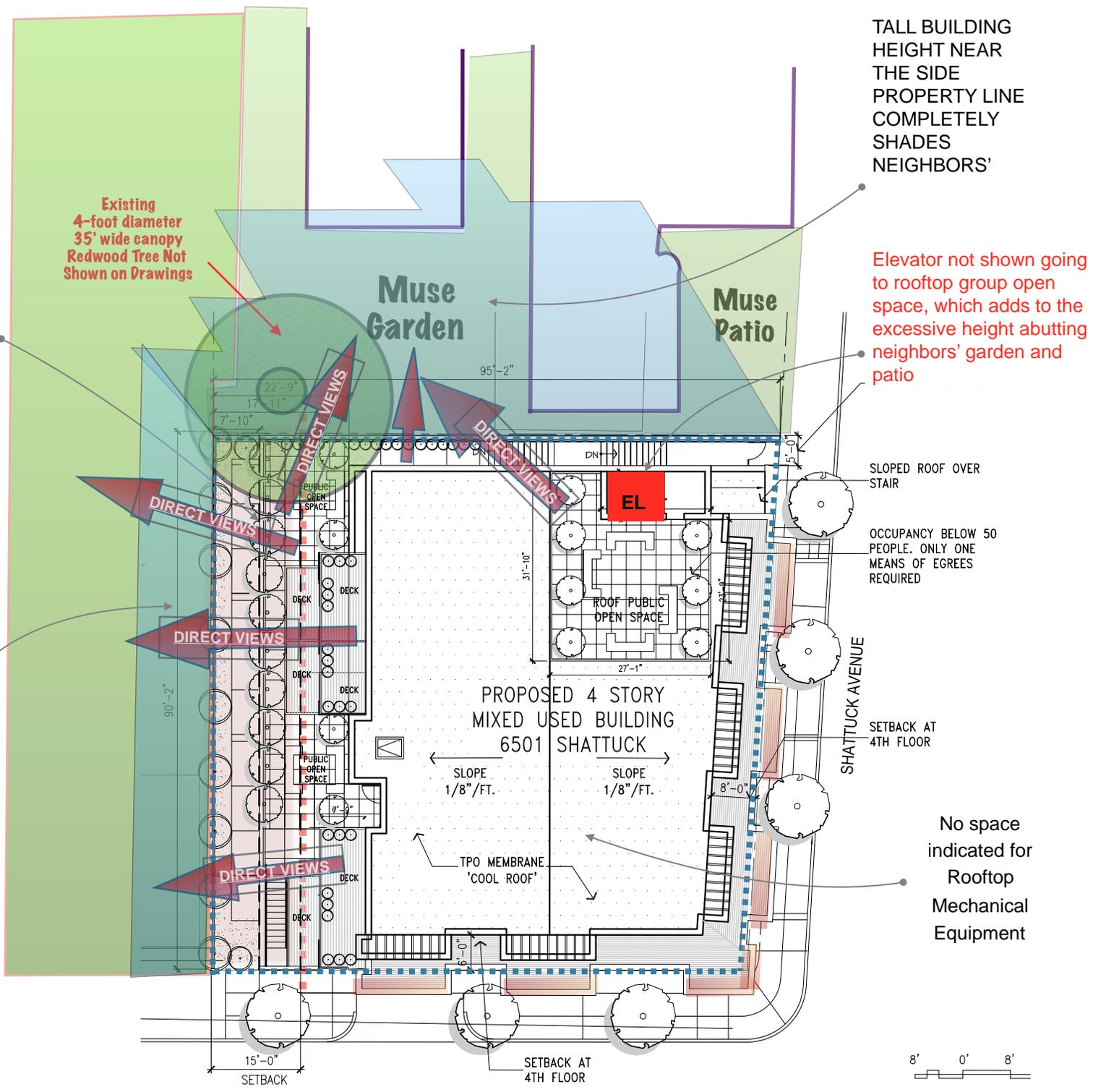
Presented by Affected Neighbors

January 2019

EXHIBIT

Tall podium and fencing on top of it, and the corner of the upper levels, conflict with the Canopy of Existing 48-inch Redwood Tree within 10 feet of construction.

Direct views into neighboring backyards From elevated, open stairs walkways, rear decks and rooftop open spaces

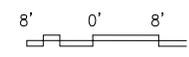


TALL BUILDING HEIGHT NEAR THE SIDE PROPERTY LINE COMPLETELY SHADES NEIGHBORS'

Elevator not shown going to rooftop group open space, which adds to the excessive height abutting neighbors' garden and patio

SLOPED ROOF OVER STAIR
 OCCUPANCY BELOW 50 PEOPLE. ONLY ONE MEANS OF EGRESSES REQUIRED

No space indicated for Rooftop Mechanical Equipment



6501 Shattuck
 ZONING & DESIGN ANALYSIS

STREET ELEVATIONS

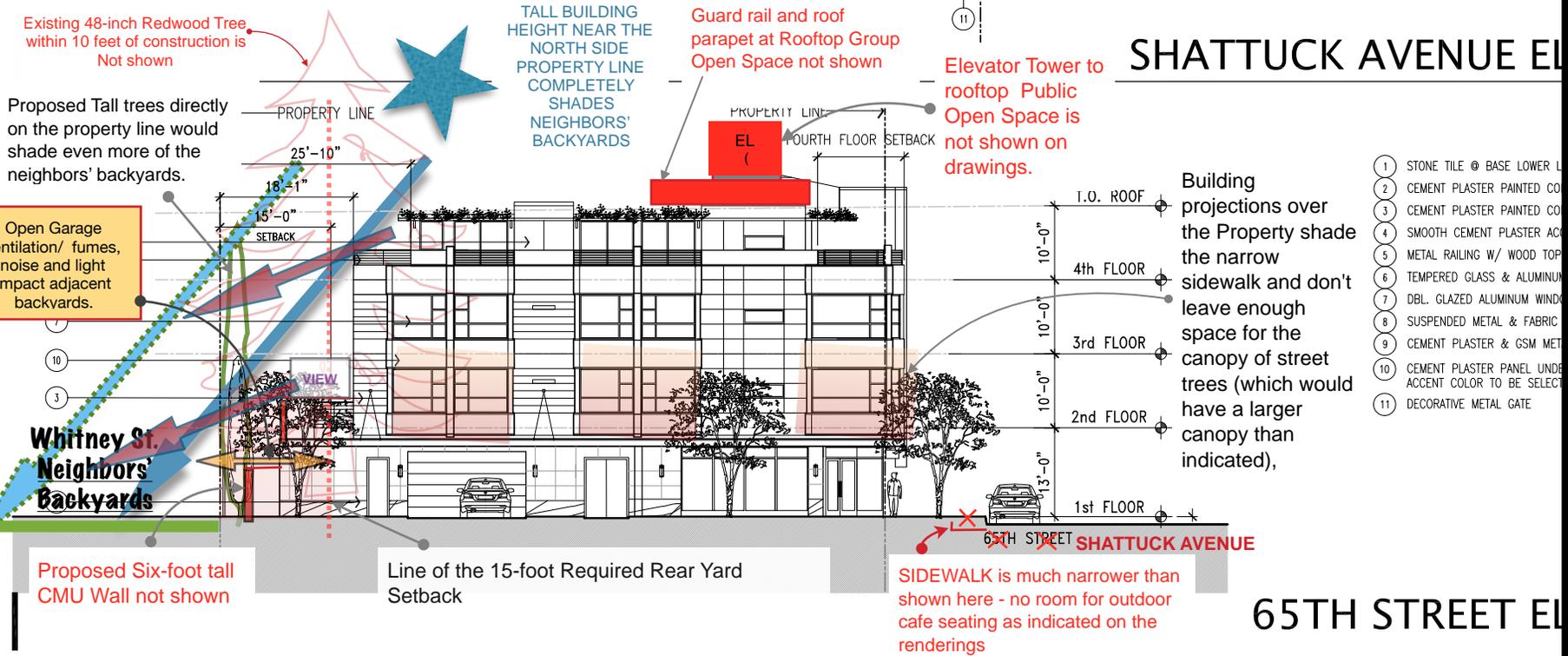
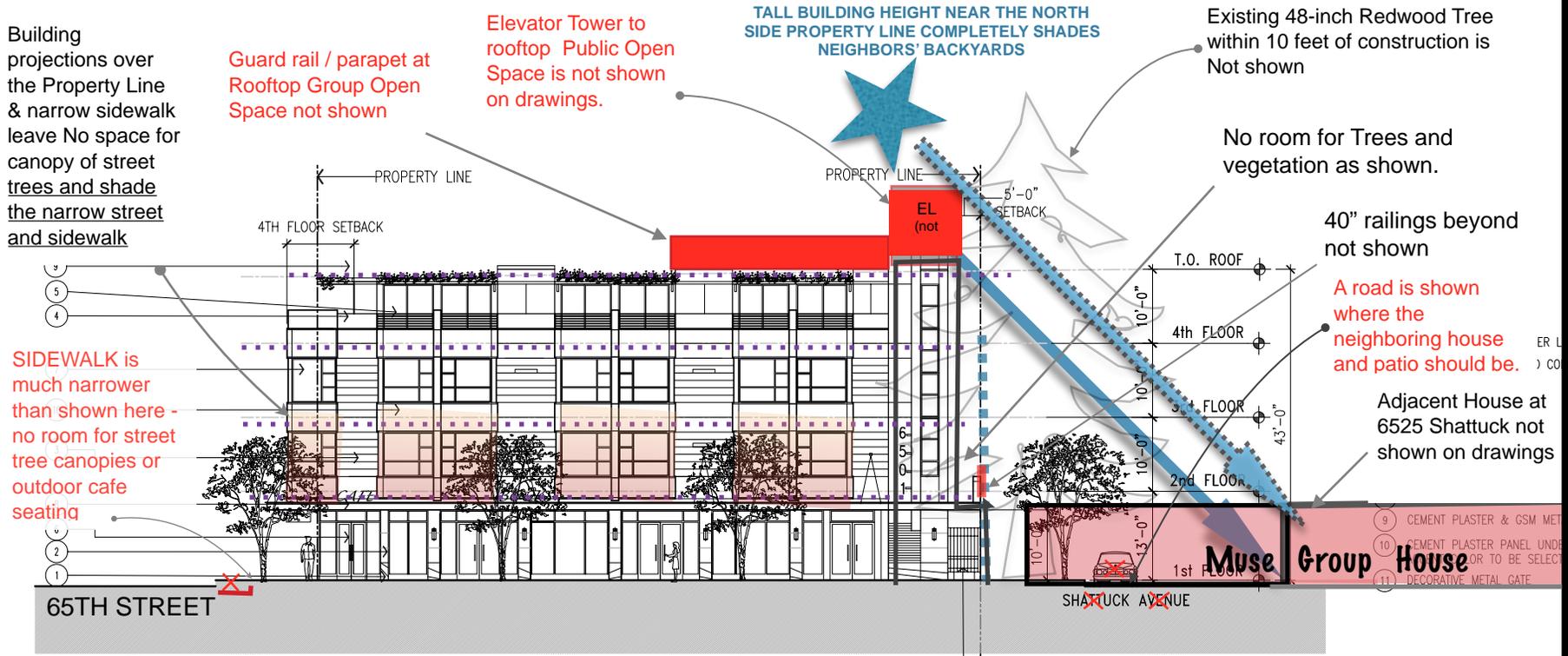
ISSUES

- Open Space
- Privacy
- Shading
- Building scale
- Livability
- Air quality / light pollution

Presented by Affected Neighbors

January 2019

EXHIBIT



* SEE PAGE 6 FOR ENLARGEMENT OF THIS AREA

65TH STREET EL

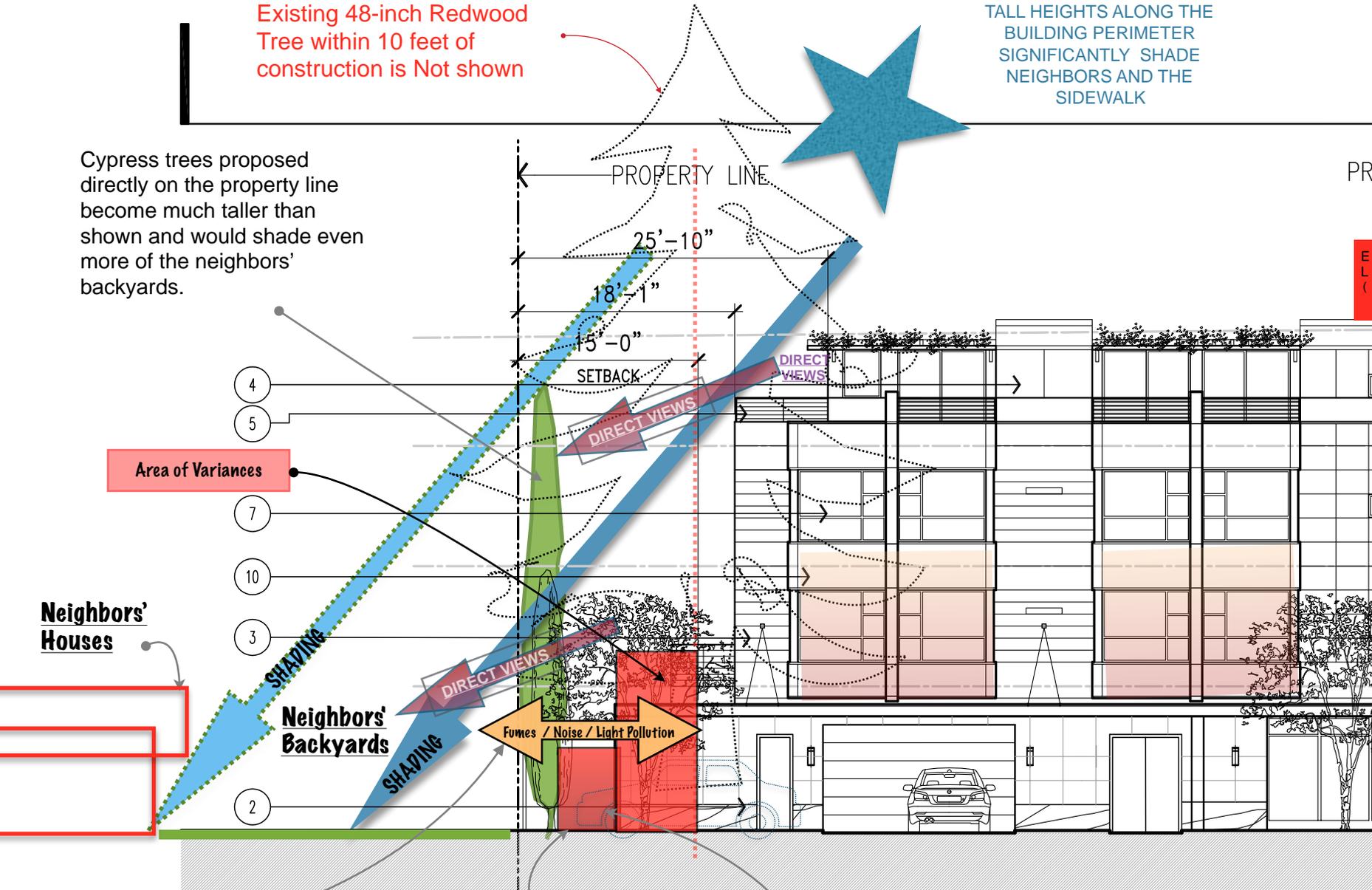
SHATTUCK AVENUE EL

- Open Space
- Privacy
- Shading
- Building scale
- Livability
- Air quality / light pollution

Existing 48-inch Redwood Tree within 10 feet of construction is Not shown

TALL HEIGHTS ALONG THE BUILDING PERIMETER SIGNIFICANTLY SHADE NEIGHBORS AND THE SIDEWALK

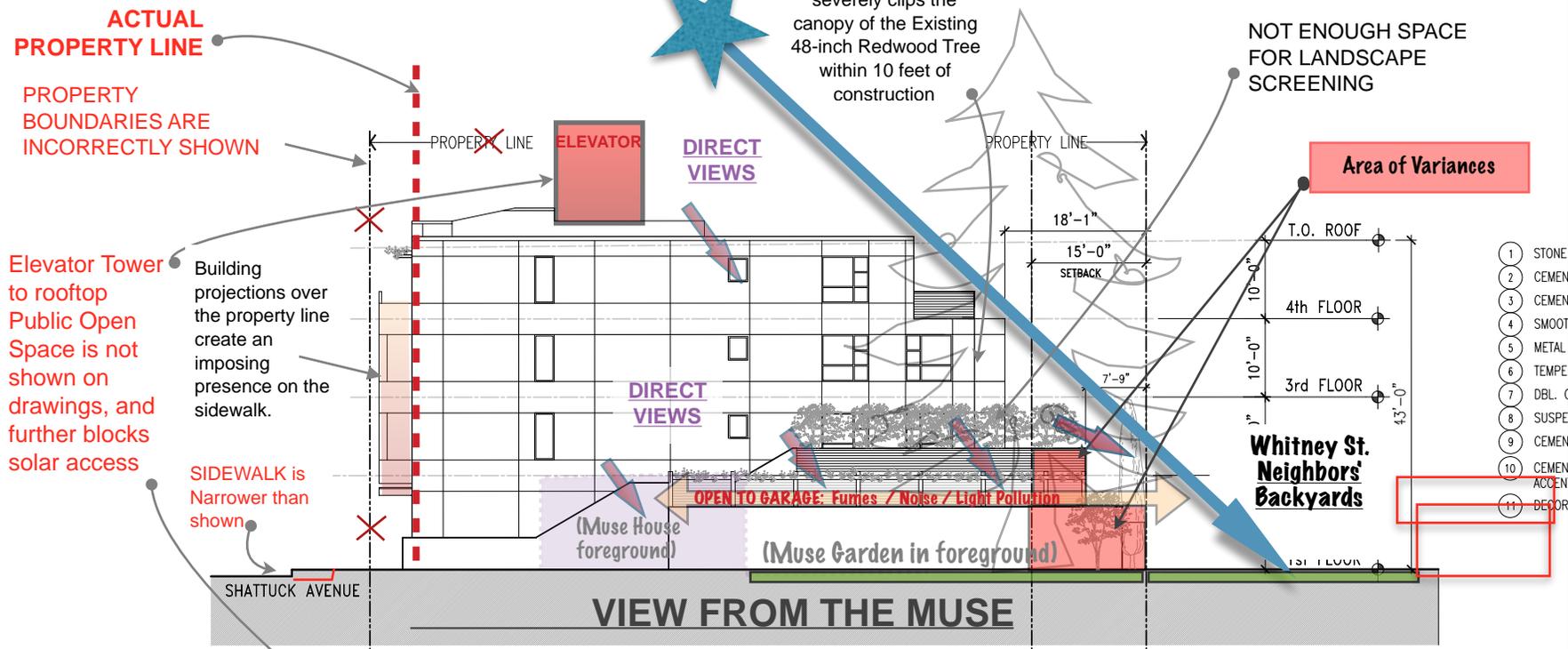
Cypress trees proposed directly on the property line become much taller than shown and would shade even more of the neighbors' backyards.



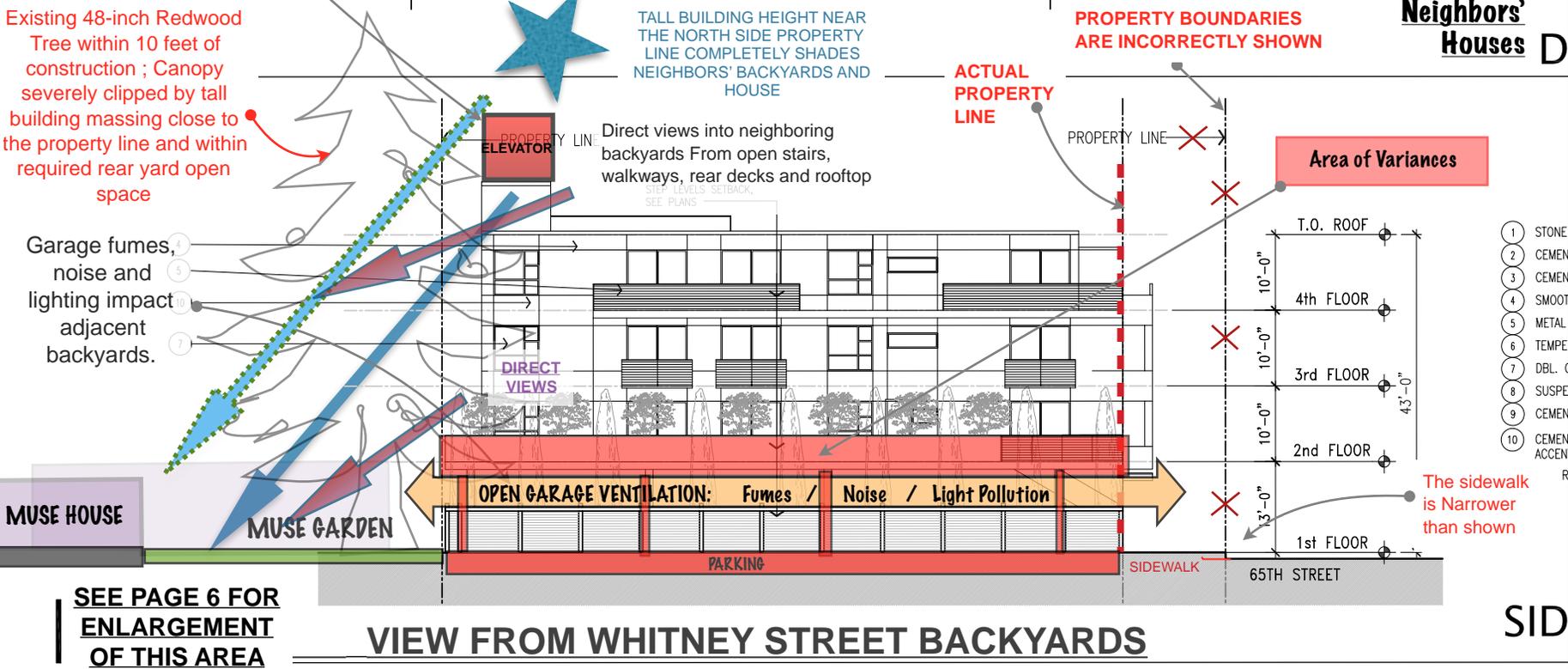
Garage fumes, noise and lighting impact adjacent backyards.

Proposed Six-foot tall CMU Wall encroaching into setback are not shown on the elevations

Cars encroach into required setbacks, leaving no room for landscaping



- 1 STONE
- 2 CEMEN
- 3 CEMEN
- 4 SMOOT
- 5 METAL
- 6 TEMPER
- 7 DBL. G
- 8 SUSPE
- 9 CEMEN
- 10 CEMEN
- 11 ACCEN
- 12 DECOR



- 1 STONE
- 2 CEMEN
- 3 CEMEN
- 4 SMOOT
- 5 METAL
- 6 TEMPER
- 7 DBL. G
- 8 SUSPE
- 9 CEMEN
- 10 CEMEN
- 11 ACCEN
- 12 DECOR

SEE PAGE 6 FOR ENLARGEMENT OF THIS AREA

SID

Remove or reduce building projections over the sidewalk, and step building massing away from the street to allow for sunlight and openness along this narrow part of Shattuck Avenue

Step building massing away from adjacent yards to preserve solar access.

SIDEWALK is Narrower than shown

Move Elevator away from the North side property line

Step building massing away from north side property line and eliminate open stairs and elevated walkways directly on the property line

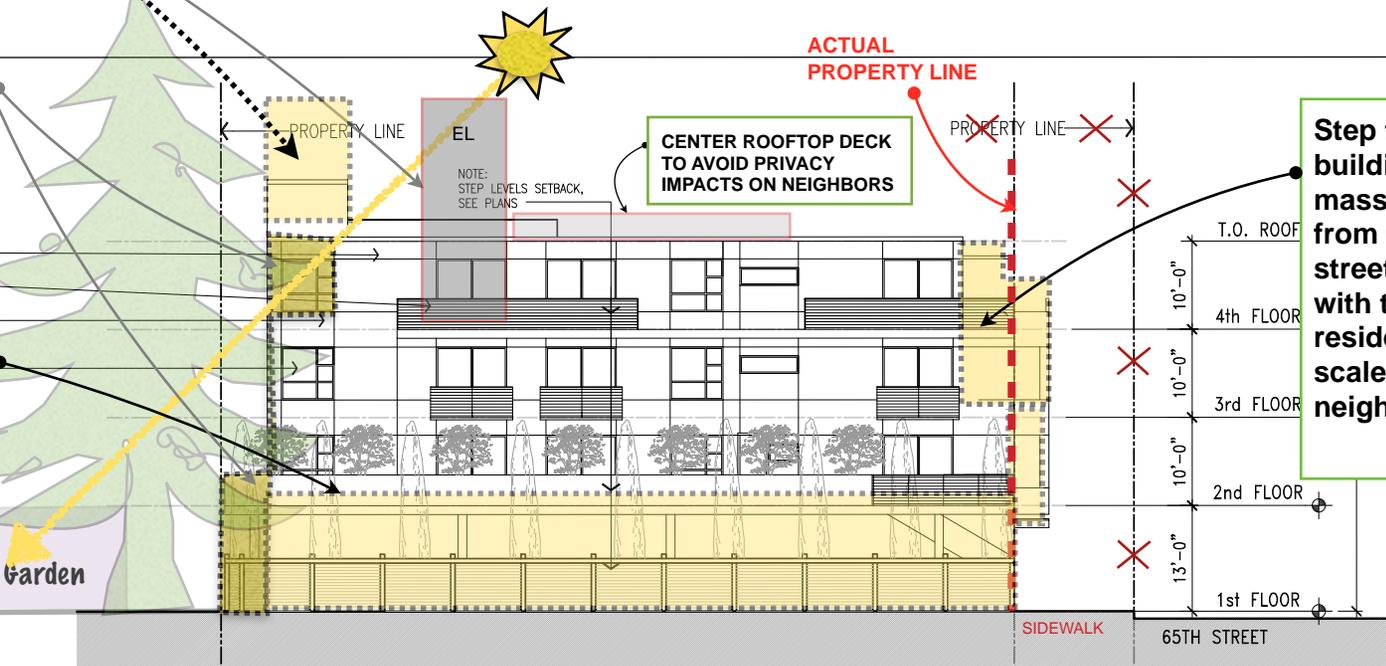
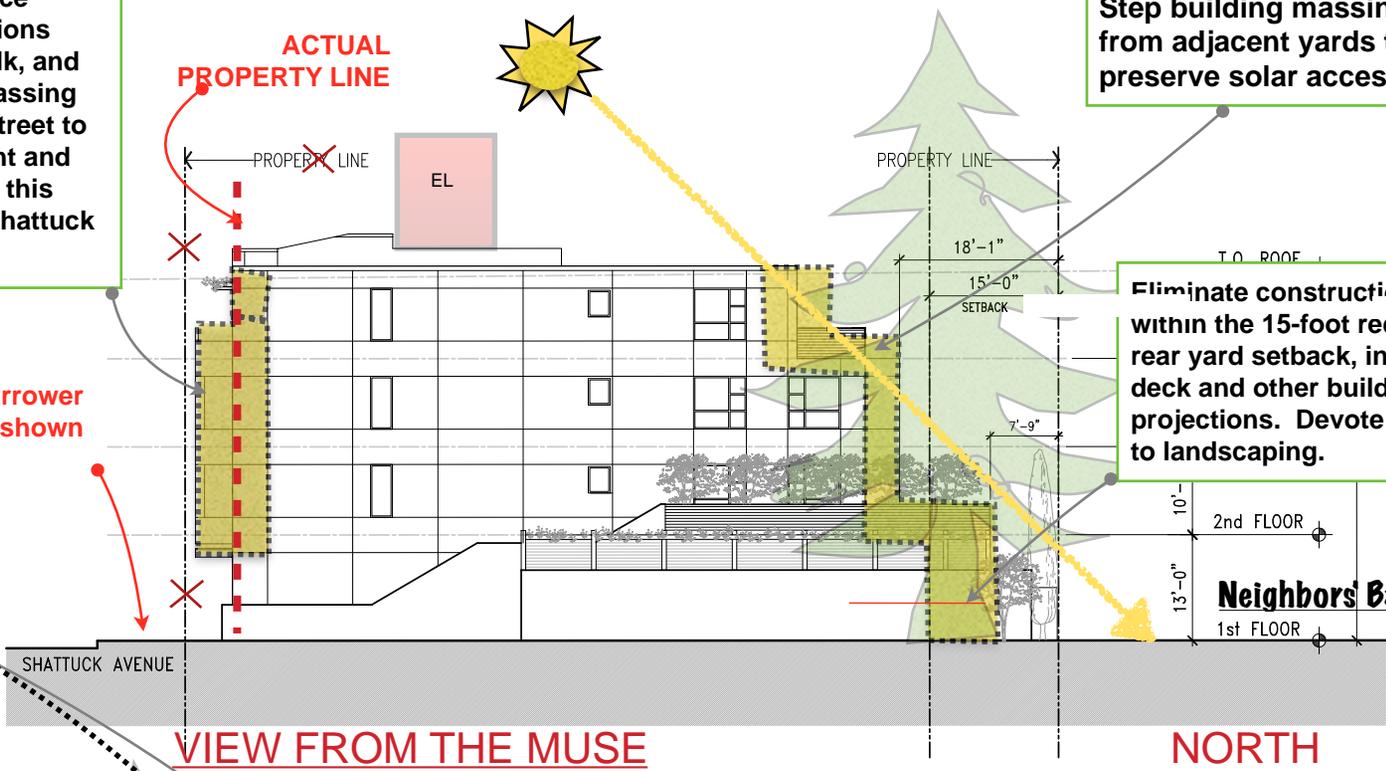
Relocate the group open space to the roof, and use parking lifts to eliminate paving in the rear yard setback. Dedicate the space to landscaping and at-grade open space

Eliminate construction within the 15-foot required rear yard setback, including deck and other building projections. Devote space to landscaping.

Neighbors' Backyards

CENTER ROOFTOP DECK TO AVOID PRIVACY IMPACTS ON NEIGHBORS

Step the building massing away from 65th street to fit with the residential scale of the neighborhood



VIEW FROM WHITNEY STREET BACKYARDS

WEST (REAR)

SID

SID

ZONING AND DESIGN ANALYSIS

PRESENTED BY NEIGHBORS
IN THE APPEAL OF THE PROJECT AT
6501 Shattuck Avenue
CASE FILE #
CDV 10185

EXHIBITS

1 : Cover Page

Summary, Main Issues, and Exhibit List

2: Neighborhood Context

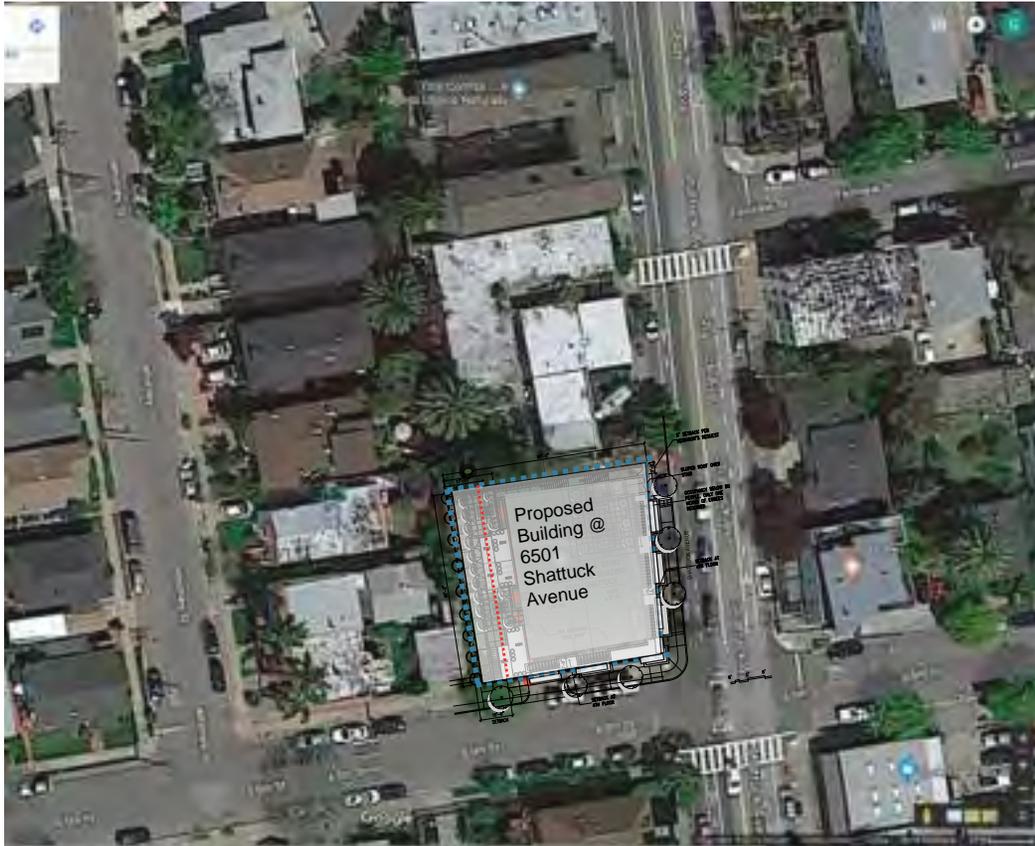
Clarification of the neighborhood characteristics and existing context that were not acknowledged in the findings.

3-8 : Zoning and Design Analysis

Incorrect, incomplete and misleading, information on the drawings; direct negative impacts on neighbors which were not sufficiently addressed in the analysis and findings for approvals.

9 : Alternative Design Solutions

Reasonable and cost-efficient design changes that would alleviate severe negative impacts on neighbors and increase project viability.

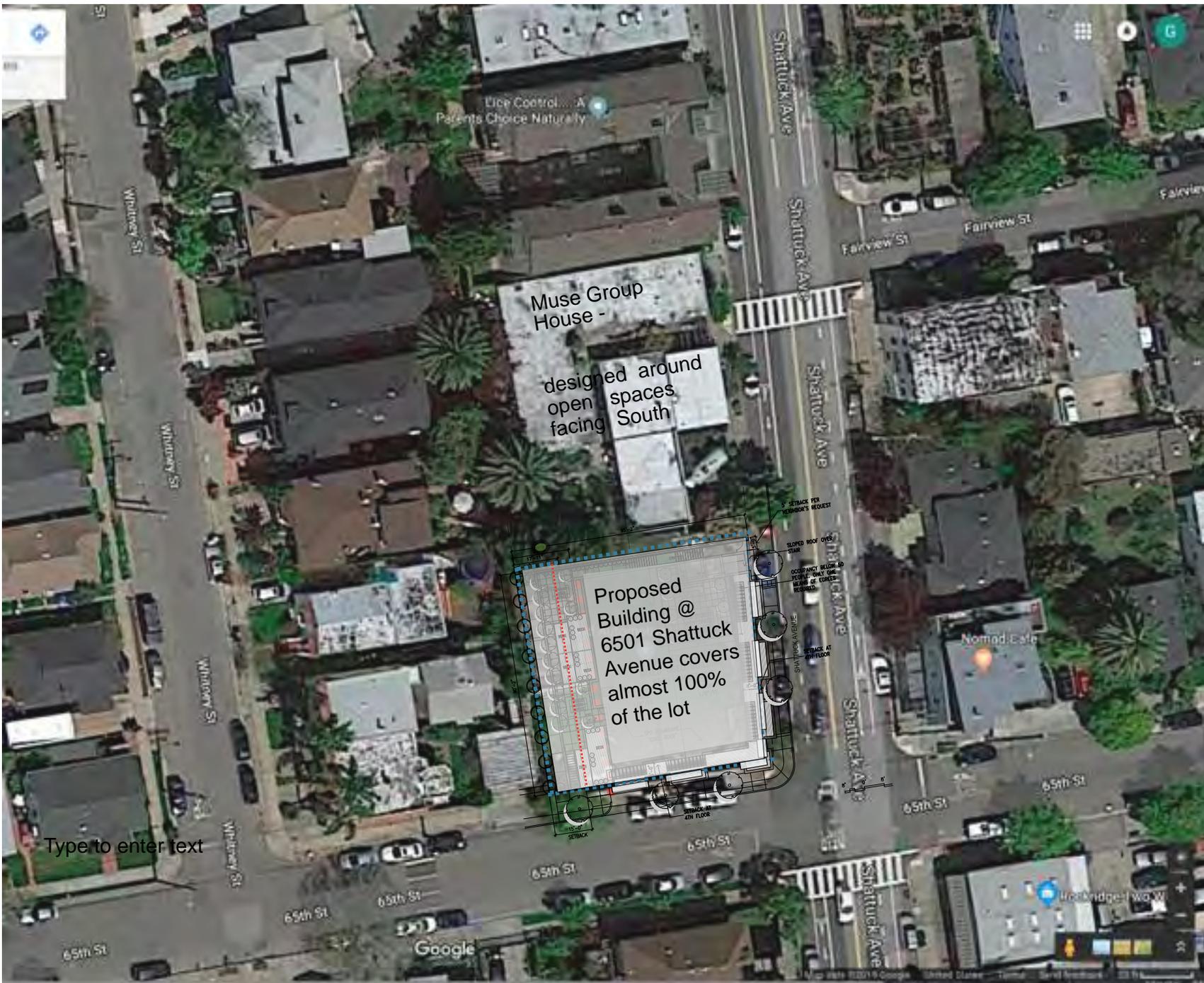


SUMMARY

Appeal of the granting of Use Permits and Variances to expand an already large building into the required rear yard setback; using the rear yard setback exclusively for parking; adding a podium level within the rear yard setback, and then using the podium as required open space; and using that 'open space' as the emergency egress; for an incomplete application that was rushed through under the old rules.

MAIN ISSUES

- The lot will be completely covered by building.
- Complete shading of adjacent buildings and rear yards
- Privacy and noise impacts from elevated structures and open spaces directly on property lines
- Podium structure in the rear yard setback disrupts the neighborhood pattern of rear yard open spaces.
- Major building elements that impact neighbors are not shown on the drawings.
- Tall massing adjacent to neighboring houses eliminates solar access to open spaces.
- Building projections over the sidewalk create an imposing presence and bulky scale.
- Inadequate space provided for bike storage, trash containers, meters, landscape elements, and planting.
- Conditions on adjacent properties are not shown correctly.
- Property boundaries and sidewalk depths are shown as being larger than they actually are.
- Open garage ventilation directly vents fumes into adjacent backyards
- Existing neighborhood characteristics are not represented accurately or respected.
- Viable design alternatives were not explored.



6501 Shattuck Neighborhood Context

- Low and Medium Density buildings on small lots
- Rear Yard Setbacks and fruitful gardens
- An appropriate ratio of buildings to open space (not 100% lot coverage)
- Sunny Gardens
- dynamic building volumes and sustainable site planning (not monolithic)
- architectural styles (not generic condos)
- Conventional building types (not podium style)
- landscaped setbacks along Shattuck Ave. (not imposing building projections over the sidewalks)
- The Shattuck Muse group house - a stable affordable housing project created through reuse of an abandoned buildings.
- Neighborhood defining Nomad Cafe Building - an award winning design that sets the standard for new development in our unique neighborhood.

January 2019

Exhibit 2

SHATTUCK AVENUE @ 65TH STREET

Open Space
 Privacy
 Solar Access
 Building scale
 Livability
 Air quality / light pollution

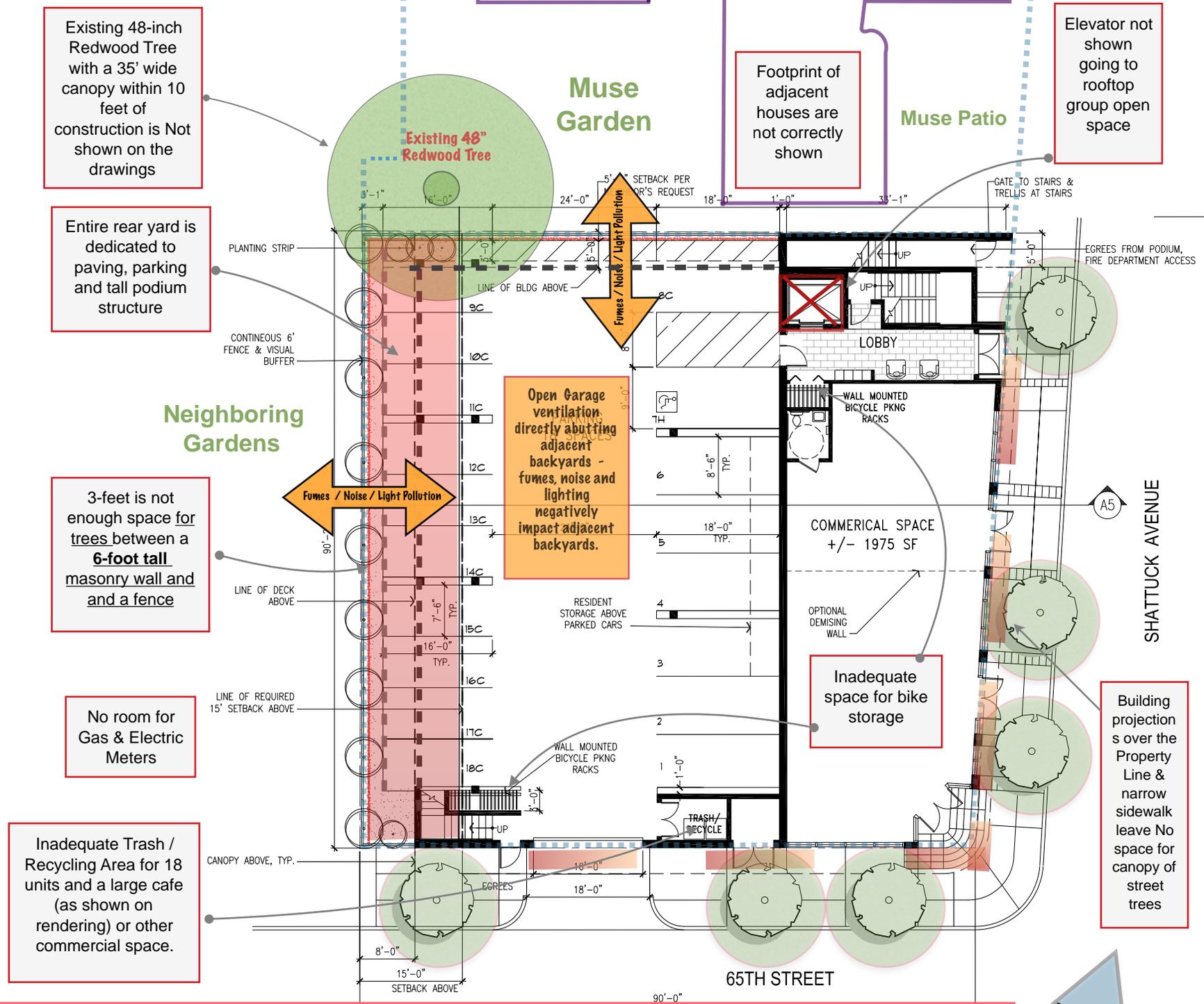
Presented by Affected Neighbors

January 2019

Exhibit

3

GRO



Existing 48-inch Redwood Tree with a 35' wide canopy within 10 feet of construction is Not shown on the drawings

Entire rear yard is dedicated to paving, parking and tall podium structure

3-feet is not enough space for trees between a 6-foot tall masonry wall and a fence

No room for Gas & Electric Meters

Inadequate Trash / Recycling Area for 18 units and a large cafe (as shown on rendering) or other commercial space.

Elevator not shown going to rooftop group open space

Footprint of adjacent houses are not correctly shown

Open Garage ventilation directly abutting adjacent backyards - fumes, noise and lighting negatively impact adjacent backyards.

Inadequate space for bike storage

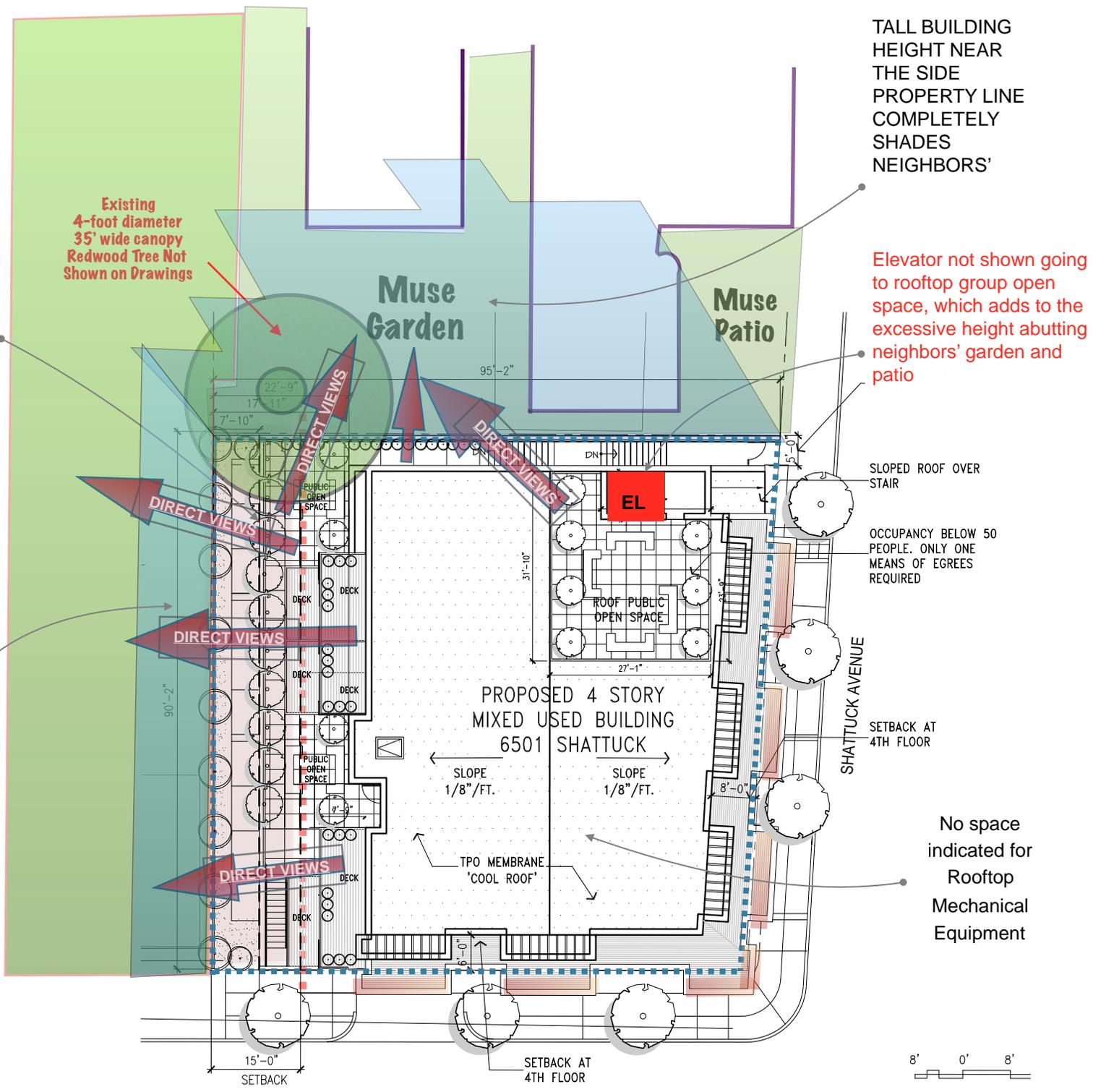
Building projections over the Property Line & narrow sidewalk leave No space for canopy of street trees

Area of Variances to expand already large building into required open space, using the rear yard setback exclusively for parking; adding a podium level within the rear yard setback, then using the podium as an required open space, and using that 'open space' as the emergency egress; for an incomplete application that was rushed through under the old rules



Tall podium and fencing on top of it, and the corner of the upper levels, conflict with the Canopy of Existing 48-inch Redwood Tree within 10 feet of construction.

Direct views into neighboring backyards From elevated, open stairs walkways, rear decks and rooftop open spaces



Existing 4-foot diameter 35' wide canopy Redwood Tree Not Shown on Drawings

TALL BUILDING HEIGHT NEAR THE SIDE PROPERTY LINE COMPLETELY SHADES NEIGHBORS'

Elevator not shown going to rooftop group open space, which adds to the excessive height abutting neighbors' garden and patio

SLOPED ROOF OVER STAIR
 OCCUPANCY BELOW 50 PEOPLE. ONLY ONE MEANS OF EGRESSES REQUIRED

No space indicated for Rooftop Mechanical Equipment



Building projections over the Property Line & narrow sidewalk leave No space for canopy of street trees and shade the narrow street and sidewalk

Guard rail / parapet at Rooftop Group Open Space not shown

Elevator Tower to rooftop Public Open Space is not shown on drawings.

TALL BUILDING HEIGHT NEAR THE NORTH SIDE PROPERTY LINE COMPLETELY SHADES NEIGHBORS' BACKYARDS

Existing 48-inch Redwood Tree within 10 feet of construction is Not shown

No room for Trees and vegetation as shown.

40" railings beyond not shown

A road is shown where the neighboring house and patio should be.

Adjacent House at 6525 Shattuck not shown on drawings

SIDEWALK is much narrower than shown here - no room for street tree canopies or outdoor cafe seating

65TH STREET

SHATTUCK AVENUE



6501 Shattuck
ZONING & DESIGN ANALYSIS

STREET ELEVATIONS

ISSUES

- Open Space
- Privacy
- Shading
- Building scale
- Livability
- Air quality / light pollution

Existing 48-inch Redwood Tree within 10 feet of construction is Not shown

Proposed Tall trees directly on the property line would shade even more of the neighbors' backyards.

Open Garage ventilation/ fumes, noise and light impact adjacent backyards.

TALL BUILDING HEIGHT NEAR THE NORTH SIDE PROPERTY LINE COMPLETELY SHADES NEIGHBORS' BACKYARDS

Guard rail and roof parapet at Rooftop Group Open Space not shown

Elevator Tower to rooftop Public Open Space is not shown on drawings.

SHATTUCK AVENUE ELEVATION

Building projections over the Property shade the narrow sidewalk and don't leave enough space for the canopy of street trees (which would have a larger canopy than indicated),

- 1 STONE TILE @ BASE LOWER LEVEL
- 2 CEMENT PLASTER PAINTED COLOR
- 3 CEMENT PLASTER PAINTED COLOR
- 4 SMOOTH CEMENT PLASTER ACCENT COLOR TO BE SELECT
- 5 METAL RAILING W/ WOOD TOP
- 6 TEMPERED GLASS & ALUMINUM
- 7 DBL. GLAZED ALUMINUM WINDOW
- 8 SUSPENDED METAL & FABRIC
- 9 CEMENT PLASTER & GSM METAL
- 10 CEMENT PLASTER PANEL UNDER ACCENT COLOR TO BE SELECT
- 11 DECORATIVE METAL GATE

Presented by Affected Neighbors

January 2019

EXHIBIT

5

Whitney St. Neighbors' Backyards

Proposed Six-foot tall CMU Wall not shown

Line of the 15-foot Required Rear Yard Setback

SIDEWALK is much narrower than shown here - no room for outdoor cafe seating as indicated on the renderings

65TH STREET ELEVATION

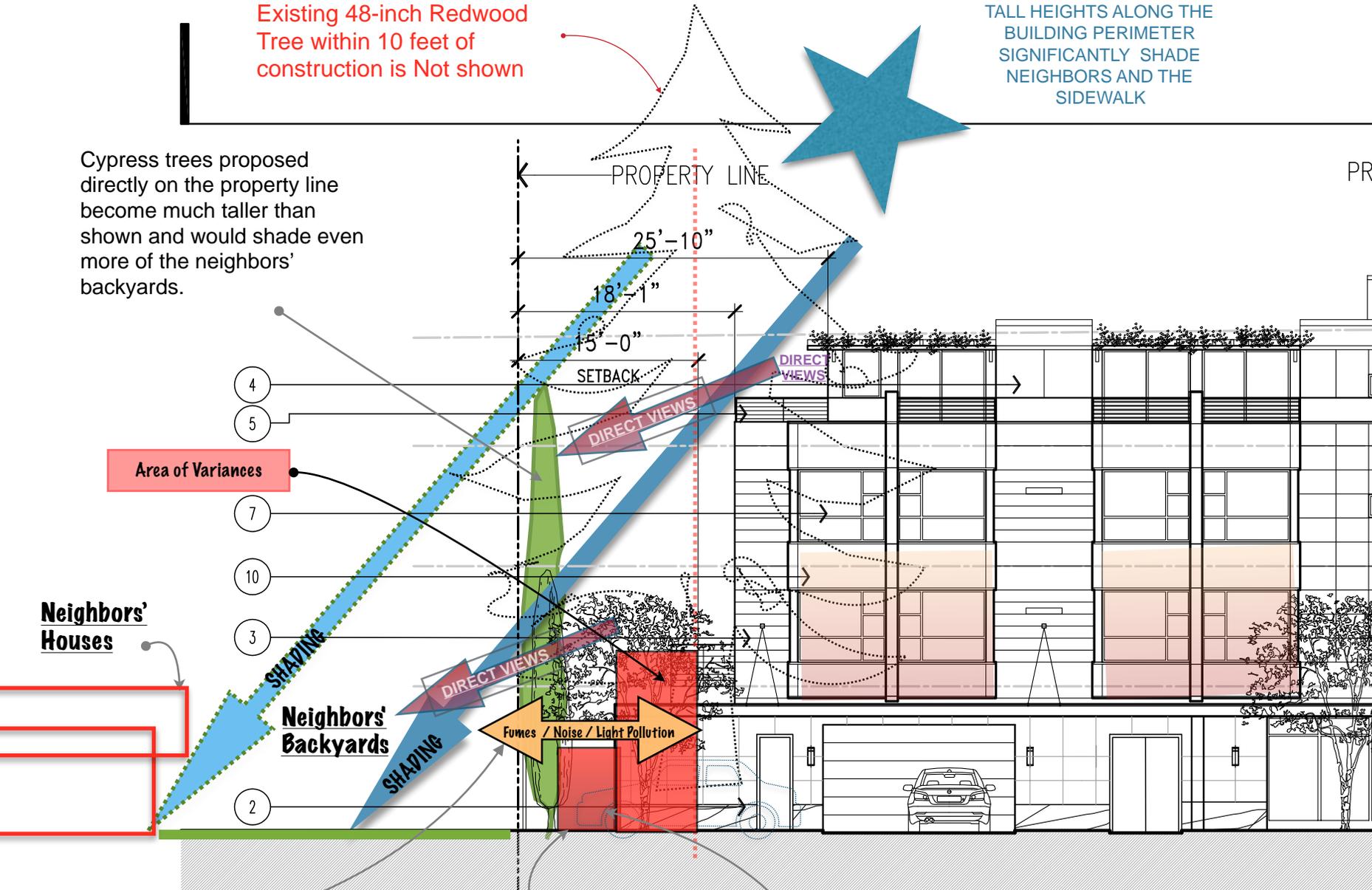
* SEE PAGE 6 FOR ENLARGEMENT OF THIS AREA

- Open Space
- Privacy
- Shading
- Building scale
- Livability
- Air quality / light pollution

Existing 48-inch Redwood Tree within 10 feet of construction is Not shown

TALL HEIGHTS ALONG THE BUILDING PERIMETER SIGNIFICANTLY SHADE NEIGHBORS AND THE SIDEWALK

Cypress trees proposed directly on the property line become much taller than shown and would shade even more of the neighbors' backyards.

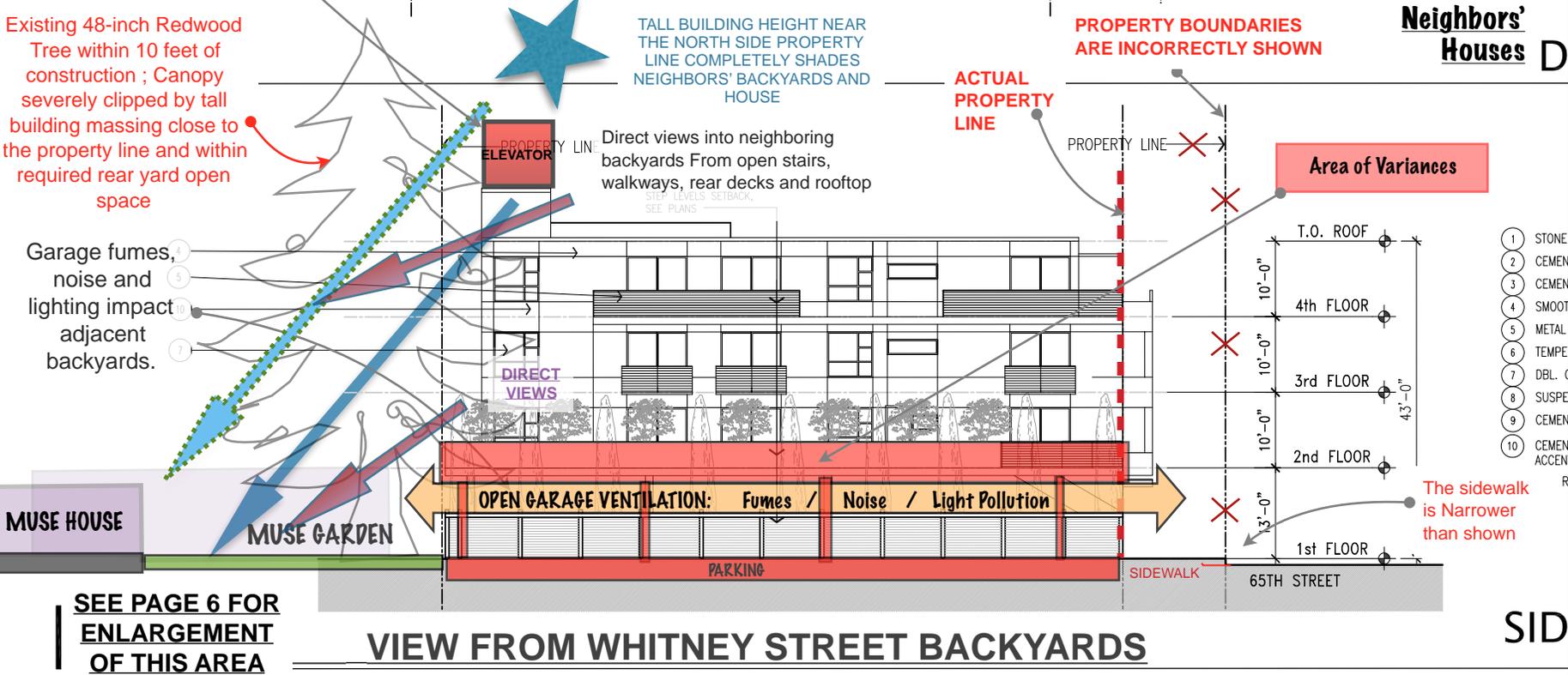
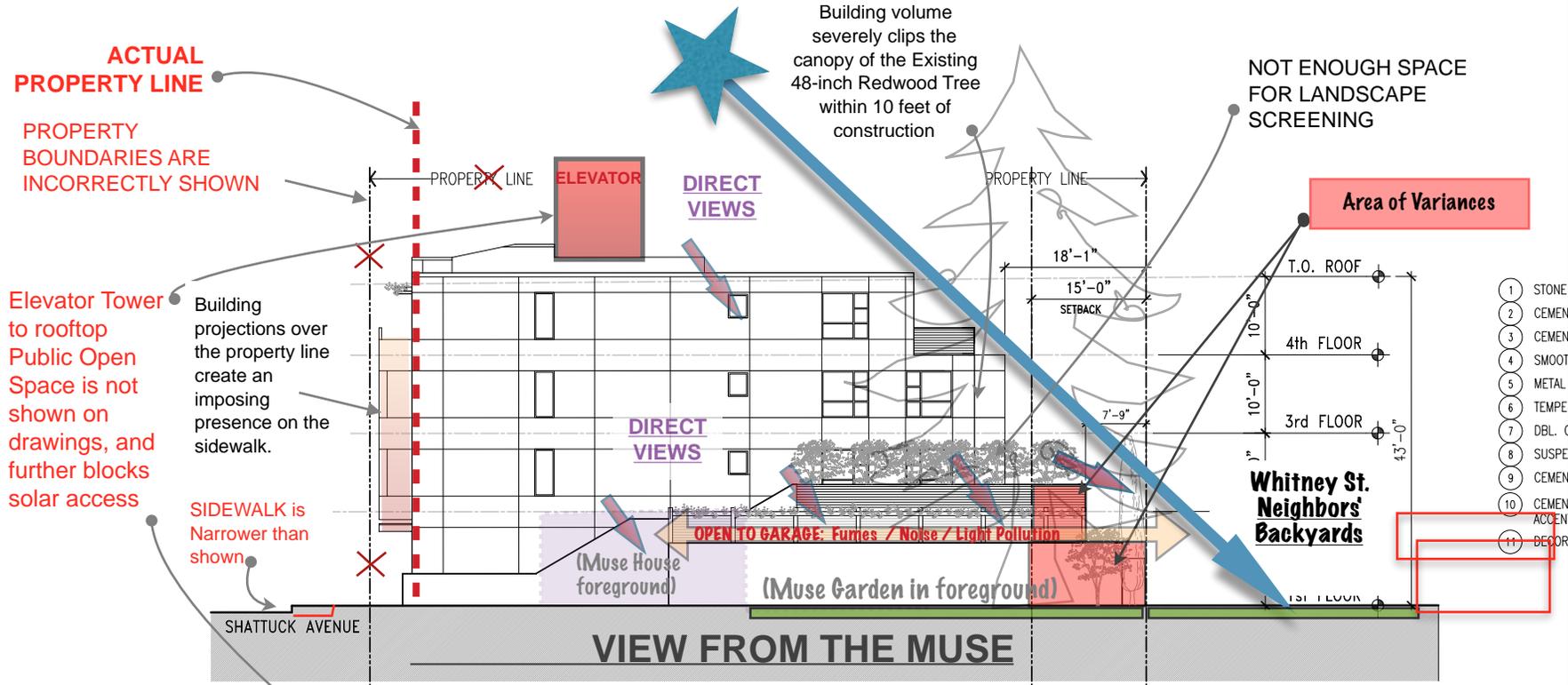


Garage fumes, noise and lighting impact adjacent backyards.

Proposed Six-foot tall CMU Wall encroaching into setback are not shown on the elevations

Cars encroach into required setbacks, leaving no room for landscaping

CLOSE UP OF 65TH STREET ELEVATION - (SEE PAGE 5 FOR FULL ELEVATION)



SEE PAGE 6 FOR ENLARGEMENT OF THIS AREA

VIEW FROM WHITNEY STREET BACKYARDS

SID

ENLARGED ELEVATION FACING NEIGHBORS' BACKYARDS

ISSUES
Open Space
Privacy
Solar Access
Building scale
Livability
Air quality / light pollution

Presented by Affected Neighbors

January 2019

EXHIBIT

8

Elevator Tower to rooftop Public Open Space is not shown on drawings, and further blocks solar access to neighbors

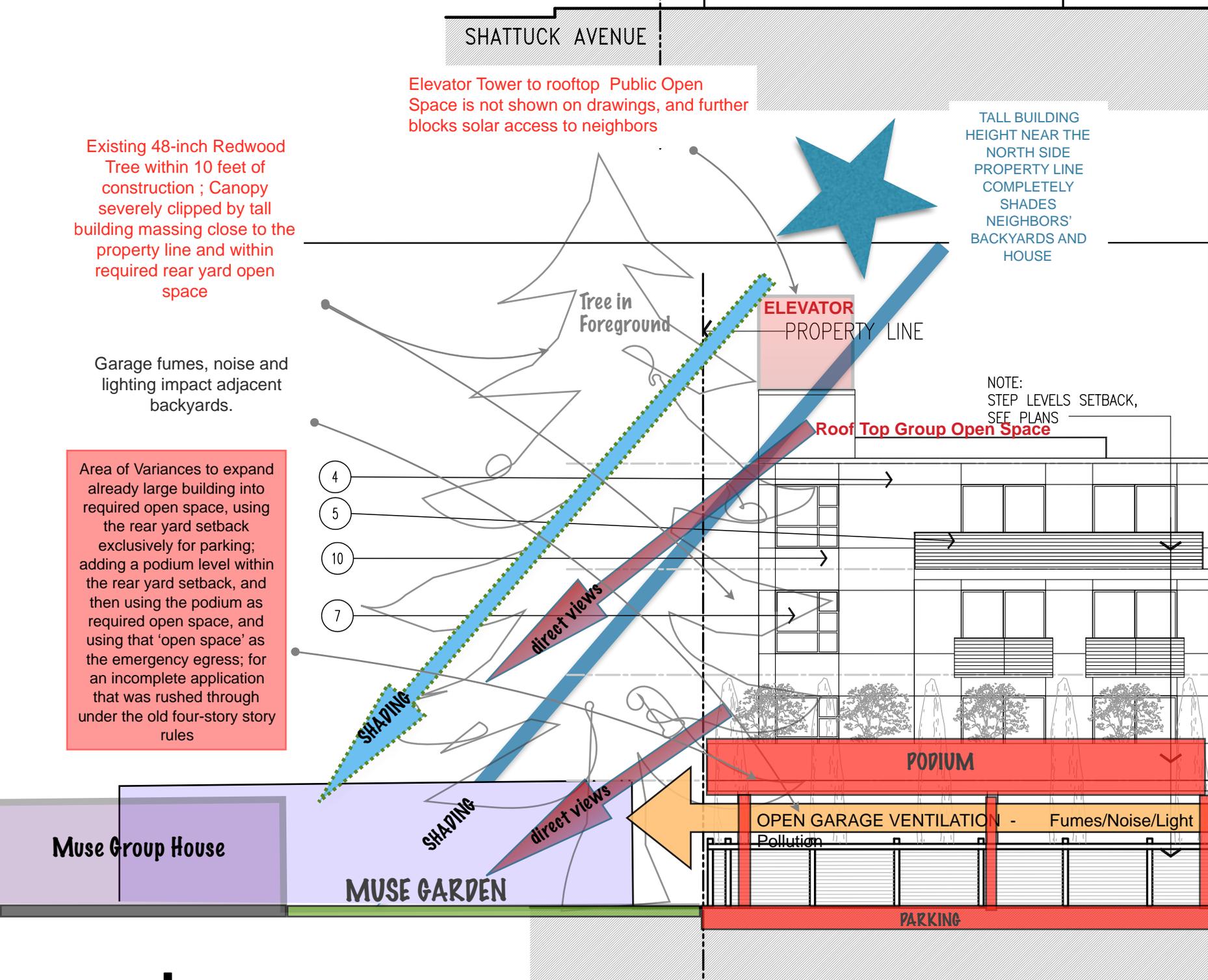
Existing 48-inch Redwood Tree within 10 feet of construction ; Canopy severely clipped by tall building massing close to the property line and within required rear yard open space

Garage fumes, noise and lighting impact adjacent backyards.

Area of Variances to expand already large building into required open space, using the rear yard setback exclusively for parking; adding a podium level within the rear yard setback, and then using the podium as required open space, and using that 'open space' as the emergency egress; for an incomplete application that was rushed through under the old four-story story rules

TALL BUILDING HEIGHT NEAR THE NORTH SIDE PROPERTY LINE COMPLETELY SHADES NEIGHBORS' BACKYARDS AND HOUSE

NOTE: STEP LEVELS SETBACK, SEE PLANS



CLOSE-UP VIEW FROM WHITNEY STREET BACKYARDS

SEE PAGE 5 FOR FULL ELEVATION

Remove or reduce building projections over the sidewalk, and step building massing away from the street to allow for sunlight and openness along this narrow part of Shattuck Avenue

Step building massing away from adjacent yards to preserve solar access.

SIDEWALK is Narrower than shown

Move Elevator away from the North side property line

Step building massing away from north side property line and eliminate open stairs and elevated walkways directly on the property line

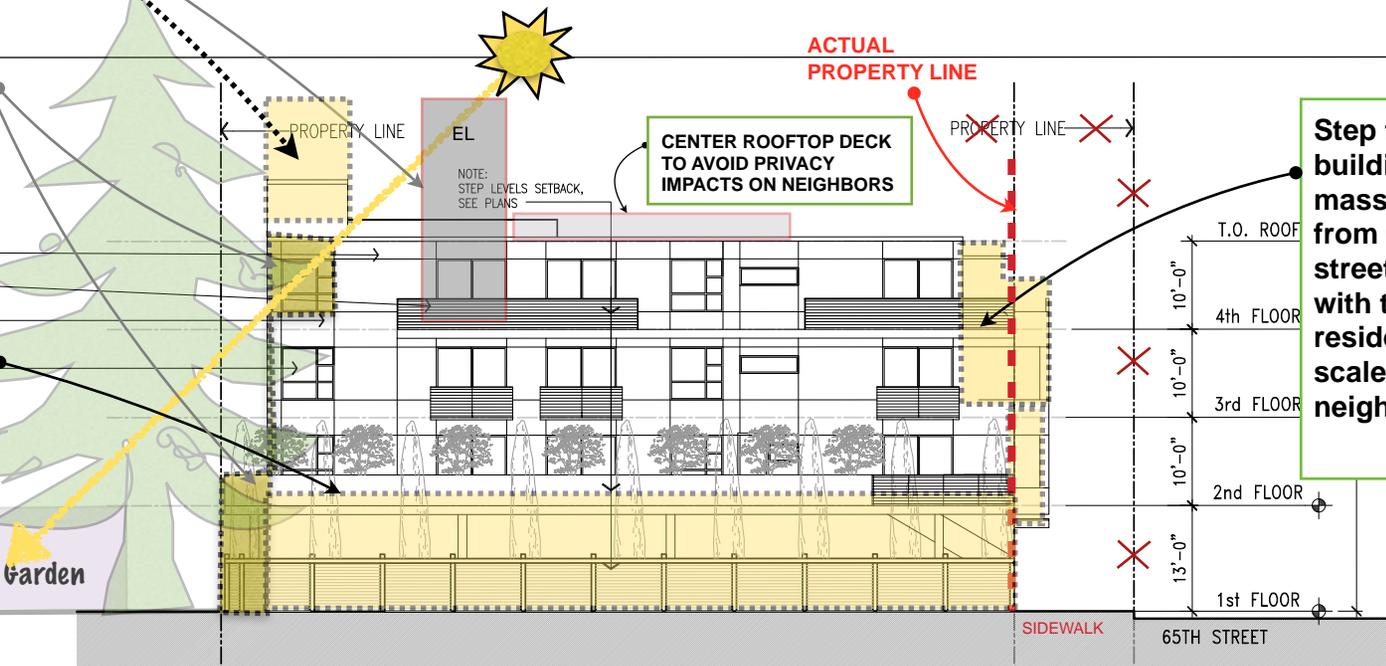
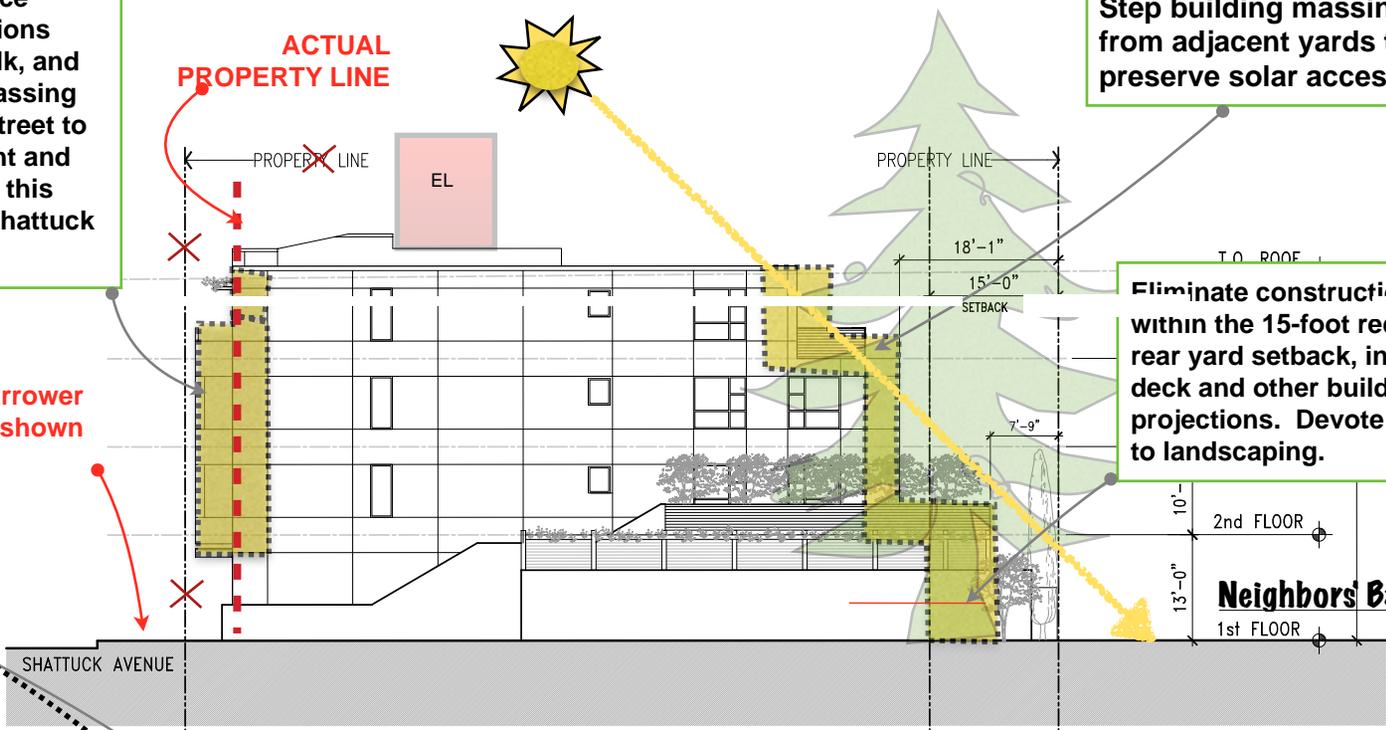
Relocate the group open space to the roof, and use parking lifts to eliminate paving in the rear yard setback. Dedicate the space to landscaping and at-grade open space

Eliminate construction within the 15-foot required rear yard setback, including deck and other building projections. Devote space to landscaping.

Neighbors' Backyards

CENTER ROOFTOP DECK TO AVOID PRIVACY IMPACTS ON NEIGHBORS

Step the building massing away from 65th street to fit with the residential scale of the neighborhood



VIEW FROM WHITNEY STREET BACKYARDS

WEST (REAR)

- STONE
- CEMENT
- SMOOTH
- METAL
- TEMPERED
- DBL. GLASS
- SUSPENDED
- CEMENT
- ACCENT
- DECORATIVE

- 9
- 10
- 11

SID

SID

January 24, 2015
City of Oakland

Oakland, CA 94612

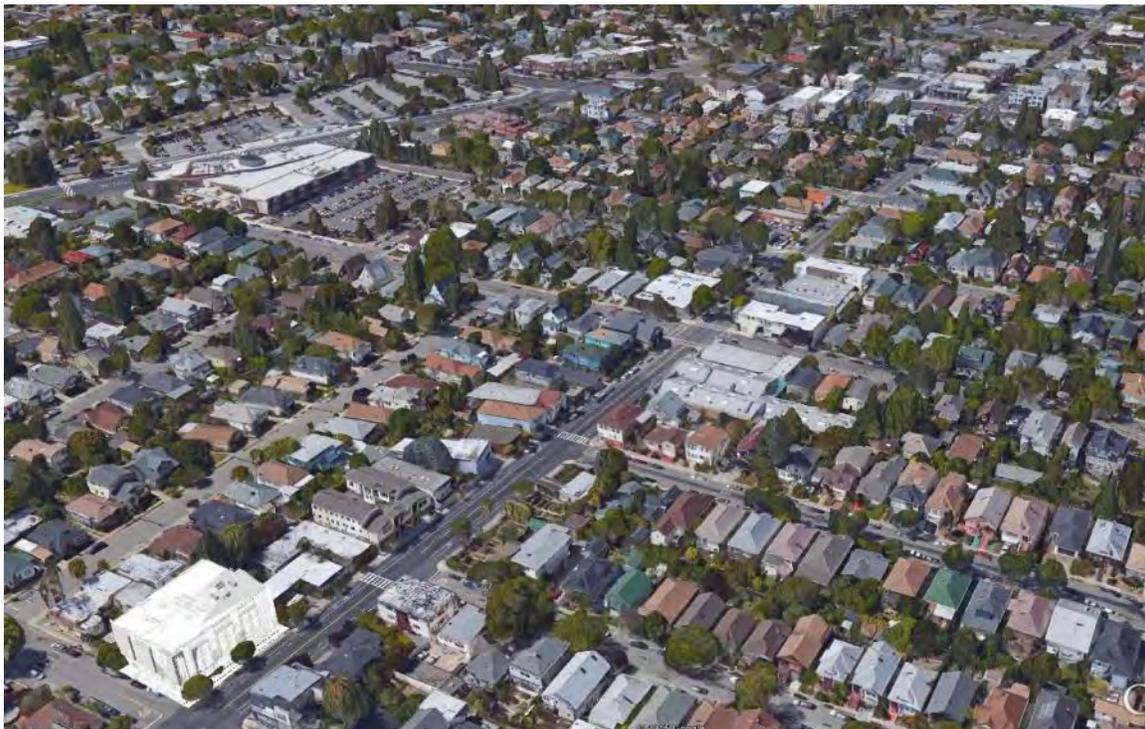
APN: 016-1428-011-02
Case File Number: CDV10185

Dear Ms. Clevenger:

Please accept my comments below on the proposed project at 6501 Shattuck Avenue. The site has great potential. I would like to see the site developed with housing and commercial space. As a landscape architect, I particularly like working on infill projects and think they are one best solutions to housing needs in the Bay Area. However, I have strong concerns for the proposed apartment building. These concerns are described below.

Scale of the Project

The building is strikingly out of scale for the lot size in our neighborhood. Below is a computer model I've created showing the scale of the proposed building and the adjacent surroundings. There are no other buildings of this size along our two-lane stretch of Shattuck Avenue, which extends for many blocks. Our segment of Shattuck Avenue is mostly one- and two-story Craftsman homes with occasional commercial buildings, in contrast to Shattuck Avenue in downtown Berkeley, which has taller buildings on a much wider four-lane road. I understand this application was grandfathered in as zone C-10 which allowed for taller buildings. Since 2011, this part of Shattuck Avenue has been rezoned as CN-3 which places a height limit of three stories. This is much more consistent with our neighborhood character and aligns with the city vision for the neighborhood. A three-story apartment building on this small parcel will still create dense infill.



View of project toward the north along Shattuck Avenue



View of project toward the southwest along Shattuck Avenue

Loss of Privacy for Neighbors

The plan reduces privacy for adjacent neighbors. The rear of the property has many windows and outdoor spaces facing directly into neighbors rear yards and houses. The proposed building will also shade the gardens of the adjacent residents. I believe a shade study should be conducted and the rear of the building should to be redesigned to create more privacy for the adjacent properties. Reducing the height to three stories would certainly help provide privacy for the neighbors and improve the chance that current activities can continue on neighboring properties. Computer modelling and streetscape elevations for the block would prove useful for neighbors to understand the size of the proposed structure and allow for more informed comment.



View of the proposed project toward the east



View of the project toward the west

Residual Environmental Concerns

The application received by the city in July 14, 2010, was not complete. The Section 8 hazardous waste and substances statement was not checked and signed. If it had been, the project would have received greater scrutiny for potential environmental impacts from the site. We know the property contained contaminants from its more than half-century use as a gas station and automotive repair facility. Some site cleanup occurred in October 2011. Since the application was not complete in 2010, I believe it should be resubmitted and be made to comply with current zoning codes. Since we do not have reliable information on what automotive-related activities occurred in the remaining structure, it would be reassuring to see an assessment showing that there are no residual environmental impacts as the site is redeveloped.

Project Oversight

The project moved forward in the past without enforcement of safe building practices. This has left behind a blighted property for the last few years. Gas tanks were removed from the site causing pervasive odors of fuel. Grading activity occurred on the property creating dust clouds from the former gas station. All of this was done without a notice to the neighbors. It's my understanding that a grading permit was not issued for the activity and soil removal work and was done without supervision by city officials. Demolition and construction activities have the potential to affect the health and safety of neighbors or future residents. As this project moves forward, increased monitoring would reassure neighbors that no corners are cut during future activities.

Landscape-Related Concerns

The application should have included a landscape plan by a licensed landscape architect. There are many landscape-related issues that need to be addressed. The site plan sheet A-0.1 shows a row of columnar trees at the rear of the property. These trees appear to be on top of a narrow screen wall on the property line. The trees should instead be placed next to the wall. Plus, the section on sheet A-5 shows the columnar tree located between the screen wall and a 6-foot CMU wall. This 6-foot CMU wall will

make the trees hard to maintain and will block the views of the trees for the building occupants. This is counterproductive.

The plans should include a plant palette. It would be extremely useful for the public to see the choice of street trees, screen trees at the rear of the property, and patio trees.

It isn't entirely clear if there are potted plants being installed on the balconies or if that is to be done by future residents. I believe potted shrubs and trees should be installed throughout the project as it's built so planter pots can be provided with adequate drainage. Plus, this will create a unifying plant theme.

Vines are shown on the overhead trellis at the top of the building. Unless there is a soil medium in which they can grow, these should be removed in the interest of depicting the project realistically.

The plan should include a bike rack for people visiting the commercial portion of the property. There currently are only bike racks for the building residents. Shattuck Avenue attracts many cyclists and commercial patrons will benefit from a place to park.

A portion of the parking in the lot should be for employees and patrons of the commercial space. Our neighborhood parking is occasionally very limited due to our close proximity to BART. A small number of off-street parking spaces would help ease the burden that will be placed on our neighborhood streets as a result of the project.

Conclusions

Overall I support developing the site with housing and commercial space. If the height is reduced from the current proposal and is redesigned in response to neighborhood feedback, I could support the project without reservation. Please help us develop our stretch of Shattuck Avenue in a manner consistent with current zoning and help us ensure that the project is built and modified in a safe and thoughtful manner according to current city codes with respect for neighbor concerns.

Thank you,

Corey McCannon, Landscape Architect, LEED/AP
721 65th Street
Oakland, CA 94609

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
FAX (510) 238-6538
TDD (510) 238-3254

August 5, 2020

Moshe Dinar, AIA
P.O. Box 70601
Oakland, CA 94612

RE: Case File No. CDV10185; 6501 Shattuck Avenue; APN: 016-1428-011-02

Dear Mr. Dinar,

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project which includes the requirement to sign the Conditions of Approval within 10 days from the date of this decision letter. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	To construct a 4-story, mixed-use building, with commercial space and parking at the ground floor, and 18 residential units above. <i>Note: staff is re-noticing the project to receive public comment on the two planning permits described below because they were not included on the previous public notice, dated September 7, 2018.</i>
Planning Permits Required:	This notice is only for a Minor Conditional Use Permit for a Multi-Family Residential Facility and a Minor Variance for more than 20% of the required group open space on the roof. <i>Note: The prior September 7, 2018 notice and January 18, 2019 project approval was for an Interim Conditional Use Permit for a density of 18 residential units where the General Plan allows for 32 units; a Minor Conditional Use Permit for parking to be set back less than 75' from the front property line; Regular Design Review for new construction; and a Minor Variance to allow the 13' high garage podium structure to project 7' into the required 15' rear yard. These permits are not the subject of this notice and subsequent decision and have been already appealed to the Planning Commission.</i>
General Plan:	Neighborhood Center Mixed Use.
Zoning:	This application was submitted and deemed complete prior to a zoning update that became effective on April 14, 2011, which changed the zoning of the site from C-10 to CN-3. Therefore, the project is evaluated under the regulations in the prior C-10 Zone.

Environmental Determination:	Exempt, Section 15183.3 of the State CEQA Guidelines: Streamlining for Infill Projects and Section 15183: Projects consistent with a Community Plan, General Plan or Zoning. A CEQA Analysis supporting the Exemptions were prepared and published on September 7, 2018. The Analysis can be found on the City's Environmental Review Documents webpage via the following link: http://www2.oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009157 This is item number #77.
Historic Status:	Not a Potential Designated Historic Property; Survey Rating: D3
City Council District:	1

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 pm on August 17, 2020**. 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. Failure to timely appeal 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 Bureau Decisions for Development Projects.

If the ten (10) day appeal period expires without an appeal, you are expected to contact **Heather Klein** in order to receive the signed Notice of Exemption (NOE) certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOE and the Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of fifty-five dollars (**\$55.00**) made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Bureau of Planning, along with the signed Project Conditions of Approval, to the attention of **Heather Klein, Planner IV**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA. The NOE will also be posted on the City website at <https://aca.accela.com/OAKLAND/Welcome.aspx>.

If you have any questions, please contact the case planner, **Heather Klein, Planner IV** at (510) 238-3659 or hklein@oaklandca.gov, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Zoning Manager

cc: Athan Magganas (magganas@prodigy.net)
Interested Parties

Attachments:

- A. Findings
- B. Conditions of Approval, including Standard Conditions of Approvals
- C. Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Bureau Decisions for Development Project

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the General Use Permit Criteria (OMC Sec. 17.134.050) and the Minor Variance criteria (Section 17.148.050), 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 your proposal satisfies them are shown in normal type.

17.134.050 GENERAL USE PERMIT FINDINGS:

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

Staff found in the previous approval decision letter dated January 18, 2019 that the location, design and site planning of the 18-unit, mixed-use building satisfied the Design Review findings and the City's Design Guidelines for Corridors and Commercial Areas. While the 18-unit project was clearly a Multi-Family Facility, per the previous Planning Code Section 17.36.070A, a Minor Conditional Use Permit was required for this Facility Type, and staff did not notice this required permit.

The location, size, use and design of the Multi-Family Facility will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood. The scale is within what is allowed by the Zoning Code when the project was deemed complete. The bulk and mass are designed to step in at a one to one, 45-degree setback at the rear of the building to transition to the lower scale residential neighborhood behind the project. There is no harmful effect on the neighborhood considering the mixed planning context as described in detail above and the Zoning, which envisions higher density on the corridors. The height is adequately reduced through a combination of architectural techniques such as the large setbacks at the rear and 4th Floor. The podium will be screened to improve privacy for the rear neighbors. Further, staff included Conditions of Approval #49, 55 and 56 to address any perceived privacy issues. The proposal will not generate substantial traffic or parking impacts with 18 spaces.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The proposal to construct a new Multi-Family Facility (18-unit mixed-use building) will provide density on a commercial corridor within convenient walking distance to transportation, shopping and civic facilities. Staff found in the previous approval decision letter dated January 18, 2019 that the design and site planning of the project satisfied the Design Review findings and the City's Design Guidelines for Corridors and Commercial Areas. The building steps down to the smaller structures to the rear and provides for generous floor step backs at the 4th floor to reduce the perceived height of the building along 65th Street and Shattuck Avenue. The building is designed with high-quality materials, and with conformance with the Conditions of Approval will result in an attractive building. The development will enhance the operation of the area as a mixed density commercial and residential neighborhood and develop the unused blighted lot of a former automotive servicing facility for much needed housing stock on one of the City's major corridors.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The location of the project along Shattuck Avenue has a desirable mix of commercial and multi-family dwellings consisting of one and two-story buildings with a three-story building located across the street. The proposal will add

much desired housing and ground floor retail space on a commercial corridor, which supports many General Plan policies. Furthermore, the project will develop a historically underused, contaminated and blighted lot.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

This finding is not applicable. The proposal is only for two permits, a Multi-Family Facility and the amount of group open space on the roof. The project associated with these permits already received design review approval on January 18, 2019; Although, at this time, the project has been appealed.

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The subject site is located in the Neighborhood Center Mixed Use classification of the City of Oakland's Land Use and Transportation Element (LUTE) of the General Plan classification. The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. The proposed project conforms to the Neighborhood Center Mixed Use classifications of the Oakland General Plan.

The proposal is consistent with the following LUTE objectives and policies:

Objective N3 states: "Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future needs of the Oakland community".

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the City of Oakland.

Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland.

The project will facilitate construction of 18 units on a vacant, underutilized blighted lot on a commercial corridor.

The proposal is consistent with the following objectives and policies in the Open Space, Conservation and Recreation (OSCAR) Element of the General Plan:

Policy OS-4.1: Provision of Useable Open Space. Continue to require new multi-family developments to provide usable outdoor open space for residents. In high-density areas, the use of rooftop terraces and gardens should be encouraged, both to create new open space and to provide visual points of interest. *The project will add 1,350 sq. ft. of usable group open space of which 680 sq. ft. will be on the rooftop.*

The project is also consistent with the City's Design Guidelines for Corridors and Commercial Areas and was found generally compatible with neighborhood characteristics.

Guideline 2.1.1: Integrate open space into the site plan. This policy notes that potential areas for required usable open space include: the top of parking podiums and rooftops. *The project will add 1,350 sq. ft. of usable group open space of which 680 sq. ft. will be on the rooftop with the rest on the podium.*

Guideline 2.1.2: Locate Common open space to be easily accessible to residents and /or the public. Locate common open space that is exclusive use of residents to be directly accessible or a short distance from as many units as possible. *The project will provide group open space in two areas within two floors of all units.*

F. For proposals involving a One- or Two-Family Residential Facility: If the Conditional Use Permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

1. 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 conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height,

- OR-

2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, 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 closest lots on each side of the project site plus the ten 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 conditional use permit.

The finding is not applicable as the proposal involves 18 residential units and not a one or two-family development. Furthermore, the Minor Conditional Use Permit is not for the maximum height, yards, lot coverage or building length.

SECTION 17.148.050(A) - MINOR VARIANCE FINDINGS:

A. 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.

Per the previous Planning Code Section 17.126.030B, group usable open space may be located anywhere on the lot within twenty (20) feet of the living units served, except that not more than twenty (20) percent of the required area shall be located on the roof of any building. The Applicant is proposing 1,350 sq. ft. of group open space, and of this amount approximately 680 sq. ft. or 50% is located on the roof. As such, a Minor Variance is required.

The Minor Variance for group open space is justified because strict compliance with the regulations would preclude an effective design solution. Specifically, the pre-application for the project originally showed a 1,421 sq. ft. open space area on the podium that was 24'-6" wide and no open space on the roof. The project was later revised to show a 1,095 sq. ft. open space on the podium which was 15' wide and no open space on the roof. Both of these spaces were directly adjacent to the rear property line and did not include the 3' setback. The current project only has 670 sq. ft. of open space on the podium with the rest of the area designated as private open space decks. The remaining required open space was moved to the roof. The 3' setback was included and the open space moved to the roof to address rear neighbor livability and privacy concerns. The open space on the roof will also not affect the livability of the neighbor to the north. Staff has added Condition of Approval #55, which requires a barrier along the same plane as the front of the elevator and stair tower and additional landscape screening to increase privacy to that neighbor's garden and patio.

Strict compliance would require either an increase in the podium open space, which was intentionally reduced to address neighbor concerns, or a reduction in units. Given neighbor stated concerns, increasing open space to the rear precludes an effective design solution. In addition, given that the site is located in the Neighborhood Center Mixed Use land use classification, the CN-3 Zone, and a designated secondary commercial corridor all of which envision higher density housing and taller buildings on the corridors, a reduction in units is not desirable. As such, the proposal presents a design that improves efficiency for the building and the higher density corridor.

B. 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 basic intent of the regulation is to provide open space within easy access of residents and of good quality. The open space will be protected from wind by the elevator and stair tower. Furthermore, the elevation of the open space is minimal at 43' and is only one story above the private open space decks. The podium and the rooftop open space areas are within easy reach (two floors) of all the residents. The space is of good quality with seating and planting. However, to further enhance the open space, staff has added Condition of Approval # 56, that the final landscape plan and rooftop open space contain additional recreational or leisure amenities to ensure a high-quality space for residents.

C. 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 Minor Variance for the amount of group open space on the roof will not affect the character, livability or appropriate development of abutting properties. The main concern with the rooftop open space is privacy concerns for the neighbor to the north (adjacent Shattuck Avenue property) as the open space itself will not result in shadow issues, and an elevator and stair tower were needed to get to the roof for maintenance reasons regardless. While staff believes that the existing building on the neighboring site would block views from the roof down into the garden or patio, staff has added Condition of Approval #55 which requires that the rooftop open space area to include a barrier along the same plane as the front of the elevator and stair tower with additional landscape screening to increase privacy. With this Condition, residents will not be able to "peer" over and into the neighbor's garden and patio.

D. 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 granting of the Minor Variance will not be a grant of special privilege or inconsistent with the purposes of the zoning regulations.

First, the project as a whole, with both group and private open space, exceeds the overall requirements by over 1,000 sq. ft.

Second, the pre-application for the project originally showed a 1,421 sq. ft. open space on the podium that was 24'-6" wide and no open space on the roof. The project was later revised to show a 1,095 sq. ft. open space on the podium which was 15' wide and no open space on the roof. Both of these spaces were directly adjacent to the rear property line and did not include the 3' setback. The current project only has 670 sq. ft. of open space on the podium with the rest of the area designated as private open space decks. The remaining open space requirement was moved to the roof. The open space was moved to the roof to address rear neighbor privacy and sound concerns.

Third, in the appeal of the overall project (which is currently under consideration), one Appellant noted that in response to staff's Minor Variance findings that "The variance is 'justified because strict compliance of the regulations would preclude an effective design solution' and would 'reduce group open space or the units.' The roof deck could be expanded, or other solutions developed without negatively impacting adjacent properties." The Appellant is correct that the roof deck could be expanded, and more space could be included on the roof. However, the adjacent neighbor on Shattuck also had concerns about privacy and open space on the roof. Staff balanced all neighbors' concerns and the Planning Code by allowing more, but not all, required open space on the roof and included Condition of Approval #55 requiring that the rooftop open space area include a barrier along the same plane as the front of the elevator and stair tower and additional landscape screening to increase privacy.

Also see Minor Variance Finding B above

- E. For proposals involving one or two dwelling units on a lot: 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 design review criteria set forth in the design review procedure at Section 17.136.050.**

This finding is not applicable. The proposed project is an 18-unit mixed-use building and not a one or two-family development.

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

See CUP Finding E above.

- G. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following 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 60 percent 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 closest lots on each side of the project site plus the ten 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.**

The finding is non-applicable as the proposal involves 18 residential units and not a one or two-family development. Furthermore, the Minor Conditional Use Permit is not for the maximum height, yards, lot coverage or building length.

ATTACHMENT B: CONDITIONS OF APPROVAL

The Conditions of Approval below 1-54 were applied to the overall project which was approved by the Zoning Manager on January 18, 2019. **Condition of Approval 55-56** was applied to the project as a result of a decision on the two additional requested permits. The additional conditions along with refinements to other previous conditions (17 and 49) are shown in underline text.

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials and the approved plans dated **August 9, 2015** and submitted on **August 10, 2015**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, signed within 10 days of the approval letter, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive

or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Compliance Matrix

The project applicant shall submit a Compliance Matrix, in both written and electronic form, for review and approval by the Bureau of Planning and the Bureau of Building that lists each Condition of Approval (including each mitigation measure if applicable) in a sortable spreadsheet. The Compliance Matrix shall contain, at a minimum, each required Condition of Approval, when compliance with the Condition is required, and the status of compliance with each Condition. For multi-phased projects, the Compliance Matrix shall indicate which Condition applies to each phase. The project applicant shall submit the initial Compliance Matrix prior to the issuance of the first construction-related permit and shall submit an updated matrix upon request by the City.

13. Construction Management Plan

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments such as the Fire Department, Department of Transportation, and the Public Works Department as directed. The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, Stormwater pollution prevention, noise control, complaint management, and cultural resource management (see applicable Conditions below). The CMP shall provide project-specific information including descriptive procedures, approval documentation, and drawings (such as a site logistics plan, fire safety plan, construction phasing plan, proposed truck routes, traffic control plan, complaint management plan, construction worker parking plan, and litter/debris clean-up plan) that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the project.

14. Regulatory Permits and Authorizations from Other Agencies

Requirement: The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

15. Trash and Blight Removal

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Landscape Plan

a. Landscape Plan Required

- Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf>, respectively), and with any applicable streetscape plan. Staff will be especially considering the planting in the 3' rear yard setback and along the podium and rooftop open space to ensure adequate screening.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. Landscape Installation

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. Landscape Maintenance

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Lighting

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. Dust Controls – Construction Related

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f. All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

20. Criteria Air Pollutant Controls - Construction Related

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the

- California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- b. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).
 - c. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
 - d. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
 - e. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
 - f. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”) and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

22. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic

research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

23. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

24. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

25. Soils Report

Requirement: The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

26. Seismic Hazards Zone (Landslide/Liquefaction)

Requirement: The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the site, an evaluation of site specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

27. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

28. Hazardous Building Materials and Site Contamination

a. Hazardous Building Materials Assessment

Requirement: The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City

evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Environmental Site Assessment Required

Requirement: The project applicant shall submit a Phase I Environmental Site Assessment Report, and Phase II Environmental Site Assessment Report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of construction-related permit.

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

c. Health and Safety Plan Required

Requirement: The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

d. Best Management Practices (BMPs) Required for Contaminated Sites

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:

- i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state, and federal requirements.
- ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

29. Erosion and Sedimentation Control Measures for Construction

Requirement: The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

30. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

31. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets “No Dumping – Drains to Bay;”
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
 - i. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
 - ii. Dumpster drips from covered trash, food waste, and compactor enclosures;
 - iii. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
 - iv. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
 - v. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

32. NPDES C.3 Stormwater Requirements for Small Projects

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building
Monitoring/Inspection: Bureau of Building

33. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

34. Trash Capture Devices

Requirement: Plans shall be submitted for review and approval by the City of Oakland that show a full trash capture device installed at all storm drain inlets or catch basins located on the property and on the adjacent right of way. The plans shall show the design of the device. The Director of Public Works or his/her designee may require that the plans also show the device installed near projects that may generate a large quantity of trash. The applicant shall install these devices according to the approved plans. The owner is responsible for the maintenance of the devices.

When Required: Prior to approval of construction-related permit

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

35. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the

exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

36. Extreme Construction Noise

a. Construction Noise Management Plan Required

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

37. Project-Specific Construction Noise Reduction Measures

Requirement: The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site specific noise attenuation measures to further reduce construction noise impacts. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

38. Construction Noise Complaints

Requirement: The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:

- a. Designation of an on-site construction complaint and enforcement manager for the project;
- b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;
- c. Protocols for receiving, responding to, and tracking received complaints; and
- d. Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

39. Exposure to Community Noise

Requirement: The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:

- a. 45 dBA: Residential activities, civic activities, hotels
- b. 50 dBA: Administrative offices; group assembly activities
- c. 55 dBA: Commercial activities
- d. 65 dBA: Industrial activities

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

40. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

41. Affordable Housing Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Affordable Housing Impact Fee Ordinance (chapter 15.72 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit; subsequent milestones pursuant to ordinance

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

42. Capital Improvements Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

43. Construction Activity in the Public Right-of-Way**a. Obstruction Permit Required**

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

b. Traffic Control Plan Required

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

c. Repair of City Streets

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

44. Bicycle Parking

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

45. Transportation Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

46. Plug-In Electric Vehicle (PEV) Charging Infrastructure**a. PEV-Ready Parking Spaces**

Requirement: The applicant shall submit, for review and approval of the Building Official and the Zoning Manager, plans that show the location of parking spaces equipped with full electrical circuits designated for future PEV charging (i.e. "PEV-Ready") per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-Ready parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. PEV-Capable Parking Spaces

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

c. ADA-Accessible Spaces

Requirement: The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).

When Required: Prior to Issuance of Building Permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

47. Tree Permit**a. Tree Permit Required**

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Tree Protection During Construction

Requirement: Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

c. Tree Replacement Plantings

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- ii. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye), *Umbellularia californica* (California Bay Laurel), or other tree species acceptable to the Tree Division.

- iii. Replacement trees shall be at least twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- iv. Minimum planting areas must be available on site as follows:
 - a. For Sequoia sempervirens, three hundred fifteen (315) square feet per tree;
 - b. For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

48. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

49. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

50. Recycling Collection and Storage Space

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet.

For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

51. Green Building Requirements

a. Compliance with Green Building Requirements During Plan-Check

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - per the appropriate checklist approved during the Planning entitlement process.
 - All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
 - The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. Compliance with Green Building Requirements During Construction

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.

- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. Compliance with Green Building Requirements After Construction

Requirement: Prior to the finaling the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.

When Required: Prior to Final Approval

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

Project Specific Conditions

47. Landscaping and Irrigation

Ongoing

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

48. Architectural Detailing and Building Materials

Ongoing.

All cement plaster stucco shall be smooth finish and applied wet at the job site. The garage door shall be high quality with frosted glass; it shall not be a chain roll-up door. The store front shall be designed with clear transparent glazing with a minimum of 65% open, clear, non-reflective glass.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

49. Window Removal

Ongoing.

Windows shall be removed from the 3rd floor, 2-F unit corner bedroom unit on the interior side property line side and from the 4th floor L-1 unit corner bedroom unit on the interior side property line. The applicant shall submit to the Planning and Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations, and final architectural details of the front and side elevations. To ensure a high-quality design, the windows shall be recessed at least 2" from the façade and staff shall approve the window materials.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

50. Path Lighting***Ongoing.***

All proposed lighting shall be shielded with the egress path lighting from the podium to be lit from below the railing wall and facing downward. The applicant shall submit a lighting plan for review and approval by the Bureau of Planning prior to issuance of a construction-related permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

51. Encroachment Permit***Prior to issuance of building permit.***

The applicant shall obtain any encroachment permits, waiver of damages or other approvals required by the Bureau of Building, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

52. Meter Shielding.***Prior to issuance of building permits.***

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

53. Street Trees.***Prior to issuance of building permit.***

The applicant shall provide street trees in front of the building on Shattuck Avenue and 65th Street per approved plans with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Planning and Building Department.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

54. Signage***Ongoing.***

All proposed signage must be applied for with the proper City of Oakland Planning and Building permits. Signage must meet the City of Oakland Small Project Design Guidelines.

55. Rooftop and Podium Privacy***Prior to issuance of construction-related permit and ongoing.***

The Applicant shall submit a revised rooftop plan for review and approval that provides a solid barrier at least 4' tall along the same plane as the front of the elevator and stair tower to prevent residents from accessing the interior side of the building from the rooftop open space. In addition, the applicant shall submit a landscape plan per Condition #

17 with the addition of landscape screening in this area to increase the sense of privacy of the property to the north along the interior side lot line. In addition, the landscape plan shall include landscape screening of at least 6' tall (installed) along the edge of the podium to improve privacy for residents to the rear.

56. High Quality Rooftop Open Space

Prior to issuance of construction-related permit and ongoing.

The Applicant shall submit a final landscape plan and rooftop open space for review and approval that contains additional recreational or leisure amenities that are built of high quality, as determined by City Staff, to ensure a high-quality space for residents. Such high-quality amenities shall include, BBQ area(s), water feature(s), rain garden, larger landscape/planting areas, dining area, play structure, etc.

Applicant Statement

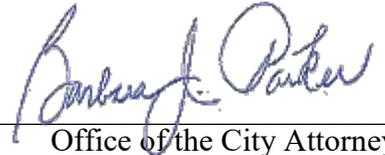
I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

Name of Project Applicant

Signature of Project Applicant

Date

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, shotlocks, 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.



**CITY OF OAKLAND
 APPEAL FORM
 FOR DECISION TO PLANNING COMMISSION, CITY
 COUNCIL OR HEARING OFFICER**

PROJECT INFORMATION

Case No. of Appealed Project: CDV 10185
 Project Address of Appealed Project: 6501 SHATTUCK AVE
 Assigned Case Planner/City Staff: CATHERINE PAYNE, HEATHER KLEIN

APPELLANT INFORMATION:

Printed Name: CAITLIN STUART Phone Number: 415 377 0186
 Mailing Address: 6516 WHITNEY ST Alternate Contact Number: 415 238 6501
 City/Zip Code OAKLAND, CA 94609 Representing: SEE LIST OF APPELLANTS
 Email: CAITLIN.L.STUART@GMAIL.COM ON PAGE 3

An appeal is hereby submitted on:

- AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)

YOU MUST INDICATE ALL THAT APPLY:

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) SEE EXISTING APPEAL OF USE PERMIT/VARIANCES + DR

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- Hearing Officer's revocation/impose or amend conditions (OPC Sec. 17.152.150 &/or 17.156.160)
- Other (please specify) _____

(Continued on reverse)

(Continued)

A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL) Granting an application to: **OR** Denying an application to:

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) _____

FOR ANY APPEAL: An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision. The appeal must be accompanied by the required fee pursuant to the City's Master Fee Schedule.

You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.

The appeal is based on the following: *(Attach additional sheets as needed.)*

*** SEE ATTACHED DOCUMENT**

Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.)*

(Continued on reverse)

The Neighbors' Appeal is based on the following:

1. **The need for yet another minor variance to create open space underscores how ill-suited the current design is for the available space.** Despite the larger building envelope allowed under the old Zoning, the design seeks multiple variances that negatively impact the site as well as the surrounding neighborhood.
2. **Combined, the two variances for open space preclude the efficient operation of the neighboring properties by blocking sun, creating privacy issues, allowing garage ventilation into neighbors' yards, and creating an imposing presence along the street and sidewalks.** The proposed building covers the entire site and proposes to mitigate privacy impacts through taller walls and landscaping up against the fence that actually exacerbate the impacts on solar access and privacy.
3. **Granting the variances constitutes a special privilege** because it enables the overbuilding of the site in ways that other properties can't do. No other properties have completely covered their site with building, and there exists a clear pattern of open space that makes the small neighboring properties livable.
4. **The Variance and Use Permit findings incorrectly claim that there are no impacts on the livability or appropriate development of neighboring properties.** In fact, as the letters and diagrams we've already submitted clearly show, the proposal has significant and numerous negative impacts on neighboring properties which could easily be avoided.
5. **Allowing multiple layers of changes without current and accurate drawings while making decisions based on assumptions about the design, are an abuse of discretion and contrary to the purposes of the public process.** The drawings grossly misrepresent the design of the proposed project and surrounding conditions. Major building elements are either missing or misrepresented which effectively make the building seem smaller and less overbuilt for the site than it actually is. These omissions and misrepresentations have confused the review process and impeded the proper analysis of the project by staff throughout the many years.

In addition to compromising the integrity of the project analysis, the lack of complete and accurate information has contributed to an even more unfair public process since so many new people have moved here in the past decade who are rightly confused by the unconventional procedures (even before COVID), as well as not having access to the old regulations that this project was dubiously grandfathered into so many years ago.

Some of the missing or misleading information include: 1) not showing the elevator

extension to the rooftop open space or the tall rooftop parapet walls needed for safety and privacy; 2) not showing the footprint or analysis of impacts on neighboring properties; and 3) shifting the property line on the elevations so the site appears bigger and the building massing appears as though it steps away from the perimeter, when in fact, it looms over the sidewalk and adjacent neighbors.

6. **The City's justifications for approving the Variances and Use Permit are incorrect :**
- a. **Variance Finding A incorrectly claims that "the Minor Variance is justified because strict compliance would preclude an effective design solution"** and argues that the very minor and thoroughly insufficient changes made between the pre-application and application submissions ten years ago, and the relocation of some of the open space to the roof five years after the initial submission, served to sufficiently address the neighbors' issues. But as we've demonstrated in our previous letters and diagrams, these insignificant changes do not address the impacts, and in some case, they aggravate the issues.
 - b. **Variance Finding A also incorrectly claims that there are no other practical solutions to the open space variances.** Staff's findings state that "strict compliance would require either an increase in the podium open space, which was intentionally reduced to address neighbor concerns, or a reduction in units." However, as neighbors have repeatedly demonstrated through letters and diagrams, there are other practical and feasible design changes that would address the issues without affecting the unit count.
 - c. **The Variance findings incorrectly conclude that the dual variance for open space achieved the goal of "balancing all neighbors' concerns and the Zoning Ordinance by allowing some, but not all the required open space on the roof."** Unfortunately, without removing the 17-foot tall podium / open space / screening walls from the rear yard setback, this double variance fails to address the neighbors' primary concern.
 - d. **Variance Findings A and B incorrectly suggest that the neighbors had divergent issues with regard to the variances for open space which led staff to allow two different variances.** However, all the neighbors on the West *and* the neighbors on the North agree on prioritizing the removal of the podium structure from the rear yard setback because of the severe and extensive negative impacts it poses on all abutting neighbors.
 - e. **Variance Finding D curiously claims that "the granting of the Minor Variance will not be a grant of special privilege or inconsistent with the purpose of the Zoning regulations" because "the project as a whole, with both group and private open space, exceeds the overall requirement..."** This justification is a better argument against approving another variance rather than in support of it. The fact that there is an excess of 1000 square feet of group open space on the building means that the offending podium structure can be eliminated.

7. **While we are not averse to the density, the Conditional Use Permit justifications continue to misrepresent the existing neighborhood context and the impacts on neighbors.**

Not mentioned in the staff analysis of existing context are: the strong neighborhood pattern of organically shaped building footprints with ample rear yards; open spaces between buildings; and building facades that are set back from the edge of the sidewalk thereby allowing room for planting that softens the edges along Shattuck Avenue and 65th street.

A. **The City's findings claim:** "The Design Guidelines for Corridors and Commercial Areas applies eight guiding principles to which each development project must meet. The principles include: (1) building upon patterns of urban development that **lend a special sense of place**; (2) **provide elements that define the street and the place for pedestrians**; (3) **allow for diversity of architectural expression to prevent monotony**; (4) encourage high quality design and construction; (5) **design buildings that reinforce the urban character of the different corridor and place types**; (6) **created transitions in height, massing, and scale**; (7) use **sustainable design techniques**; and create a safe urban environment. "

These justifications are merely statements from the applicants without any critical analysis on staff's part:

(1) The proposed building does not create a sense of place - in fact it looms over the sidewalks and adjacent neighbors, and is alien to the area in its design, lot coverage, and building type.

(2) The proposed massing does not create a sense of place for pedestrians - it looms over the property lines with building projections and an incongruous scale that makes for an uncomfortable pedestrian experience.

(3) The proposed design rejects the diversity of the existing neighborhood and proposes a generic building type that is too big for the site and overbearing in its presence. The building design is so uniform and unremarkable that even the draftsman was confused as to where the street facing elevations were (see diagrams showing where the elevations mistakenly show a street and sidewalk in place of the neighbor's building).

(4) There is no guarantee that the building construction and materials will be of high quality or that staff will be able to adequately review and hold the developer accountable later on. In fact, the developer is known throughout Oakland and the Bay Area for doing work without proper approvals, building substandard buildings and poorly maintaining his properties.

(5) This phrase is very confusing: "design buildings that reinforce the urban character of the different corridor and place types". It suggests that the design is unique and contextual to this area, however, the proposal does not reinforce the character of this corridor. In fact the monolithic building style and lack of ground level open spaces are alien to the neighborhood and detrimental to the positive urban character of the area.

(6) The design does not create transitions in height and massing away from neighbors since it places a 17-foot tall mass (the podium) where open space is supposed to be, thereby negating

the benefit of stepping that is done at the upper levels (and only on the west side). The design also does not step the massing away from the Northern neighbors. In fact, it locates the tallest part of the building (the 5-story tall elevator shaft) within five feet of the North side property line, thereby creating an even more imposing scale, and further blocking solar access and light.

(7) There are no "sustainable design techniques" employed - for one thing, the whole property is covered with building and paving - which is not environmentally sustainable. Furthermore, the landscape plan (which was not prepared by a landscape architect) is completely inaccurate and inadequate. And the token 3-foot wide strip along the rear fence line, which was supposedly created to address neighbors' concerns, is filled up with a thick masonry wall, a fence, with no room (or access) for trees or planting.

Especially apparent during the present COVID-19 era is the importance of at-grade open spaces, gardens and solar access in order to keep people and cities healthy. However, the proposed design blocks sun and air to all its adjacent neighbors as well as to the streets and sidewalks abutting the property.

B. The City's findings claim: "The proposed project is designed to meet the intent of the principles described above. Due to the prominent corner location, **the project will establish a signature building for the corridor.** While, the proposed building is four-stories and 43 feet tall with allowable projections for elevator and stair tower penthouses, the location on the corner of a commercial corridor is an appropriate location for increased height. The design also steps downward in height to the lower scale residential neighborhood behind it similar to the building across Shattuck Avenue. This technique, along with the architectural details reduce the scale, bulk and mass of the building."

The corridor already has a signature building - the Nomad Cafe - an award-winning design that reinforces the best qualities of our diverse neighborhood in its site planning, building massing, and building materials. It serves as a good example of the kind of a site-specific approach to design that the applicant claims to uphold but which is completely absent from their generic design.

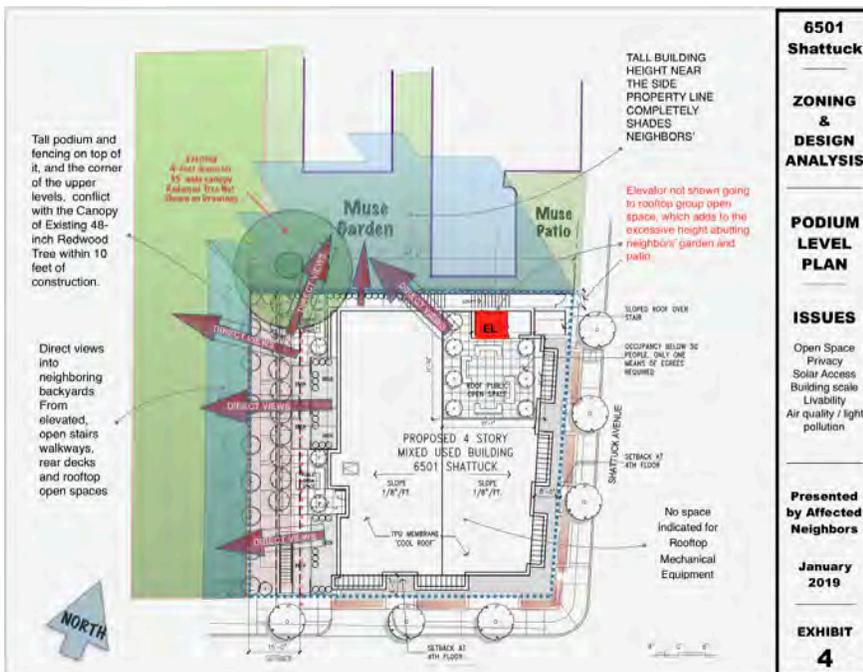
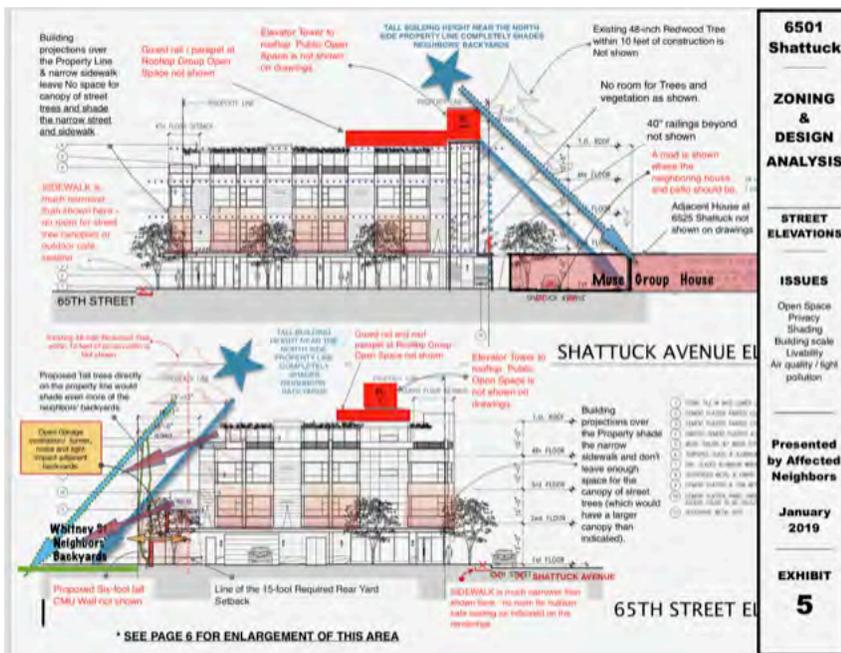
C. The City's findings claim: "Due to a lack of neighborhood context with regard to architectural style and materials, the subject project will not detract from a neighborhood context but will rather strengthen it by further providing a variety of architectural styles and an additional ground floor commercial space for street activity and eyes on the street."

There is a context of architectural styles - just not a uniform one. The context is of diverse building styles with open spaces on all sides of the building, including along Shattuck Avenue and 65th street. The proposed design detracts from the established pattern of buildings that have a good ratio of open space between neighbors, and creates undesirable conditions for neighboring backyards and the street and sidewalks.

D. The findings claim: "The proposed design applies a combination of materials including smooth cement plaster, aluminum windows and storefront, metal and fabric canopies and decorative metal gates which will work well to integrate the building with the neighboring contemporary structures in the area. Further, **the design is both efficient and functional.** Also, the site will receive new landscaping, and paving. The proposed materials are consistent with that of other existing contemporary neighboring dwellings in the area.

As stated above, the design inefficiently and expensively extends the tall concrete and steel

podium structure all the way to the rear and creates many issues. The areas shown for landscaping are inadequately sized. A realistic and accurate conceptual landscape plan is required as part of the application for such projects, and should be required and reviewed before an approval is issued. As we've documented before, the developer has an established record of cutting corners, breaking laws, misrepresenting data, and avoiding accountability - and the City is already too understaffed to catch any transgressions. We do not think that deferring the review of documents and having only staff review them during the building permit process is fair or even practicable. We believe that requiring and reviewing the needed documents is best within a public process (by neighbors), and again request that correct and complete documents be submitted for public review before further decisions are made on this application.



6501 SHATTUCK PROJECT

Consistency with the Land Use and Transportation Element (LUTE) of the General Plan

The proposal is consistent with the following LUTE objectives and policies:

Policy N1.1 Concentrating Commercial Development. Commercial development should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail. The proposal will include approximately 1,975 sf of commercial space on Shattuck Avenue which is a commercial corridor. This space will provide neighborhood services and is compatible with the smaller-scale commercial across Shattuck Avenue.

Objective N3 states: “Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future needs of the Oakland community”. The project will facilitate construction of 18 units on a vacant, blighted lot on a commercial corridor.

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the city of Oakland. The project will facilitate construction of 18 units on a vacant, blighted lot on a commercial corridor.

Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland. The project will facilitate construction of 18 units on a vacant, underutilized blighted lot on a commercial corridor.

Policy N3.8 Required High Quality Design. High-quality design standards should be required for all new residential construction. The proposal is of high-quality design including a prominent corner with retail space, architectural details such as the fins, sunshades, balconies that are integral to the architecture and not tacked on, smooth stucco and a stone tile base, and aluminum windows.

Policy N3.10 Guiding the Development of Parking. Off-street parking for residential buildings should be adequate in amount and conveniently located and laid out, but it’s visual prominence should be minimized. The project provides the required number of parking spaces. The parking is accessed off 65th Street to ensure that the entire frontage along Shattuck Avenue is devoted to commercial uses and the residential lobby. While the parking is open along the side and rear property line, the parking and any associated lighting shall be minimized through the use of vegetation, walls, and fences.

Objective N6- Encourage a mix of housing costs, unit sizes, types and ownership structures. The proposal provides a mix of one and two-bedroom residential units.

The zoning in place at the time the project was deemed complete and as discussed below in the *Basis of the Appeal section*, potentially conflicts with the Neighborhood Center land use designation, in that, the C-10 Zone did not permit a maximum density equal to the General Plan. In these situations, pursuant to the Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations (as amended July 21, 2009) which were in place prior to the Citywide Zoning Update, the General Plan governs, and the higher density was permitted with an Interim Major CUP (Section 17.01.100.B of the previous Zoning Code).

CN-3 and C-10 Zoning Regulation Comparison Table

Criteria	Existing (Current) Zoning CN-3	(Previous Zoning) Requirement C-10	Proposed	Comment
Permanent Residential Activity	Permitted	Permitted	Yes	Meets CN-3 and C-10 requirements
Commercial Activity*	Permitted	Permitted	Yes	Meets CN-3 and C-10 requirements
Multifamily Dwelling Residential Facility	Permitted	CUP required	Yes	Meets the CN-3 requirements. A Minor CUP is required in the C-10 Zone.
Enclosed Non-Residential Facility	Permitted	Permitted	Yes	Meets CN-3 and C-10 requirements
Density	11	5	18	Does not meet the CN-3 requirements. Meets the C-10 requirements with an Interim CUP per the previous General Plan Conformity Guidelines.
FAR	N/A***	N/A**	N/A	N/A
Yard – Front	0’	0’****	0’	Meets CN-3 and C-10 requirements
Yard – Interior Lot Line (Shattuck)	0’	0’	0’	Meets CN-3 and C-10 requirements
Yard – Corner Side Lot Line (65 th Street)	0’	0’	0’	Meets CN-3 and C-10 requirements
Yard –Rear Lot Line (Opposite Shattuck)	10’	15’	7’-9”-18’	The ground floor is setback 7’-9” and the 2 nd -4 th -stories are setback 18’. A Minor Variance for the parking podium in the setback is required in both the C-10 and CN-3 Zones.
Height	35’ height area	45’ and 30’ unless setback 1’ horizontally for each 1’ vertically along rear property line at the setback	43’ to the roof with the required C-10 Zone 1’ of horizontal setback for each 1’ of vertical along rear property line at the setback	Does not meet the CN-3 requirements. Meets the C-10 requirements.
Open Space	150 sq. ft. of group or 2,700 sq. ft. open space or 30 sq. ft. if private open space is substituted	200 sq. ft. of group or 3,600 sq. ft. open space or 75 sq. ft. if private open space is substituted	1,350 sq. ft. of group open space and 4,380 sq. ft. of private open space = 5,730 sq. ft.	Meets CN-3 and C-10 requirements. A Minor Variance for more than 20% of group open space on the roof is required in both the CN-3 and C-10 Zones.
Residential Parking	1 space / unit = 18 spaces	1 space / unit = 18 spaces****	18 spaces	Meets the CN-3 and C-10 requirements. A Minor CUP for parking setback less than 75’ from the front property line is required in the C-10 Zone.

* Likely General Retail or General Food Sales

** Commercial space under 3,000 sq. ft. does not count as FAR in the CN-3 Zone. FAR is not included in the C-10 Zone, only the requirement that commercial spaces be under 5,000 sq. ft.

***A front yard is only required when the part of the frontage on the same side of the block is in a residential zone which this site is not.

**** Reductions in parking are permitted for location in transit areas, carshare, transit passes in addition to other options.

Attachment G

**6501 Shattuck Avenue Mixed-Use
Project**

Infill Environmental Checklist



Prepared for:
City of Oakland Bureau of Planning
250 Frank H. Ogawa Plaza
Oakland, CA 94612

Prepared by:
Stantec Consulting Services Inc.
1340 Treat Boulevard, Suite 300
Walnut Creek, California 94596

September 4, 2018

Proposed Appendix N: Infill Environmental Checklist form

NOTE: This sample form is intended to assist lead agencies in assessing infill projects according to the procedures provided in Section 21094.5 of the Public Resources Code. Lead agencies may customize this form as appropriate, provided that the content satisfies the requirements in Section 15183.3 of the CEQA Guidelines.

1. Project title: **6501 Shattuck Avenue Mixed-Use Project**
2. Lead agency name and address:
**City of Oakland, Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612**
3. Contact person and phone number: **Michael Bradley phone: (510) 238-6935 email: mbradley@oaklandnet.com**
4. Project location: **Oakland, California**
5. Project sponsor's name and address:
**Bruder LLC.
2550 Appian Way, Suite 201
Pinole, California 94564**
6. General Plan designation: **Neighborhood Center Mixed Use**
7. Prior Environmental Document(s) Analyzing the Effects of the Infill Project (including State Clearinghouse Number if assigned):
**City of Oakland General Plan Land Use and Transportation Element EIR (State Clearinghouse No. 97062089)
City of Oakland Housing Element EIR (State Clearinghouse No. 2009092065)**
8. Location of Prior Environmental Document(s) Analyzing the Effects of the Infill Project:
Available Online: <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/EIR/index.htm>
9. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
The proposed project includes the development of a 17,480 square foot four-story mixed-use building including, 18 residential units with approximately 1,975 square feet of ground floor commercial store fronts along Shattuck Avenue, and 18 parking stalls. For additional Project details refer to Section 5.0, Project Description, of the CEQA Analysis.
10. Surrounding land uses and setting: Briefly describe the project's surroundings, including any prior uses of the project site, or, if vacant, describe the urban uses that exist on at least 75% of the project's perimeter:
The project site is located in the North Oakland Planning Area within the Bushrod community. An 800 square foot brick structure related to the previous onsite activities associated with the East Bay Smog Service Center occupies the northwestern portion of the project site. The project site is an infill parcel and surrounded by a mix of land uses including, a communal art studio to the north, mixed-use commercial and residential buildings to the east, and residential development to the south and west.
11. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):

Actions by the City: Regular Design Review, Minor Variance for rear (garage) setback, Minor Interim Conditional Use Permit for density, Minor Conditional Use Permit for driveway within 75 feet of Shattuck Avenue, Encroachment Permit and other related onsite and offsite work permits.

Actions by Other Agencies: East Bay Municipal Utility District for approval of new service requests and water meter installation Alameda County Environmental Health Department Case Closure Letter for approval of completing the site investigation and cleanup of reports underground storage tank release at site.

SATISFACTION OF APPENDIX M PERFORMANCE STANDARDS

Provide the information demonstrating that the infill project satisfies the performance standards in Appendix M below. For **mixed-use projects**, the predominant use will determine which performance standards apply to the entire project.

1. Does the non-residential infill project include a renewable energy feature? If so, describe below. If not, explain below why it is not feasible to do so.
Not Applicable. The predominant use of the proposed project is residential.
2. If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, either provide documentation of remediation or describe the recommendations provided in a preliminary endangerment assessment or comparable document that will be implemented as part of the project.

Six onsite underground storage tanks (USTs) were removed from the site in October 2009 under the oversight of Alameda County Environmental Health Department. Following removal of the six USTs, site remediation was completed at the project site. On June 26, 2014 ACEHD issued a Case Closure Letter confirming the completion of the investigation and cleanup of the reported UST release at the site, deeming the case closed. Additional assessments were completed at the site by SOMA Engineering, and determined the containment levels that remained in the soil and groundwater after site remediation were significantly lower than the recommended Low Threat Closure Policy criteria. ACEHD issues a letter to the Applicant on September 12, 2016 concluding that the level of cleanup at the site is suitable for both commercial and residential uses. Refer to Attachment E of the CEQA Analysis document.

3. If the infill project includes residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, a high volume roadway or other significant source of air pollution, as defined in Appendix M, describe the measures that the project will implement to protect public health. Such measures may include policies and standards identified in the local general plan, specific plans, zoning code or community risk reduction plan, or measures recommended in a health risk assessment, to promote the protection of public health. Identify the policies or standards, or refer to the site specific analysis, below. (Attach additional sheets if necessary.)

Not Applicable.

4. For **residential** projects, the project satisfies which of the following?

Located within a low vehicle travel area, as defined in Appendix M. (Attach VMT map.)

Located within ½ mile of an existing major transit stop or an existing stop along a high quality transit corridor. (Attach map illustrating proximity to transit.)

Consists of 300 or fewer units that are each affordable to low income households. (Attach evidence of legal commitment to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.)

5. For **commercial** projects with a single building floor-plate below 50,000 square feet, the project satisfies which of the following? **NOT APPLICABLE**

Located within a low vehicle travel area, as defined in Appendix M. (Attach VMT map.)

The project is within one-half mile of 1800 dwelling units. (Attach map illustrating proximity to households.)

6. For **office building** projects, the project satisfies which of the following? **NOT APPLICABLE**

Located within a low vehicle travel area, as defined in Appendix M. (Attach VMT map.)

Located within ½ mile of an existing major transit stop or within ¼ of a stop along a high quality transit corridor. (Attach map illustrating proximity to transit.)

7. For **school** projects, the project does all of the following: **NOT APPLICABLE**

The project complies with the requirements in Sections 17213, 17213.1 and 17213.2 of the California Education Code.

The project is an elementary school and is within one mile of 50% of the student population, or is a middle school or high school and is within two miles of 50% of the student population. Alternatively, the school is within ½ mile of an existing major transit stop or an existing stop along a high quality transit corridor. (Attach map and methodology.)

The project provides parking and storage for bicycles and scooters.

8. For **small walkable community projects**, the project must be a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both. **NOT APPLICABLE**

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The infill project could potentially result in one or more of the following environmental effects.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

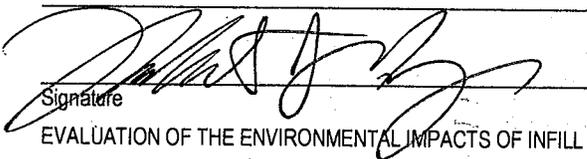
On the basis of this initial evaluation:

I find that the proposed infill project WOULD NOT have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects. A Notice of Determination (Section 15094) will be filed.

I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. With respect to those effects that are subject to CEQA, I find that such effects WOULD NOT be significant and a NEGATIVE DECLARATION, or if the project is a Transit Priority Project a SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT, will be prepared.

I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that although those effects could be significant, there will not be a significant effect in this case because revisions in the infill project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION, or if the project is a Transit Priority Project a SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT, will be prepared.

I find that the proposed infill project would have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that those effects WOULD be significant, and an infill ENVIRONMENTAL IMPACT REPORT is required to analyze those effects that are subject to CEQA.


 Signature

 9/5/18
 Date

EVALUATION OF THE ENVIRONMENTAL IMPACTS OF INFILL PROJECTS:

See attached the complete CEQA Analysis Exemption Package, which includes the environmental impact analysis for the 6501 Shattuck Mixed-Use Project in accordance with the City of Oakland's Initial Study and Environmental Review Checklist.

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- Attachment F: Air Quality and Greenhouse Gas Technical Memorandum
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- Attachment H: Construction Noise Reduction Memorandum
- Attachment I: Preliminary Traffic Evaluation Memorandum

Acronyms

AB	Assembly Bill
ACEHD	Alameda County Environmental Health Department
AC Transit	Alameda County Transit
ADA	Americans with Disabilities Act
APN	Assessor's Parcel Number
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BMP	best management practice
C-10	Local Retail Commercial Zone (C-10)
CEQA	California Environmental Quality Act
CGS	California Geologic Survey
CO	carbon monoxide
CN-3	Neighborhood Commercial – 3 Zone
CUP	Conditional Use Permit
du/ac	dwelling unit/acre
EBMUD	East Bay Municipal Utility District
ECAP	Energy and Climate Action Plan
EIR	Environmental Impact Report
FAR	floor area ratio
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
GHG	greenhouse gas
ITE	Institute of Transportation Engineers
Ldn	day-night sound level
LOS	Level of Service
LTCP	Low Threat Closure Policy
LUTE	Land Use and Transportation Element
MTCO ₂ e	metric tons of C O ₂ equivalent
MTCO ₂ e/SP/yr	MTCO ₂ e per service population annually
NESC	National Electric Safety Code
NO _x	nitrous oxides
NPDES	National Pollution Discharge Elimination System
NRCS	Natural Resources Conservation Service
OEHHA	Office of Environmental Health Hazard Assessment
OUSD	Oakland Unified School District
PG&E	Pacific Gas and Electric Company
PM	particulate matter
PM ₁₀	particulate matter 10 microns in diameter
PM _{2.5}	particulate matter 2.5 microns in diameter
PPV	peak particle velocity
RHNA	Regional Housing Needs Allocation
ROG	Reactive Organic Gas
ROW	right-of-way
SB	Senate Bill
SCA	Standard Conditions of Approval
SWPPP	Stormwater Pollution Prevention Plan
TACs	toxic air contaminants
TAZ	Transit Area Zone
USDA	United States Department of Agriculture

Acronyms

USGBC	United States Green Building Council
USGS	United States Geological Survey
UST	underground storage tank
VMT	Vehicle Miles Travelled
WRF	Water Research Foundation

1.0 EXECUTIVE SUMMARY

The Applicant, Bruder LLC., is proposing the redevelopment of Assessor Parcel Number (APN) 16-1428-11-2, a 0.19-acre parcel in the North Oakland Planning Area of the City of Oakland within the Bushrod community. The proposed project is approximately 0.25 miles from the Ashby Bay Area Rapid Transit (BART) Station. A brick structure currently occupies the project site formerly used by the East Bay Smog Center.

The Applicant proposes to develop a 17,480 square foot four-story mixed-use building. The proposed project would include 18 residential units with ground floor commercial store fronts and parking. The residential component of the proposed project would consist of three floors (Floors 2-4) with a total floor area of 15,505 square feet. Additionally, the proposed project would include private residential courtyards and a 682 square foot communal rooftop courtyard. The ground floor commercial space would be approximately 1,975 square feet along Shattuck Avenue and 65th Street. It is anticipated that small restaurants and cafes would occupy the space, and outdoor seating would be provided. The proposed project would include approximately 4,582 square feet of podium garage space located on the ground floor behind the commercial store fronts, with a total of 18 parking stalls that would consist of 6 standard parking stalls, 11 compact parking stalls, and 1 Americans with Disabilities Act (ADA) van accessible parking stall for residential use.

This California Environmental Quality Act (CEQA) Analysis evaluates the 6501 Shattuck Avenue Mixed-Use Project (proposed project). Specifically, the proposed project is considered an urban infill development project. This analysis uses CEQA streamlining and/or tiering provisions under CEQA Guidelines Section 15183 and Section 15183.3 to tier from the program-level analyses completed in the City of Oakland General Plan (General Plan) Land Use and Transportation Element (LUTE), LUTE Environmental Impact Report (EIR) (1998), 2015-2023 Housing Element, 2010 EIR for the 2015- 2023 Housing Element, and 2014 Addendum to the 2010 EIR for the 2015-2023 Housing Element—collectively referred to herein as the Program EIRs—that previously analyzed environmental impacts associated with the adoption and implementation of the LUTE and the Housing Element of the General Plan.

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2.0 INFILL ENVIRONMENTAL CHECKLIST

NOTE: This form is intended to assist lead agencies in assessing infill projects according to the procedures provided in Section 21094.5 of the Public Resources Code. The content satisfies the requirements in Section 15183.3 of the CEQA Guidelines.

2.1 PROJECT TITLE

6501 Shattuck Avenue Mixed-Use Project

2.2 LEAD AGENCY NAME AND ADDRESS

City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, California 94612

2.3 CONTACT PERSON AND PHONE NUMBER

Michael Bradley
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, California 94612
Phone: (510) 238-6935
mbradley@oaklandnet.com

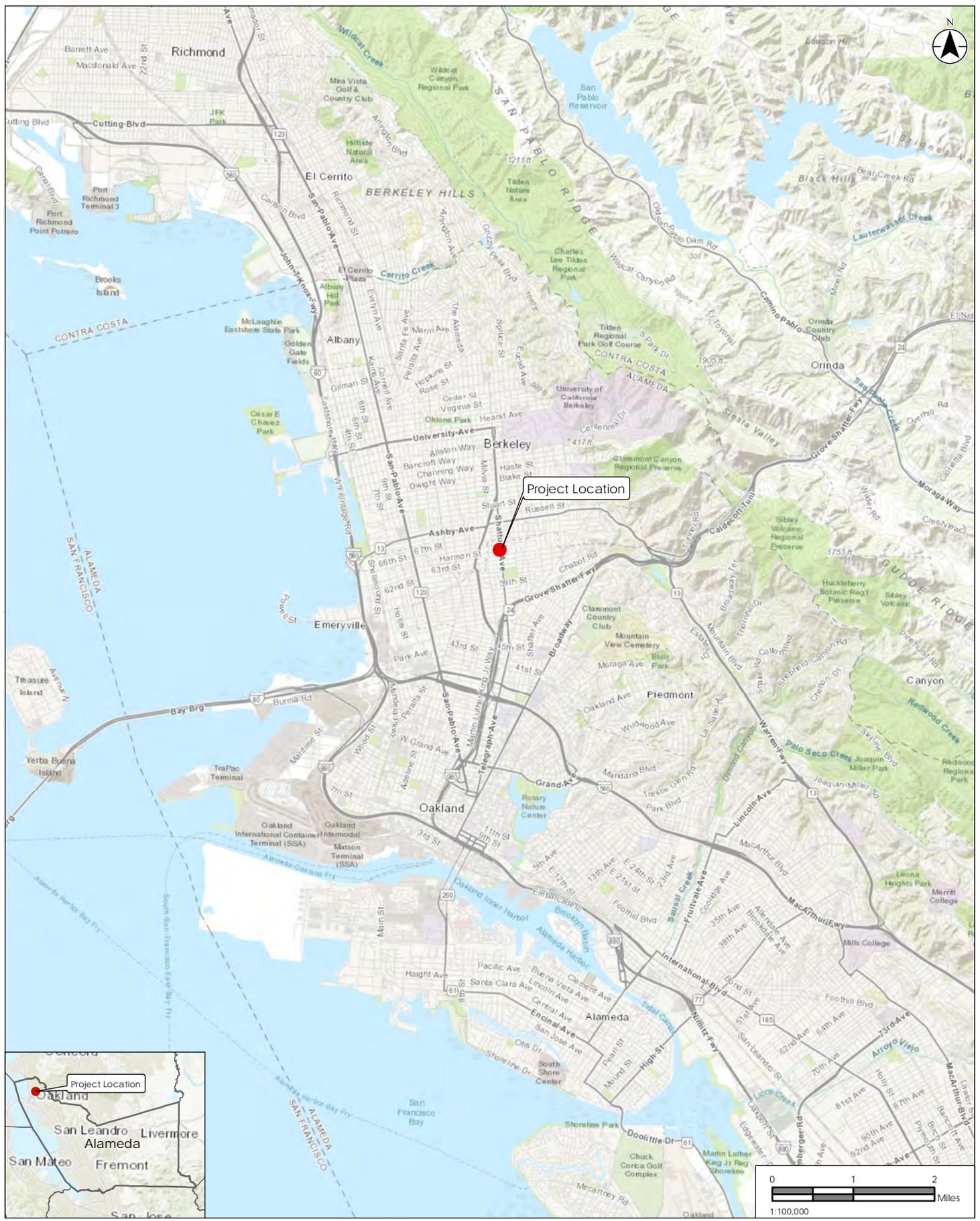
2.4 PROJECT LOCATION

The 6501 Shattuck Avenue Mixed-Use Project (proposed project) is located on the northwest corner of the intersection of Shattuck Avenue and 65th Street in the City of Oakland (City) (Figure 2-1). The project site consists of a single parcel identified as Alameda County APN 16-1428-11-2 and encompasses a total area of 0.19 acres (Figure 2-2). The project site is served by various Alameda County Transit (AC Transit) bus and shuttle lines and is located approximately 0.25 miles from the Ashby Bay Area Rapid Transit (BART) Station (Figure 2-3).

2.5 PROJECT SPONSOR'S NAME AND ADDRESS

Bruder LLC.
2550 Appian Way, Suite 201
Pinole, California 94564

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6501 Shattuck Avenue Mixed-Use Project
Oakland, California

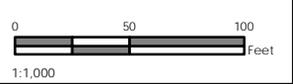
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Figure 2-1: Regional Overview

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Legend
 Project Site

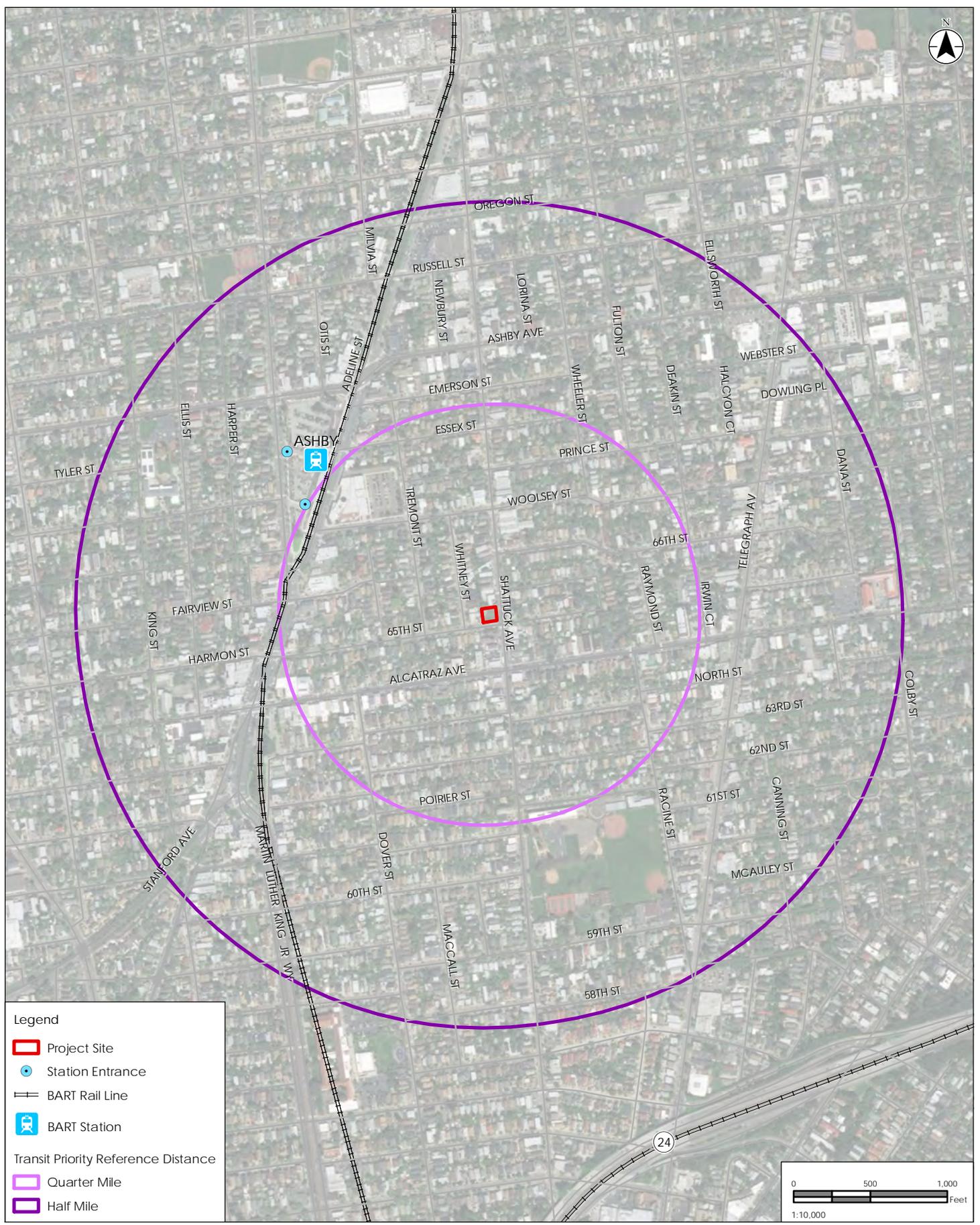


6501 Shattuck Avenue Mixed-Use Project
Oakland, California

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Figure 2-2: Project Site

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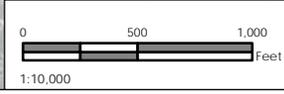


Legend

- Project Site
- Station Entrance
- BART Rail Line
- BART Station

Transit Priority Reference Distance

- Quarter Mile
- Half Mile



6501 Shattuck Avenue Mixed-Use Project
Oakland, California

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Figure 2-3: Transit Priority Area

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2.6 GENERAL PLAN AND ZONING DESIGNATIONS

The land use designation for the project site is Neighborhood Center Mixed Use. On April 14, 2011, the zoning classification for the project site changed from Local Retail Commercial Zone (C-10) to Neighborhood Commercial – 3 Zone (CN-3) after the City adopted new zoning classifications within the city boundaries. However, the land use designations did not change. The purpose of the CN-3 Zone is to: “create, improve, and enhance areas neighborhood commercial centers that have a compact, vibrant pedestrian environment (City of Oakland 2017b).” The Project Application was deemed complete by the City prior to the City’s approval of the new zoning on April 14, 2011. Therefore, the proposed project would be processed under the C-10 zoning requirements.

General Plan

The City of Oakland General Plan land use designation for the project site is Neighborhood Center Mixed Use, which is defined as follows:

“The Neighborhood Center Mixed Use classification is intended to identify, create, maintain, and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses.”

Zoning

The proposed project would be processed under the C-10 zoning requirements, which are described as follows:

“The intent of the C-10 Zone is to create, improve, and enhance areas of small-scale retail establishments serving frequently recurring needs in convenient locations, and is typically appropriate to small shopping clusters located within residential communities.”

According to Chapter 17.36 of the C-10 zoning requirements, multifamily dwellings are permitted upon the granting of a conditional use permit (CUP). Commercial activities such as general food sales, general retail sales, consumer service, and small sidewalk cafes (subject to the provisions of Section 17.102.335) are permitted facilities within the C-10 zone (City of Oakland 2010a).

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3.0 BACKGROUND

The following describes the Program EIRs that constitute the previous CEQA documents considered in this CEQA Analysis. Each of the following documents is hereby incorporated by reference and can be obtained from the City of Oakland Bureau of Planning at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California 94612.

Land Use and Transportation Element EIR

The City certified the EIR for its General Plan LUTE in 1998. The LUTE identifies policies to guide land use changes in the City and sets forth an action program to implement the land use policy through development controls and other strategies. The 1998 LUTE EIR is designated a "Program EIR" under CEQA Guidelines Section 15168. As such, subsequent activities under the LUTE are subject to requirements under each of the aforementioned CEQA Sections, which are described further in Section 7.0. The proposed project is within the North Oakland Planning Area as described in the LUTE.

Applicable mitigation measures identified in the 1998 LUTE EIR are largely the same as those identified in the other Program EIRs prepared after the 1998 LUTE EIR, either as mitigation measures or newer City of Oakland Standard Conditions of Approval (SCAs), the latter of which are described below.

Environmental Effects Summary – 1998 LUTE EIR

The 1998 LUTE EIR (including its Initial Study Checklist) determined that development consistent with the LUTE would result in impacts that would be reduced to a **less than significant level with the implementation of mitigation measures**: aesthetics (views, architectural compatibility and shadow only); air quality (construction dust –including particulate matter 10 microns in diameter [PM₁₀]- and emissions, odors); cultural resources (except as noted below as less than significant); hazards and hazardous materials; land use (use and density incompatibilities); noise (use and density incompatibilities, including from transit/transportation improvements); population and housing (induced growth, policy consistency/clean air plan); public services (except as noted below as significant); and transportation/circulation (intersection operations).

Less Than Significant Impacts were identified for the following resources in the 1998 LUTE EIR and Initial Study: aesthetics (scenic resources, light and glare); air quality (clean air plan consistency, roadway emissions, energy use emissions, local/regional climate change); biological resources; cultural resources (historic context/settings, architectural compatibility); energy; geology and seismicity; hydrology and water quality; land use (conflicts in mixed-use projects and near transit); noise (roadway noise citywide, multifamily near transportation/transit improvements); population and housing (exceeding household projections, housing displacement from industrial encroachment); public services (water demand, wastewater flows, stormwater quality, parks services); and transportation/circulation (transit demand).

No Impacts were identified for agricultural or forestry resources and mineral resources.

Significant Unavoidable Impacts were identified for the following environmental resources in the 1998 LUTE EIR: air quality (regional emissions); public services (fire safety); transportation/circulation (roadway segment operations); and policy consistency (Clean Air Plan). Due to the potential for significant unavoidable impacts, a Statement of Overriding Considerations was adopted as part of the City's approvals.

2010 Oakland Housing Element Update EIR and 2014 Addendum

The City has twice amended its General Plan to adopt updates to its Housing Element. The City certified the 2010 EIR for the 2007-2014 Housing Element, and the 2014 Addendum to the 2010 EIR for the 2015-2023 Housing Element. The General Plan identifies the City's current and projected housing needs, and sets goals, policies, and programs to address those needs, as specified by the state's Regional Housing Needs Allocation (RHNA) process. Although the project site is not identified as a Housing Opportunity Site under the current Housing Element, the proposed project nevertheless would contribute to achieving the City's stated goals and meeting the City's RHNA targets.

Applicable mitigation measures and SCAs identified in the 2014 Addendum to the 2010 EIR are considered in the analysis of the residential components of the proposed project. The 2010 Housing Element Update EIR was designated a "Program EIR" under CEQA Guidelines Sections 15168. As such, subsequent activities under the Housing Element that involve housing are subject to mitigation measures and SCAs identified in the 2010 Prior EIRs. Applicable mitigation measures and SCAs identified in the 2010 Housing Element EIR are considered in the analysis in this document.

Environmental Effects Summary – 2010 Housing Element Update EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum (including its Initial Study Checklist) determined that housing developed pursuant to the Housing Element, which would include the project site, would result in impacts that would be reduced to a **less than significant level with the implementation of mitigation measures and/or standard conditions of approval** to the following resources: aesthetics (visual character/quality and light/glare only); air quality (except as noted below); biological resources; cultural resources; geology and soils; greenhouse gas emissions; hazards and hazardous materials (except as noted below, and no impacts regarding airport/airstrip hazards and emergency routes); hydrology and water quality (except as noted below); noise; public services (police and fire only); and utilities and service systems (except as noted below).

Less Than Significant Impacts were identified for the following resources in the Housing Element Update EIR and Addendum: hazards and hazardous materials (emergency plans and risk via transport/disposal); hydrology and water quality (flooding/flood flows, and inundation by seiche, tsunami or mudflow); land use (except no impact regarding community division or conservation plans); population and housing (except no impact regarding growth inducement); public services and recreation (except as noted above, and no impact regarding new recreation facilities); and utilities and service systems (landfill, solid waste, and energy capacity only, and no impact regarding energy standards).

No Impacts were identified for agricultural or forestry resources, and mineral resources.

Significant Unavoidable Impacts were identified for the following environmental resources in the Housing Element Update EIR and Addendum: air quality (toxic air contaminant exposure) and traffic delays. Due to the potential for significant unavoidable impacts, a Statement of Overriding Considerations was adopted as part of the City's approvals.

City of Oakland Standard Conditions of Approval

The City of Oakland's Uniformly Applied Development Standards, adopted as SCAs, were originally adopted by the City in 2008 (Ordinance No. 12899 C.M.S.) pursuant to Public Resources Code Section 21083.3) and have been incrementally updated over time. These SCAs are incorporated into projects as conditions of approval, regardless of the determination of a project's environmental impacts. The SCAs incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, Green Building Ordinance, historic/landmark status, California Building Code, and Uniform Fire Code, among others). The SCAs are adopted as requirements of an individual project when approved by the City and are designed to, and will, substantially mitigate environmental effects.

Note that the SCAs included in this document are referred to using an abbreviation for the environmental topic area and are numbered sequentially for each topic area — e.g., SCA AIR-1, SCA AIR-2, etc. The SCA title is also provided—e.g., **SCA AIR-1 (#21):** Dust Controls- Construction Related. The full text of the applicable SCAs are included in Attachment A of this CEQA Analysis.

Consistent with the requirements of CEQA, a determination of whether the proposed project would have a significant impact must occur prior to approval of the proposed project. Where applicable, SCAs have been identified that will mitigate such impacts and will be incorporated into the proposed project. In some instances, exactly how the SCAs identified will be achieved awaits completion of future studies, an approach that is legally permissible where SCAs are known to be feasible for the impact identified, where subsequent compliance with identified federal, State, or local regulations or requirements apply, where specific performance criteria is specified and required, and where the proposed project commits to developing measures that comply with the requirements and criteria identified.

It should be noted, certain mitigation measures identified in the Program EIRs have since been adopted by the City as SCAs for all projects. Therefore, some of the previously identified applicable mitigation measures from the Program EIRs have been modified, and in some cases wholly replaced, to reflect the City's current standard language and requirements of its SCAs. Any mitigation measures applicable to the proposed project are captured in the SCAs and references to mitigation measures reflect standard language only. The full standard language of the previously identified mitigation measures from the Program EIRs are provided in Attachment D as reference.

Project Site History

The project site was formerly occupied by a gas station and service center prior to October 2009. According to the State Water Resources Control Board GeoTracker online database, six onsite underground storage tanks (USTs) were removed from the site in October 2009 under oversight by Alameda County Environmental Health Department (ACEHD): three 2,000-gallon gasoline USTs, two 1,000-gallon gasoline USTs, and one 55-gallon waste oil UST. Following UST removal activities, compliance soil samples were collected from the excavations at the site. Total petroleum hydrocarbons and diesel were detected from previous release of gasoline and diesel fuel. The current property owner/Applicant, conducted environmental remediation of the site with the assistance of SOMA Engineering. On June 26, 2014, ACEHD issued a Case Closure Letter for the site, confirming the completion of the investigation and cleanup of the reported UST release at the site, deeming the case closed. Following case closure, additional assessments were undertaken by the property owner/Applicant in 2015 to ensure that the site is adequate for residential construction (Attachment E). In November 2015, SOMA Engineering provided documentation that the June 26, 2014 ACEHD closure letter indicates that the site is meeting Low Threat Closure Policy (LTCP) criteria for both commercial as well as residential land use scenarios. The November 24, 2015 letter from SOMA Engineering further states, "contaminant levels remained in soil and groundwater after site remediation are significantly lower than the recommended LTCP criteria for soil and groundwater. As such, the site is eligible to be utilized for both residential and commercial purposes." On September 12, 2016, ACEHD issued a letter concluding that the level of cleanup at the site is suitable for residential and commercial use (Attachment E).

4.0 PURPOSE AND SUMMARY OF THIS DOCUMENT

The purpose of this document is to provide required CEQA compliance for the proposed project. Applicable CEQA sections are described below, each of which separately and independently provides a basis for CEQA compliance.

1. **Project Consistent with a Community Plan or Zoning.** Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 allow streamlined environmental review for projects that are “consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific significant effects that are peculiar to the project or its site.” Section 15183(c) specifies that “if an impact is not peculiar to the parcel or the project has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards..., then an EIR need not be prepared for the project solely on the basis of that impact.”

The analysis in the Program EIRs—the 1998 LUTE EIR, 2010 Housing Element EIR and its 2014 Addendum—are applicable to the proposed project and provide the basis for use of the Community Plan consistency provisions of CEQA.

2. **Qualified Infill Streamlining.** Public Resources Code Section 21094.5 and State CEQA Guidelines Section 15183.3 allow streamlining for certain qualified infill projects by limiting the topics that are subject to review at the project level, provided the effects of infill development have been addressed in a planning-level decision or by uniformly applicable development policies. Infill projects are eligible if they are:
 - Located in an urban area and on a site that either has been previously developed or adjoins existing qualified urban uses on at least 75 percent of the site’s perimeter;
 - Able to satisfy the performance standards provided in State CEQA Guidelines Appendix M; and
 - Consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy. No additional environmental review is required if the infill project would not cause any new specific effects or more significant effects or if uniformly applicable development policies or standards would substantially mitigate such effects.

The analysis in the Program EIRs — the 1998 LUTE EIR and for the residential component of the proposed project, and the 2010 Housing Element Update EIR and its 2014 Addendum — are applicable to the proposed project and are the previous CEQA documents providing the basis for use of the streamlined environmental review pursuant to CEQA Guidelines Section 15183.3.

3. **Program EIRs.** CEQA Guidelines Section 15168 (Program EIRs) provides that Program EIRs can be used in support of streamlining and/or tiering provisions under CEQA. Section 15168 defines a "Program EIR" as an EIR prepared on a series of actions that can be characterized as one large project and are related geographically or by other shared characteristics. Section 15168 also states that "subsequent activities in the Program EIR must be examined in light of the Program EIR to determine whether an additional environmental document must be prepared." Section 15168(c) states, "If the agency finds that pursuant to CEQA Guidelines Section 15162, no new effects could occur, or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the Program EIR and no new environmental document would be required."

This CEQA Analysis evaluates the specific environmental effects of the proposed project. Examination of the analysis, findings, and conclusions of the Program EIRs, as summarized in this CEQA analysis, indicates that the prior CEQA documents adequately analyzed and covered the potential environmental impacts associated with the proposed project. The streamlining and or/tiering provisions of CEQA apply to the proposed project. Therefore, no further review or analysis, under CEQA, is required.

This analysis incorporates by reference the information contained in the LUTE EIR, 2010 Oakland Housing Element EIR, and the 2014 Addendum. The proposed project is legally required to incorporate and/or comply with the applicable requirements of the mitigation measures and SCAs identified in the Program EIRs. The mitigation measures are assumed to be included as part of the proposed project. All applicable SCAs for the proposed project are listed in Attachment A to this document. The SCAs are mandatory City requirements. The impact analysis for the proposed project assumes that they will be imposed and implemented. If this CEQA Checklist or its attachments inaccurately identifies or fails to list a mitigation measure or SCA, the applicability of that mitigation measure or SCA to the proposed project is not affected. Most of the SCAs that are identified for the proposed project were also identified by the 2010 Housing Element EIR and the 2014 Addendum; the LUTE EIR was developed prior to the City's application of SCAs.

5.0 PROJECT DESCRIPTION

5.1 PROPOSED PROJECT

5.1.1 Project Characteristics

The proposed project is a four-story 17,480 square foot (excluding parking) mixed-use building consisting of both residential and commercial uses. The proposed project would have three stories of residential space over ground floor commercial store fronts and parking, and private and communal (residential) courtyards. The project site totals approximately 0.19 acres (8,334 square feet). The land use designation is Neighborhood Center Mixed Use, which allows for both residential and commercial development. The proposed project allows for residential intensification with mixed-use elements on and adjacent Shattuck Avenue, a minor arterial of Oakland, which is well-served by public transportation. The project site plan is presented in Figure 5-1, project floor plans are presented in Figures 5-2 through 5-5, and elevations for the proposed project are presented in Figures 5-6 through 5-8.

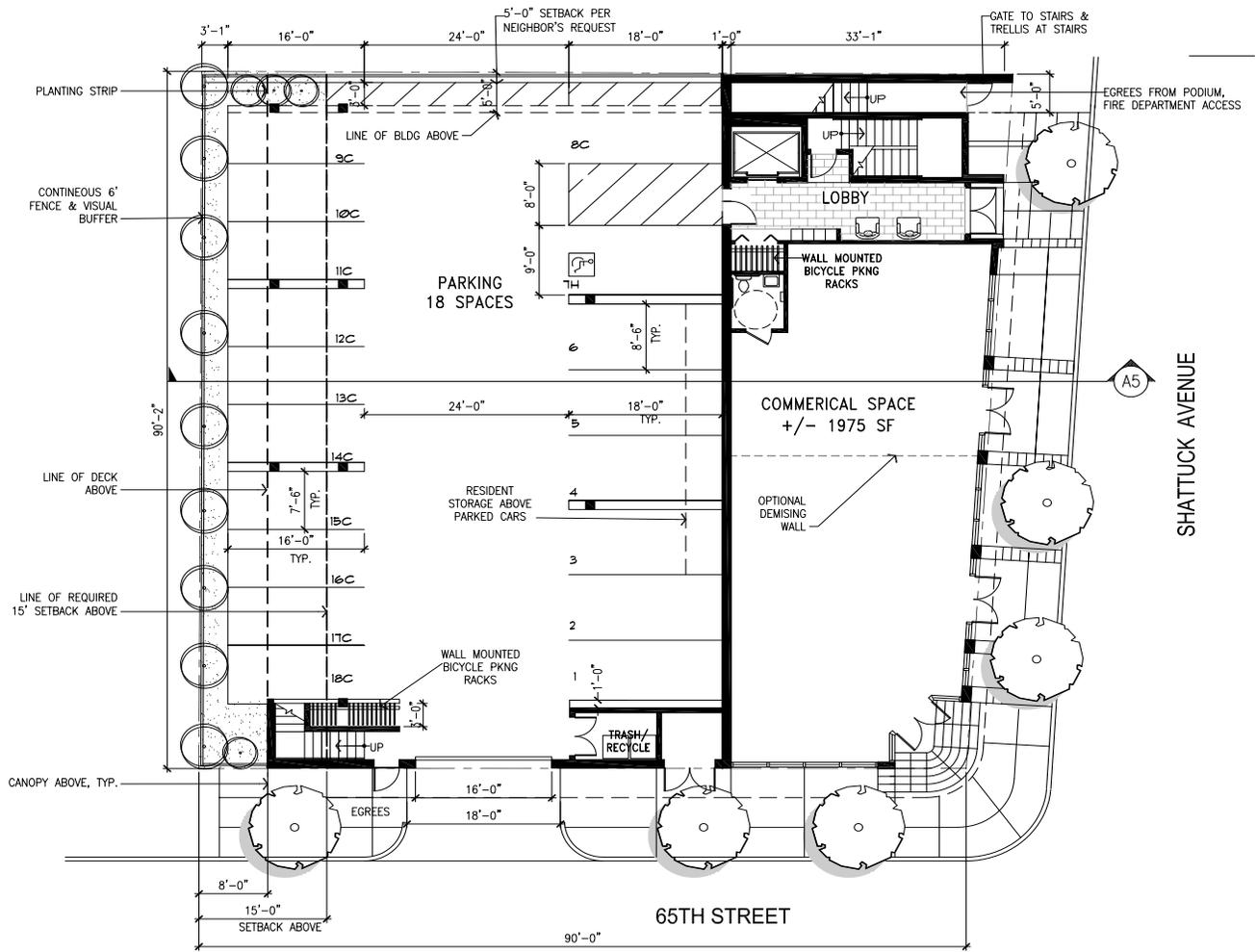
Residential Use

The proposed project includes one four-story, 18 residential units with ground floor commercial space and parking, with a total floor area of 17,480 square feet (Figure 5-2). The residential element of the proposed project would consist of three floors (Floors 2 – 4) and a total floor area of 15,505 square feet. The second podium floor area (residential first floor) would be 5,641 square feet and would include: one junior 1-bedroom unit, two 1-bedroom units, three 2-bedroom units; 901 square feet of podium communal courtyard, 233 square feet of private patio space; and, a lobby (Figure 5-3). The third-floor area (residential second floor) would be 5,641 square feet and would include: one junior 1-bedroom unit, two 1-bedroom units, three 2-bedroom units; and a lobby (Figure 5-4). The fourth-floor area (residential third floor) would be 4,223 square feet and would include: four junior 1-bedroom units, two 1-bedroom units, 1,340 square feet of private patio space; and, a lobby (Figure 5-5). Additionally, the proposed project includes 682 square feet of rooftop communal courtyard. Entrance to the residences would be provided through an entrance lobby on the ground floor equipped with a staircase and an elevator.

The residential floor area ratio (FAR) for the proposed project is approximately 1.86 (15,505 square foot residential structure ÷ 8,334 square foot lot). The proposed residential density is 94.74 dwelling units (du)/acre (ac) (18 du ÷ 0.19 ac).

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LOT SIZE		8334 SF
COMMERCIAL		1975 SF
RESIDENTIAL		
2ND FLOOR		5641 SF
3RD FLOOR		5641 SF
4TH FLOOR		4223 SF
		15505 SF
JR. 1 BR	6 UNITS	
1BR	6 UNITS	
2BR	6 UNITS	
	18 UNITS	
PARKING	18 SPACES	
STANDARD	6 SPACES	
COMPACT	11 SPACES	
VAN ACCESSIBLE	1 SPACE	

REQ. OPEN SPACE 18 UNITS * 200 SF/UNIT	3600 SF
PROVIDED OPEN SPACE	4759 SF

REQ. PUBLIC OPEN SPACE 18 UNITS * 75 SF/UNIT	1350 SF
ROOF PUBLIC OPEN SPACE NOT TO EXCEED 720 SF (20% OF TOTAL)	682 SF
PODIUM LEVEL PUBLIC OPEN SPACE	901 SF
PROVIDED PUBLIC OPEN SPACE	1583 SF

REQ. PRIVATE OPEN SPACE (1:2) (3600 SF - 1350 SF)/2 = 1125 SF	1125 SF
2ND FLOOR	233 SF
4TH FLOOR	1340 SF
PROVIDED PRIVATE OPEN SPACE	1573 SF
1573 SF * 2 = 3146 SF	3146 SF



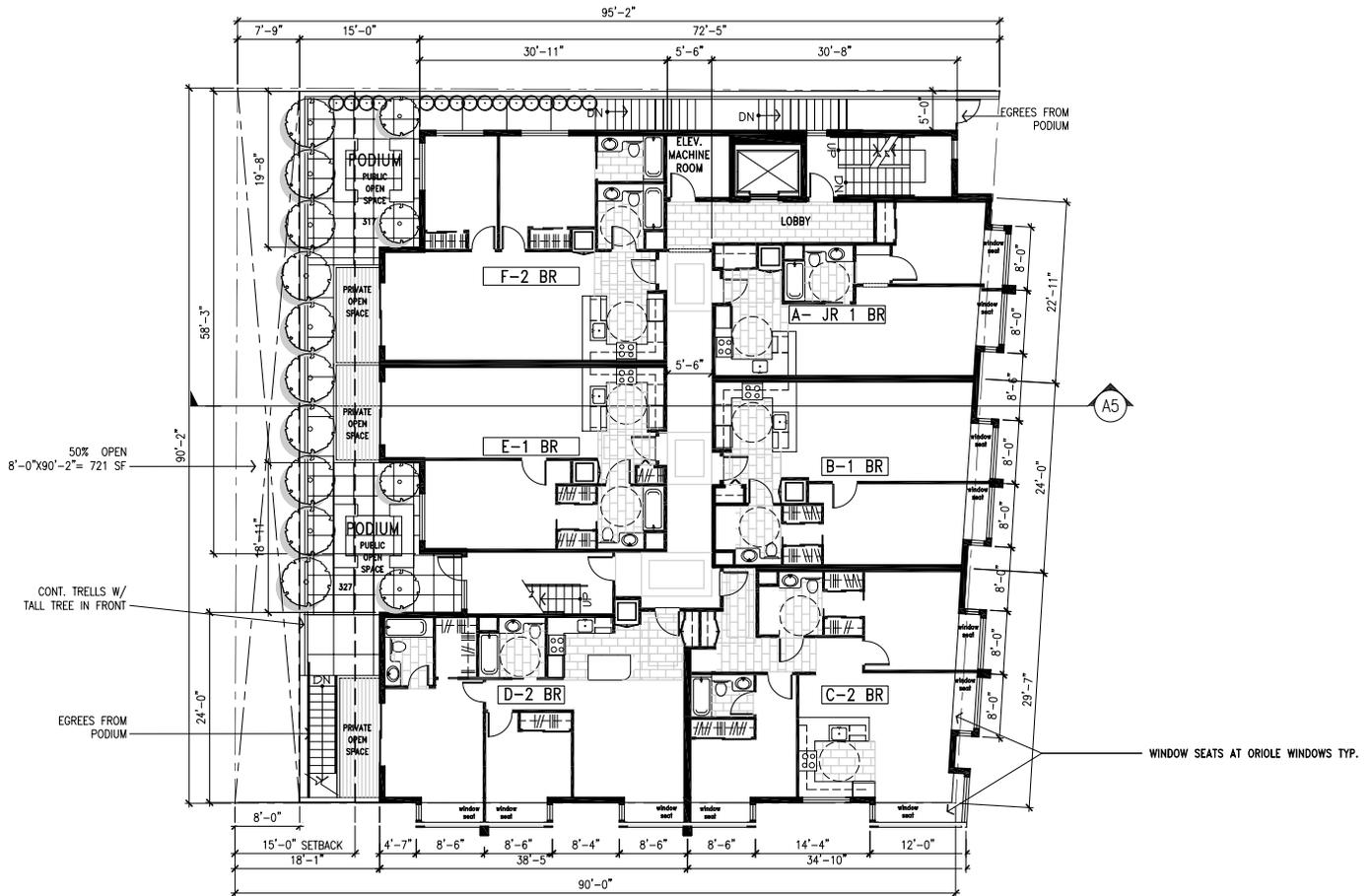
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Figure 5-2: Ground Floor Plan

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UNIT AREAS:

UNIT A - JR. 1 BEDROOM	443 SF
UNIT B - 1 BEDROOM	783 SF
UNIT C - 2 BEDROOMS	951 SF
UNIT D - 2 BEDROOMS	928 SF
UNIT E - 1 BEDROOM	795 SF
UNIT F - 2 BEDROOM	980 SF
UNIT G - JR. 1 BEDROOM	659 SF
UNIT H - 1 BEDROOM	778 SF
UNIT I - 2 BEDROOM	958 SF
UNIT J - JR. 1 BEDROOM	547 SF
UNIT K - 1 BEDROOM	668 SF
UNIT L - 1 BEDROOM	824 SF
UNIT M - JR. 1 BEDROOM	592 SF
UNIT N - JR. 1 BEDROOM	604 SF



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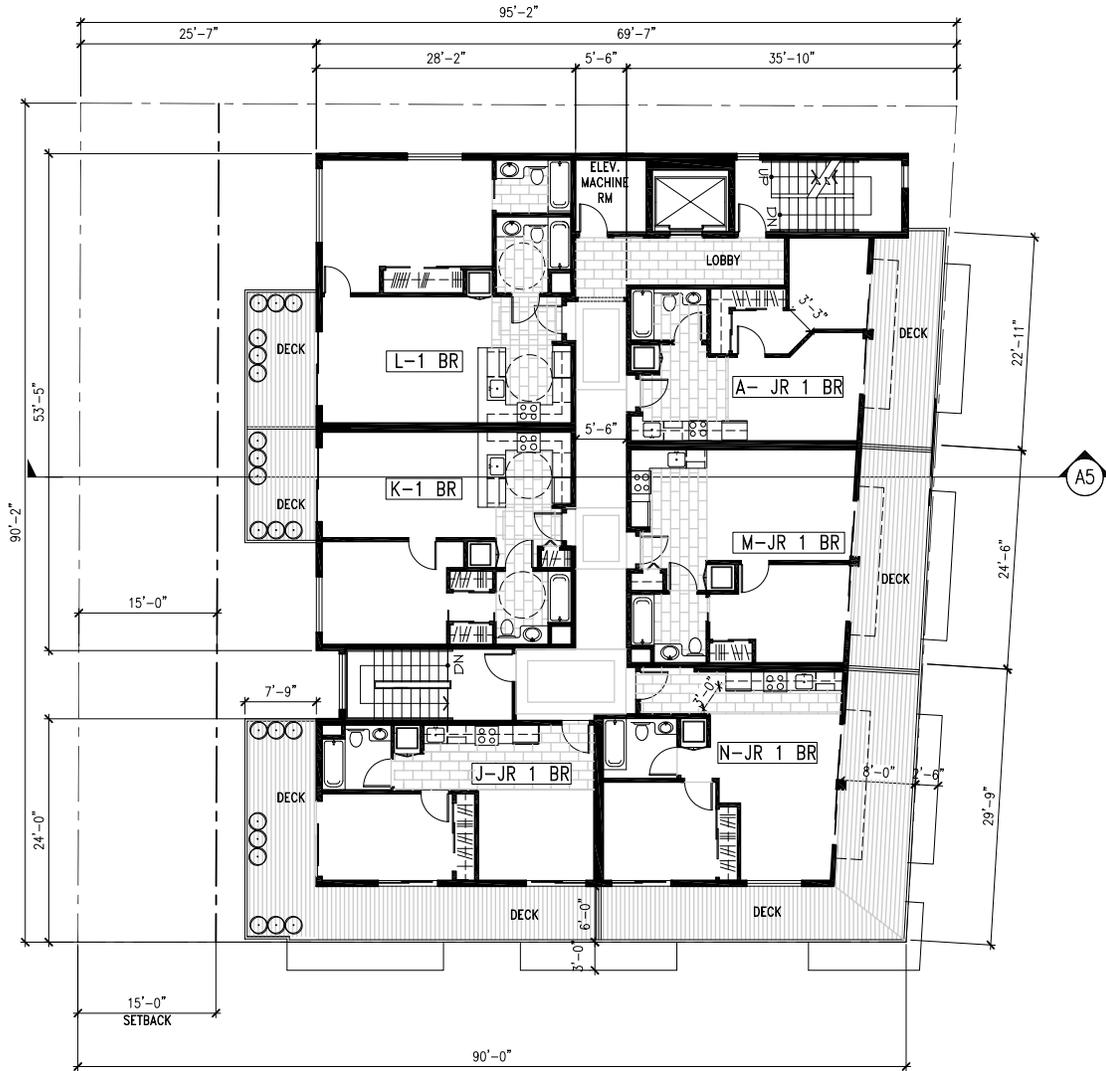
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Figure 5-3: Second Podium Floor Plan

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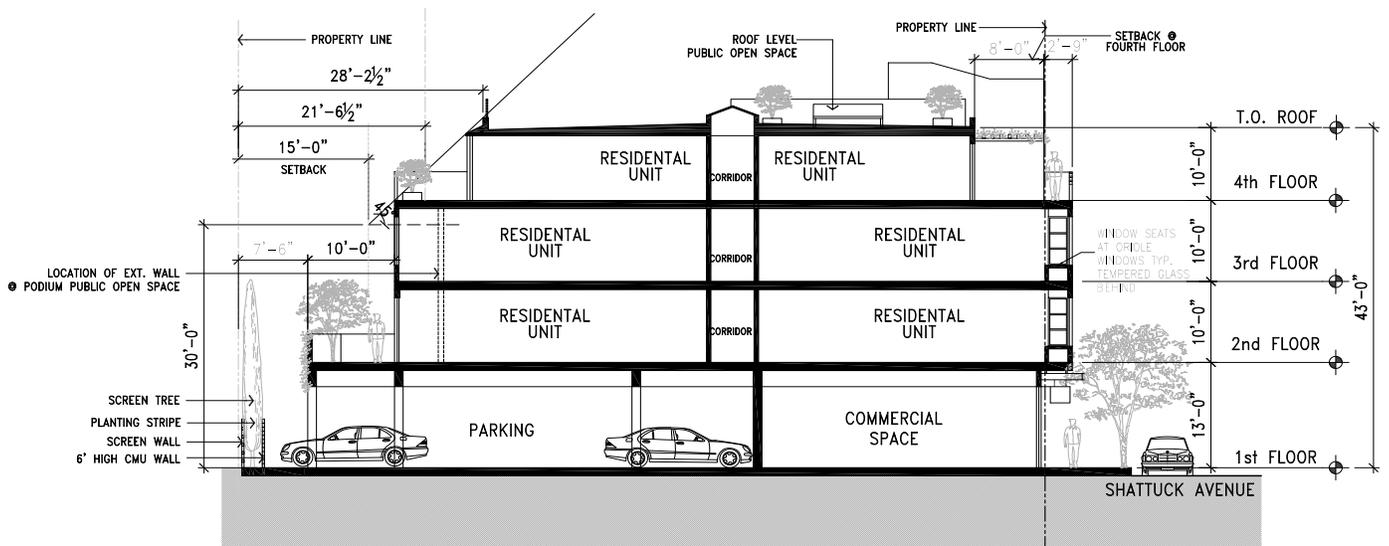
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Figure 5-5: Fourth Floor Plan

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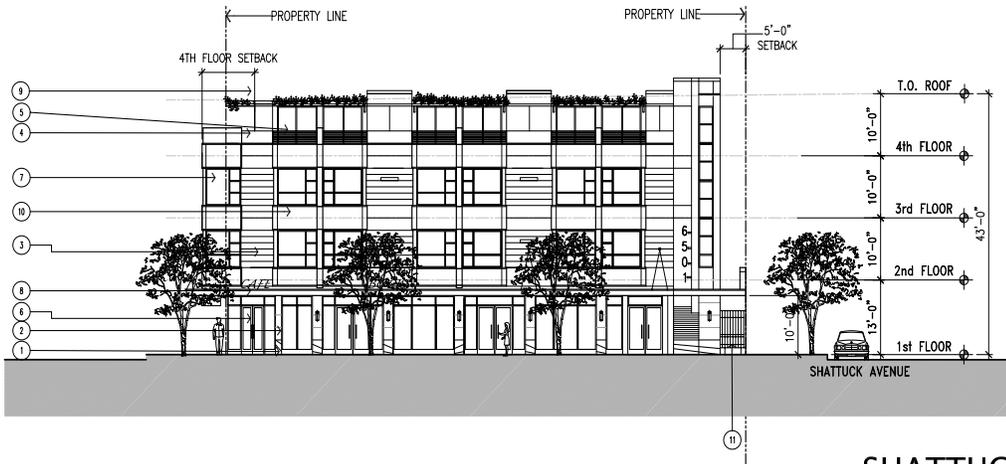
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Figure 5-6: Section Plan

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SHATTUCK AVENUE ELEVATION



65TH STREET ELEVATION

- 1 STONE TILE @ BASE LOWER LEVEL
- 2 CEMENT PLASTER PAINTED COLOR #1, LOWER LEVEL
- 3 CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- 4 SMOOTH CEMENT PLASTER ACCENT COLOR
- 5 METAL RAILING W/ WOOD TOPRAIL
- 6 TEMPERED GLASS & ALUMINUM STOREFRONT
- 7 DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
- 8 SUSPENDED METAL & FABRIC CANOPY
- 9 CEMENT PLASTER & GSM METAL COPING
- 10 CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- 11 DECORATIVE METAL GATE

- 1 STONE TILE @ BASE LOWER LEVEL
- 2 CEMENT PLASTER PAINTED COLOR #1, LOWER LEVEL
- 3 CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- 4 SMOOTH CEMENT PLASTER ACCENT COLOR
- 5 METAL RAILING W/ WOOD TOPRAIL
- 6 TEMPERED GLASS & ALUMINUM STOREFRONT
- 7 DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
- 8 SUSPENDED METAL & FABRIC CANOPY
- 9 CEMENT PLASTER & GSM METAL COPING
- 10 CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- 11 DECORATIVE METAL GATE



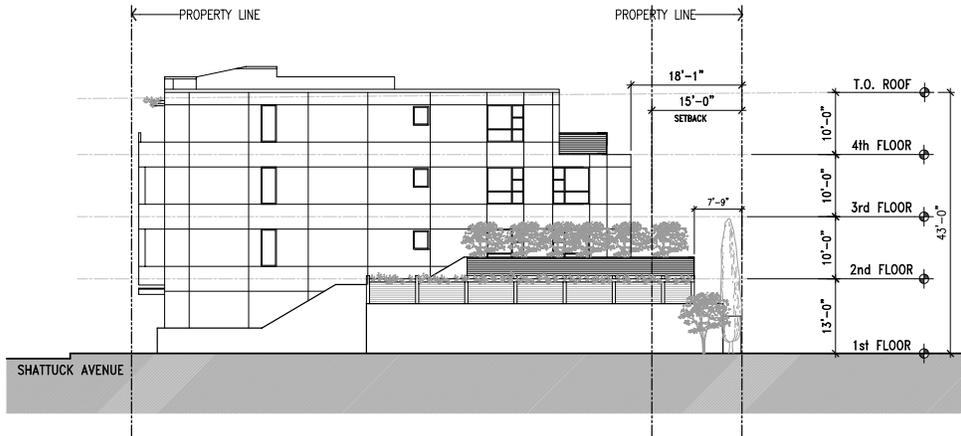
Note:
This figure is not to scale
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Source: DINAR and Associates

6501 Shattuck Avenue Mixed-Use Project
Oakland, California

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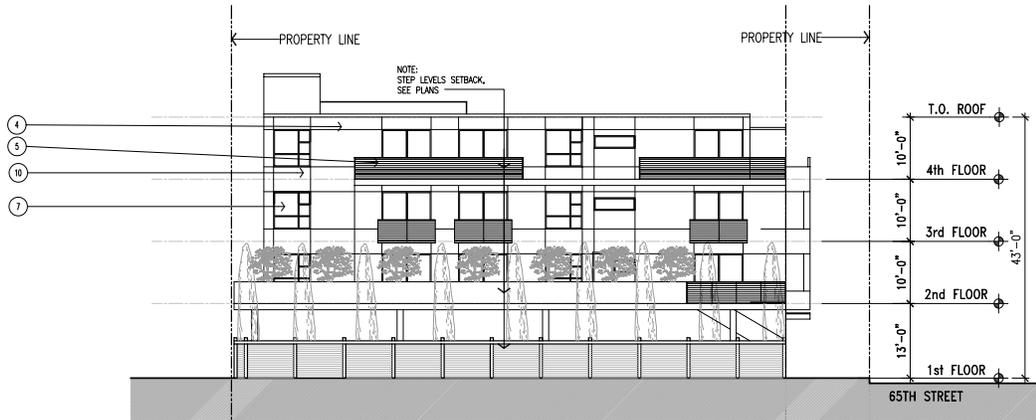
Figure 5-7: Street Elevations

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- ① STONE TILE @ BASE LOWER LEVEL
- ② CEMENT PLASTER PAINTED COLOR #1 , LOWER LEVEL
- ③ CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- ④ SMOOTH CEMENT PLASTER ACCENT COLOR
- ⑤ METAL RAILING W/ WOOD TOPRAIL
- ⑥ TEMPERED GLASS & ALUMINUM STOREFRONT
- ⑦ DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
- ⑧ SUSPENDED METAL & FABRIC CANOPY
- ⑨ CEMENT PLASTER & GSM METAL COPING
- ⑩ CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- ⑪ DECORATIVE METAL GATE

SIDE ELEVATION



- ① STONE TILE @ BASE LOWER LEVEL
- ② CEMENT PLASTER PAINTED COLOR #1 , LOWER LEVEL
- ③ CEMENT PLASTER PAINTED COLOR #2, UPPER LEVELS
- ④ SMOOTH CEMENT PLASTER ACCENT COLOR
- ⑤ METAL RAILING W/ WOOD TOPRAIL
- ⑥ TEMPERED GLASS & ALUMINUM STOREFRONT
- ⑦ DBL. GLAZED ALUMINUM WINDOWS & SLIDING DOORS
- ⑧ SUSPENDED METAL & FABRIC CANOPY
- ⑨ CEMENT PLASTER & GSM METAL COPING
- ⑩ CEMENT PLASTER PANEL UNDER WINDOW - ACCENT COLOR TO BE SELECTED BY THE ARCHITECT
- ⑪ DECORATIVE METAL GATE

SIDE ELEVATION



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Figure 5-8: Side Elevations

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Residential Parking

The proposed project would be required to meet the parking requirements of the City's Zoning Ordinance or alternative ratios based on professional analysis and approved by the City prior to project approval. In accordance with the City's update Off-Street Parking Requirements, Chapter 17.116.060, the proposed project would be required to provide one parking space per dwelling unit (City of Oakland 2017a). As such, the proposed project would include approximately 4,582 square feet of podium garage space, with a total of 18 parking stalls for residential use located at-grade behind the commercial space. The 18 parking stalls would consist of: six standard parking stalls, 11 compact parking stalls, and 1 ADA van accessible parking stall. While the proposed project would not include a public charging station, each of the residential units on the second and third floors would have a charging outlet next to their parking spot on the ground floor; directly connected to their electric meter. The proposed project would be consistent with the City's updated Parking Requirements.

Commercial Use

The proposed project includes approximately 1,975 square feet of ground floor commercial space that open onto Shattuck Avenue and 65th Street. It is anticipated the small restaurants and cafes would occupy the space and that outdoor seating would also be provided to enhance pedestrian scale and urban experience. No official tenants have been identified at this time.

The City's General Plan's allowable average FAR for this land use designation is generally less than 2.5. The proposed project's commercial FAR is approximately 0.23.

Design and Appearance

The proposed building would be designed in a contextual contemporary style and articulated both vertically and horizontally to reflect the uses inherent in the project. Projecting windows would be expressed as accent elements with glass and metal finishes. The fourth floor is set back from the other floors.

A continuous metal canopy would project out over the street level sidewalk and include lighting and signage for the commercial tenants and the residential entry lobby.

The project site would be encompassed by a six feet tall screen fence/visual buffer on the western property boundary, and a solid six feet tall fence on the northern property boundary.

Landscaping

Landscaping at the project site would include approximately 700 square feet of planter area on the ground floor, and planters on the second-floor podium and rooftop communal courtyard areas containing drought tolerant trees and shrubs. Trees in these landscaped areas would provide a visual buffer for nearby residents (Figure 5-8). Landscaping would be a combination of plants native and non-native to the Bay Area.

Lighting and Signage

Low-level lighting would be installed in the patio and public open areas. All proposed project lighting would be shielded and directed downward to avoid light trespass and minimize the potential for glare or spillover onto adjacent properties. Lighting would be used from dusk to dawn for security purposes during operations and would include motion sensor lighting on the west side of the property along 65th Street, only. The proposed project would include lighting over the address of the building, one light on each side of the vehicle entrance, and typical lighting for the commercial storefronts. Proposed project lighting would conform to National Electric Safety Code (NESC) requirements and all applicable Oakland lighting requirements. The proposed project would not include any lit signage.

Each of the two commercial spaces would have their signs as shown in Figure 5-9. No sign structures, aboveground utilities, or other aboveground structures not included within the site conceptual plan drawings would be constructed as part of the proposed project.

Site Access and Circulation

A secured vehicular entrance to the project site would be located along 65th Street, accessible from both east-bound and west-bound travel lanes on 65th Street. Secured pedestrian residential entry/exits doors are located both along Shattuck Avenue and 65th Street.

Grading and Excavation

Approximately 1,000 square feet of area under and immediately surrounding the existing onsite brick structure would require earth movement on the project site. The maximum depth of cut and fill onsite would be approximately 24 inches under the existing brick structure to allow for the foundation concrete to be removed; all soil under the existing brick structure would be compacted. Except the portion of the site occupied by the existing brick structure, the project site had been cut approximately zero to 24 inches to its existing state and compacted following the onsite remediation activities and no further cut would be required (pers. comm. A. Magganas, August 2017).

The proposed project would not necessitate the need for earth/dirt material to be brought onto the site. The foundation of the existing onsite brick structure would be hauled offsite following demolition of the structure, amounting to approximately two truck trips and totaling approximately 20 cubic yards of recycled concrete to be taken to West Oakland/Argent Recycling Yard. Approximately 107 cubic yards of imported crushed rock (approximately six truck loads) would be brought onsite and placed approximately 5 inches below the new slab of the proposed structure (pers. comm. A. Magganas, August 2017).

It is anticipated that grading operations at the project site would take place over approximately two days (pers. comm. A. Magganas, August 2017). Erosion control measures implemented during project construction would comply with the State and City stormwater control guidelines as a means of preventing silt-laden stormwater from running offsite.



Note:
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Original PDF Document Size: 36.0 x 24.0 inches
Source: DINAR and Associates

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Figure 5-9: Corner Street View

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Utilities and Services

Water

Residential Element

The project site is served by East Bay Municipal Utility District (EBMUD). Anticipated water consumption for the residential portion of the proposed project is approximately 90 gallons per unit per day (pers. Comm. A. Magganas, August 2017). Therefore, the total anticipated water consumption for the residential portion of the proposed project would be approximately 1,620 gallons per day (18 units x 90 gallons per day). All plumbing fixtures would be low water use.

Commercial Element

Anticipated water demand for the commercial portion of the proposed project was determined using data from the Water Research Foundation (WRF). According to WRF, restaurant use types typically demand approximately 0.35 to 1 gallon of water per square foot/day (Water Research Foundation 2011). Therefore, the anticipated water demand for the commercial portion of the proposed project would be approximately 691 to 1,975 gallons per day (WRF multiplier x 1,975 square feet). This range represents a conservative estimate of the anticipated water demand for the commercial portion of the proposed project, and would be further defined once commercial tenants have been identified.

Stormwater

The project site is connected to the City's storm drain system. The proposed project would replace approximately 800 square feet of existing impervious surface with approximately 8,000 square feet of new impervious surface. Stormwater would be treated at landscaped areas and with permeable pavement that would retain and treat runoff. Planters along the western property boundary would be used as flow-through planters to treat and discharge runoff before entering the City's stormwater system. Stormwater from the roof would be directed through downspouts to the western planters, treated, and stored within the planters and used for landscape watering in the summer months. Any excess from this storage would be allowed to exit from two 12-inch PVC pipes to the street on the southwest corner of the project site after it has been run through proper filters. Any other surface stormwater, which cannot be collected, would be directed to the gutter along 65th Street.

Wastewater

Sanitary sewer facilities for the proposed project would connect to existing facilities located in 65th Street, which ultimately connect to the sewer line in Adeline Street.

Gas and Electricity

Pacific Gas and Electric Company (PG&E) provides electricity and natural gas service to the project site.

Sustainability Features

The proposed project would incorporate the following sustainability features to reduce demand for resources, utilize non-toxic materials, and promote waste reduction:

- The 18 residential units would be within walking distance of the Ashby BART Station and multiple AC Transit bus stops and surrounding businesses.
- The inclusion of neighborhood-oriented retail services would reduce automotive trips.
- The residential portion of the proposed project would be constructed over the podium parking garage, which allows for landscaping and green space, thereby reducing heat island effects.
- The energy efficiency improvements would be at least 15 percent more efficient than Title 24 standards.

Project Phasing

Construction

Construction of the proposed project is expected to start January 2019 and would be completed by December 2019. The proposed project would be constructed in one continual phase.

Occupancy

Occupancy is not expected to increase in discrete phases. The proposed project is anticipated to be full capacity.

5.2 SURROUNDING LAND USES

The project site is located in the North Oakland Planning Area of the City within the Bushrod community, in the Upper Shattuck Corridor. More specifically, the site is located on the northwest corner of the intersection of Shattuck Avenue and 65th Street. The proposed project parcel is generally flat in topography with a gentle slope in a southwest direction towards 65th Street. An approximately 800 square foot brick structure related to the previous onsite activities associated with the gas station and service center, occupies the northwestern portion of the project site. Demolition of the existing onsite brick structure would be conducted by the Applicant with a demolition permit obtained from the City. There are no trees on the project site.

The project site is an infill parcel located in an urban area of Oakland, surrounded by a mix of land uses. To the north is a one-story communal art studio, to the east are mixed-use buildings consisting of commercial and residential use ranging from one to three stories, including a three-story structure occupied by the Nomad Café and two stories of residential studios above. One- to two-story residences comprise the land uses to the south and west.

5.3 OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED (E.G., PERMITS, FINANCING APPROVAL, OR PARTICIPATION AGREEMENT)

The proposed project requires the following discretionary actions/approvals, including but not limited to:

Actions by the City of Oakland

- Regular Design Review
- Minor Variance for rear (garage) setback
- Minor Interim Conditional Use Permit for density
- Minor Conditional Use Permit for driveway within 75 feet of Shattuck Ave.
- Encroachment permit and other related on-site and off-site work permits.
- Building Permit

Actions by Other Agencies

- EBMUD – Approval of new service requests and water meter installation.
- ACEHD – Case Closure Letter for approval of completing the site investigation and cleanup of the reported UST release at the site.

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6.0 SUMMARY OF FINDINGS

An evaluation of the proposed project is provided in the CEQA Analysis below. This evaluation concludes that the proposed project qualifies for an exemption from additional environmental review and the proposed project is consistent with the development density and land use characteristics established by existing zoning and General Plan policies, and any potential environmental impacts associated with its development were adequately analyzed and covered by the analysis in the applicable Program EIRs, which are the 1998 LUTE EIR, 2010 Housing Element Update, Housing Element Update EIR, and 2014 Housing Element Addendum.

The proposed project would be required to comply with the applicable mitigation measures identified in the Program EIRs, as modified, and in some cases wholly replaced, to reflect the City's current standard language and requirements of its SCAs, as well as any applicable City of Oakland SCAs (Attachment A). With implementation of the applicable SCAs, the proposed project would not result in a substantial increase in the severity of significant impacts that were previously identified in the General Plan or any new significant impacts that were not previously identified in the prior EIRs. The Applicant has agreed to incorporate and/or implement the required SCAs as part of the proposed project.

In accordance with Public Resources Code Sections 21083.3 and 21094.5, and State CEQA Guidelines Sections 15183 and 15183.3, and as set forth in the CEQA Analysis below, the proposed project qualifies for an exemption because the following findings can be made:

- **Community Plan Exemption:** The analysis within Attachment B demonstrates that the proposed project is consistent with the development density established by existing zoning and General Plan policies for which an EIR was certified (e.g., the Program EIRs), and therefore qualifies for a community plan exemption. The analysis herein considers the Program EIRs and concludes that the proposed project would not result in significant impacts that (1) would be peculiar to the proposed project or its site, (2) were not previously identified as significant project-level, cumulative, or off-site effects in the Program EIRs, or (3) were previously identified as significant but – as a result of substantial new information that was not known at the time the Program EIRs were certified – would increase in severity above the level described in the EIR. Therefore, the proposed project is exempt from further environmental review in accordance with Public Resources Code Section 21083 and 21083.05, and CEQA Guidelines Section 15183.
- **Qualified Infill Exemption:** The analysis within Attachment C demonstrates that the proposed project is in an urban area on a site that has been previously developed; satisfies the performance standards provided in CEQA Guidelines Appendix M; and is consistent with the General Plan land use designation, density, building intensity and applicable policies. As such, this environmental review is limited to an assessment of whether the proposed project may cause any project-specific effects not addressed in the prior applicable EIR, and relies on uniformly applicable development policies or standard conditions of approval to substantially mitigate the proposed project's effects.

- **Program EIRs:** The analyses in the Program EIRs, and this CEQA Analysis demonstrate that the proposed project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR, per CEQA Guidelines Section 15162, because the level of development proposed for the site is within the broader development assumptions analyzed in the previous EIRs. The effects of the proposed project have been addressed in those EIRs and no further environmental documents are required in accordance with CEQA Guidelines Section 15168 (c).

Each of the above findings provides a separate and independent basis for CEQA compliance.

Signature

Date

Edward Manasse, Acting Deputy Director, Bureau of Planning

Environmental Review Officer

7.0 EVALUATION OF THE ENVIRONMENTAL IMPACTS

Overview

This CEQA Checklist provides a summary of the potential environmental impacts that may result from adoption and implementation of the proposed project. This CEQA checklist also summarizes the impacts and findings of the LUTE EIR, 2010 Housing Element EIR, and 2014 Housing Element Addendum (collectively referred as Prior EIRs in this CEQA analysis) that covered, specifically or as part of the cumulative analyses; the environmental effects of the proposed project and that are still applicable to the proposed project.

This CEQA Checklist provides a determination of whether the proposed project would result in:

- Equal or Lesser Severity of Impact previously identified in the Prior EIRs;
- Substantial Increase in Severity of previously identified significant impact in Prior EIRs; or
- New Significant Impact.

No Substantial Increase in Severity of previously identified significant impact in the Prior EIRs, or New Significant Impact was identified.

The proposed project is required to comply with applicable mitigation measures identified in the Prior EIRs and the City of Oakland SCAs¹. This CEQA Checklist includes references to applicable SCAs. A complete list of the SCAs is included in Attachment A. If the CEQA Checklist (including Attachment A) inaccurately identifies or fails to list an SCA, the applicability of that SCA to the proposed project is not affected. If the language describing an SCA included in the CEQA Checklist (including Attachment A) is inaccurately transcribed, the language set forth in the Prior EIRs or City of Oakland SCAs shall control.

¹ These are development standards that are incorporated into projects as SCAs, regardless of a project's environmental determination, pursuant, in part, to CEQA Guidelines Section 15183. As applicable, the SCAs are adopted as requirements of an individual project when it is approved by the City, and are designed to, and will, substantially mitigate environmental effects. In reviewing project applications, the City determines which of the SCAs are applied, based on the zoning district, community plan, and the type(s) of permit(s)/approvals(s) required for the project. Depending on the specific characteristics of the project type and/or project site, the City will determine which SCA applies to each project.

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7.1 AESTHETICS

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Have a substantial adverse effect on a public scenic vista (NOTE: Only impacts to scenic views enjoyed by members of the public generally [but not private views] are potentially significant.)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings located within a state or locally scenic highway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would substantially and adversely affect day or nighttime views in the area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Introduce landscape that would now or in the future cast substantial shadows on existing solar collectors (in conflict with California Public Resource Code sections 25980-25986)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Cast shadow that substantially impairs the function of a building using passive solar head collection, solar collectors for hot water heating, or photovoltaic solar collectors?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Cast shadow that substantially impairs the beneficial use of any public or quasi-public park, lawn, garden, or open space?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Cast shadow on a historic resource, as defined by CEQA Guidelines section 15064.5(a), such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its inclusion on eligibility for listing in the National Register of Historic Places, California Register of Historical Resources, Local Register of Historical Resources, or a historical resource survey form (DPR Form 523) with a rating of 1-5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Require an exception (variance) to the policies and regulations in the General Plan, Planning Code, or California Building Code, and the exception cause a fundamental conflict with policies and regulations in the General Plan, Planning Code, and California Building Code addressing the provision of adequate light related to appropriate uses?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Create winds exceeding 36 mph for more than 1 hour during daylight hours during the year?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
<p>(NOTE: The wind analysis only needs to be done if the project’s height is 100 feet or greater [measured to the roof] <u>and</u> one of the following conditions exist: (a) the project is located adjacent to a substantial water body [i.e., Oakland Estuary, Lake Merritt, or San Francisco Bay]; or (b) the project is located in Downtown 5. The wind analysis must consider the project’s contribution to wind impacts to on- and off-site public and private spaces. Only impacts to public spaces [on- and off-site] and off-site private spaces are considered CEQA impacts. Although impacts to on-site private spaces are considered a planning-related non-CEQA issue, such potential impacts still must be analyzed.)</p>			

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined impacts to scenic vistas and scenic highway corridors would be less than significant with the incorporation of the following OSCAR Element policies: OS-9.1, OS-9.2, OS-9.3, OS-10.1, and OS-10.2.

The LUTE EIR determined potential impacts related to visual character, visual quality, and shadows would be less than significant with the incorporation of Downtown Policies: D2.1, D8.1, D10.3, D10.5, D12.5, Neighborhood Policies: N1.8, N3.8, N3.9, N3.10, and N8.2, and mitigation measures. The LUTE EIR identifies the following six mitigation measures: F.2a, F.2b, F.2c, F.3a, F.3b, and F.3c, to reduce potential visual character, visual quality, and shadow impacts to a less than significant level. These mitigation measures are summarized in the following paragraph. Full descriptions of these previously identified mitigation measures are provided in Attachment D.

Mitigation Measure F.2a pertains to developing a “step back” ordinance for height and bulk for new development projects in the downtown area. Mitigation Measure F.2b pertains to analyzing the desired height of downtown office development and to develop zoning regulations that support the preferred skyline design. Mitigation Measure F.2c pertains to defining view corridors and designating appropriate height limits. Mitigation Measure F.3a pertains to developing standard design guidelines for all Neighborhood Commercial areas that require continuous or nearly continuous storefronts along the front yard setback. Mitigation Measure F.3b pertains to designing structures in an attractive manner which harmonizes with or enhances the visual appearance of the surrounding environment by adopting industrial and commercial design guidelines. Mitigation Measure F.3c pertains to developing design guidelines for parking facilities of all types (City of Oakland 1998). Due to the nature of the proposed project, these mitigation measures are not applicable or were implemented, as discussed below.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with City General Plan Policies W2.10, W3.2, W3.4, W12.5, W12.6, W12.7, OS-4.1, OS-4.2, OS-4.4, OS-7.3, OS-9.1, OS-9.2, OS-9.3, OS-10.1, OS-10.2, OS-12.1, OS-12.3, CO-7.3, CO-7.4, T6.2, T6.5, D1.1, D1.5, D2.1, D10.3, D10.5, D12.5, N1.8, N3.8, N3.9, N3.10, N7.1, N7.8, N8.2, N9.5, N9.7, and Objectives OS9, OS10, OS12, and D2; Municipal Code (Titles 8,9,12,15,16,17); the Goals and Policies of the Scenic Highway Element; Housing Element Policies 4.2 and 7.4; City SCAs 12 through 18 (currently SCA #18) for landscaping requirements, SCA 40 (currently SCA #19) for lighting plans, and SCA 45 through SCA 47 (currently SCA #31) for a tree removal permit; and previously identified LUTE EIR Mitigation Measures F2a, F.2c, F.3b, and F.3c would ensure development under the Housing Element would have a less than significant impact related to scenic vistas, scenic highways, visual character, light and glare, shadows, and wind (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a) The project site is in an urban commercial and residential area with generally flat topography. Construction of the project and site improvements at the project site would not result in a substantial effect on a scenic vista. The area surrounding the project area is substantially built out, and existing views of the surrounding hillsides and the shoreline are obscured by the surrounding development. Furthermore, private scenic vistas are not protected under the City of Oakland General Plan. Therefore, the proposed project would have no impact on scenic vistas.
- b) The proposed project would have adverse effects if it would “substantially damage” scenic resources within a state scenic highway. Interstate 580 is the only scenic highway within the City, located approximately 2 miles south of the project site, across town. The project site is not visible from Interstate 580, and there are no other State scenic highways within the project vicinity. Furthermore, the project site is fully disturbed, and is currently occupied by a vacant brick structure, and does not contain any scenic resources; therefore, by definition, the proposed project would not result in an adverse effect on scenic resources within a state scenic highway. The proposed project would have no impact on scenic resources within a scenic highway.
- c) The project site is located within a mixed-use neighborhood commercial area. The project site is currently a disturbed site and occupied by a vacant brick structure. The brick structure would be demolished to allow for the development of the four-story mixed-use building. Pursuant the General Plan goals of the Neighborhood Center Mixed Use designation, development should enhance mixed-use neighborhood commercial centers by creating smaller scale pedestrian-oriented development, and continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. The proposed project meets the intent of the Neighborhood Center Mixed Use designation and would include the development of commercial storefronts on the ground floor, fronting Shattuck Avenue, with residential units located above on the next three levels, and ground floor podium parking. Development of the proposed project

would be compatible with the surrounding land uses, and therefore appear as a continuation of the existing mixed-use neighborhood.

The proposed project requires design review approval, pursuant to Section 17.33.020 of the City's Planning Code. As part of the design review process, the City would review the proposed project to ensure the project is consistent with applicable design guidelines. Consistency with the City's Design Guidelines would ensure the proposed project is designed in an attractive manner, and enhances the existing architectural character of the mixed-use neighborhood. In accordance with the City's SCAs, the proposed project would also be required to implement City **SCA AES-1 (#18)**: Landscape Plan, **SCA AES-2 (#17)**: Graffiti Control, and **SCA AES-3 (#16)**: Trash and Blight Removal. The proposed project would incorporate approximately 700 square feet of landscaping, which includes planters on the ground floor and second-floor podium, and drought tolerant trees and shrubs on the rooftop communal courtyard area, and along the west boundary of the project site. Trees on the rooftop area and along the west boundary would provide a visual buffer for nearby residents. As such, impacts associated with the existing visual character and quality would be less than significant with implementation of the proposed project.

- d) The project site is located within an urbanized area containing a mix of commercial and residential land uses. The proposed project would include lighting that is typical to the urban setting. Lighting for the proposed project would include exterior lighting for the parking garage entrance, building address, as well as typical lighting for the commercial storefronts. Motion sensor lighting would also be installed on the west side of the project site boundary. The proposed project would be required to comply with City **SCA AES-4 (#19)**: Lighting, which would ensure lighting fixtures installed for the proposed project are adequately shielded and comply with the City's design review requirements. Therefore, lighting fixtures installed for the proposed project would not create new sources of substantial light or glare, and impacts would be less than significant.
- e-h) The project site is in a dense, urban, residential, and commercial area. Therefore, the existing surrounding structures are already subject to shadows from adjacent structures and landscaping during certain periods of the day. Development of the proposed four-story building would be approximately 43 feet in height and introduce new shadows at the project site. However, shadows introduced at the project site would not alter the existing characteristics of the surrounding neighborhood. There are no existing solar collectors, passive solar heat collectors, open spaces, or parks within the surrounding area, which the project structure and landscaping would cast shadows on and impair the functional use. In addition, there are no historic structures adjacent to or surrounding the project site. No shadow impacts would occur with implementation of the proposed project.
- i) As discussed in Section 2.6, General Plan and Zoning, the site's zoning classification was changed from C-10 to CN-3 after the City adopted new zoning classifications. However, prior to the City's approval of the new zoning on April 14, 2011, the Project Application was deemed complete by the City. Therefore, the proposed project would be processed under the C-10 zoning requirements. The proposed project would require a Minor Variance

for rear (garage) setback. However, this variance would not conflict with City Ordinances, or General Plan policies related to adequate provision of light. No impact would occur.

- j) The proposed project would construct a four-story mixed-use building with a maximum height of 43 feet. The proposed project would not exceed 100 feet in height nor are the surrounding buildings greater than 100 feet, located in Downtown, or near a substantial body of water. As such, the proposed project would not create winds that exceed 36 miles per hour. No wind impacts would occur with implementation of the proposed project.

The Prior EIRs and Addendum determined aesthetic impacts would be less than significant with the implementation of mitigation measures and SCAs. Previously identified LUTE EIR Mitigation Measures F.2a, F.2b, F.2c, and F.3c are not applicable to the proposed project because the project is not located in the Downtown Showcase District or Coliseum District, would not obscure views of scenic resources or historic structures, and would be compatible with the surrounding visual character and quality of the mixed-use neighborhood commercial area. The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum.

The updated SCAs further clarify and expand on the previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the proposed project would be required to comply with City **SCA AES-1 (#18)**, **SCA AES-2 (#17)**, **SCA AES-3 (#16)**, and **SCA AES-4 (#19)**. In addition to these SCAs, the Housing Element EIR and Addendum identified SCAs 45 through 47 (currently SCA #31) to reduce potential impacts related to aesthetics. These SCAs pertain to the City's Tree Permit requirements and would not be applicable to the proposed project. There are no trees on the project site, or trees surrounding the project site that would require removal to accommodate the proposed project. The proposed project would also be subject to the adopted commercial design guidelines per LUTE EIR Mitigation Measures F.3a and F.3b.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to aesthetics that were not identified in the Prior EIRs or Addendum.

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7.2 AGRICULTURE AND FOREST RESOURCES

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forestland (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in the loss of forestland or conversion of forestland to non-forest use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forestland to non-forest use?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR, 2010 Housing Element EIR, and 2014 Addendum

The LUTE EIR determined no impacts to agriculture and forestry resources would occur (City of Oakland 1998). The 2010 Housing Element EIR and 2014 Addendum also determined no impacts related to agricultural resources would occur from future development. The City of Oakland is an urban community, and does not contain any substantial agricultural land, uses, or Williamson Act contracts. Additionally, the City of Oakland does not contain areas zoned exclusively for agriculture use.

Project Analysis and Conclusion

a-e) The project site and vicinity are located within an urban area in the City of Oakland. There are no agricultural resources, Williamson Act-contracted lands, or forestlands located on or near the project site. The site and all surrounding properties are classified as "Urban and Built-Up Land" on the State Department of Conservation's Farmland Mapping and Monitoring Maps (2010). The proposed project would not conflict with existing zoning for farmland or forestlands, or result in the conversion of farmland or forestlands to an urban use. The proposed project would have no impact on agricultural or forestlands.

Evaluation of the Environmental Impacts

The Prior EIRs and Addendum did not identify any impacts related to agriculture and forestry resources, and no mitigation measures related to agriculture and forestry were identified. Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to agriculture resources.

7.3 AIR QUALITY

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) During project construction result in average daily emissions of 54 pounds per day of ROG, NOx, or PM _{2.5} or 82 pounds per day of PM ₁₀ ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) During project operation result in average daily emissions of 54 pounds per day of ROG, NOx, or PM _{2.5} , or 82 pounds per day of PM ₁₀ ; or result in maximum annual emissions of 10 tons per year of ROG, NOx, or PM _{2.5} or 15 tons per year of PM ₁₀ ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Contribute to carbon monoxide (CO) concentrations exceeding the California Ambient Air Quality Standards (CAAQS) of nine parts per million (ppm) averaged over eight hours and 20 ppm for one hour [NOTE: Pursuant to BAAQMD CEQA Guidelines, localized CO concentrations should be estimated for projects in which (a) project-generated traffic would conflict with an applicable congestion management program established by the county congestion management agency or (b) project-generated traffic would increase traffic volumes at affected intersections to more than 44,000 vehicles per hour (or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited, such as tunnels, parking garages, bridge underpasses, natural or urban street canyons, and below-grade roadways). In Oakland, only the MacArthur Maze portion of Interstate 580 exceeds the 44,000 vehicles per hour screening criteria.]?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) For new sources of Toxic Air Contaminants (TACs), during either project construction or project operation expose sensitive receptors to substantial levels of TACs under project conditions resulting in (a) an increase in cancer risk level greater than 10 in one million, (b) a non-cancer risk (chronic or acute) hazard index greater than 1.0, or (c) an increase of annual average PM _{2.5} of greater than 0.3 micrograms per cubic meter?; or, under cumulative conditions, resulting in (a) a cancer risk level greater than 100 in a million, (b) a non-cancer risk (chronic or acute) hazard index greater than 10.0, or (c) annual average PM _{2.5} of greater than 0.8 micrograms per cubic meter [NOTE: Pursuant to the BAAQMD CEQA Guidelines, when siting new TAC sources consider receptors located within 1,000 feet. For this threshold, sensitive receptors include residential uses, schools, parks, daycare centers, nursing homes, and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Evaluation of the Environmental Impacts

<p>medical centers. The cumulative analysis should consider the combined risk from all TAC sources.]</p>			
<p>e) Expose new sensitive receptors to substantial ambient levels of (TACs) resulting in (a) a cancer risk level greater than 100 in a million, (b) a non-cancer risk (chronic or acute) hazard index greater than 10.0, or (c) annual average PM_{2.5} of greater than 0.8 micrograms per cubic meter (NOTE: Pursuant to the BAAQMD CEQA Guidelines, when siting new sensitive receptors consider TAC sources located within 1,000 feet including, but not limited to, stationary sources, freeways, major roadways [10,000 or greater vehicles per day], truck distribution centers, airports, seaports, ferry terminals, and rail lines. For this threshold, sensitive receptors include residential uses, schools, parks, daycare centers, nursing homes, and medical centers.)?</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>f) Frequently and for a substantial duration, create or expose sensitive receptors to substantial objectionable odors affecting a substantial number of people? (NOTE: For this threshold, sensitive receptors include residential uses, schools, daycare centers, nursing homes, and medical centers [but not parks].)</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR identified implementation of the LUTE would not be consistent with population and vehicle miles travelled (VMT) assumptions used in air quality planning, and would result in increased regional emissions of criteria air pollutants. The LUTE EIR determined this impact would remain significant and unavoidable.

The LUTE EIR determined the LUTE would be consistent with the objectives and transportation control measures outlined in the Clean Air Plan, and potential impacts would be less than significant.

The LUTE EIR identified mixed commercial and residential developments could result in odor nuisance problems at residential receptors. To mitigate this impact to a less than significant level, the LUTE EIR calls for the implementation of Mitigation Measure E.4. Mitigation Measure E.4 requires residential development located above commercial uses, parking garages, or other uses with the potential to generate odors to be properly ventilated.

The LUTE EIR also determined construction impacts in the Downtown Showcase District and Coliseum Showcase District would be less than significant with incorporation of Mitigation Measure E.5a, Mitigation Measure E.5b, and Mitigation Measure E.5c. Incorporation of these mitigation measures would require the implementation of basic control measures and Bay Area Air Quality Management District (BAAQMD) dust control measures to reduce dust and combustion emissions,

specifically in the Downtown Showcase District and Coliseum Showcase District (City of Oakland 1998) .

Due to the nature of the proposed project Mitigation Measure E.5a, Mitigation Measure E.5b, and Mitigation Measure E.5c are not applicable, as discussed below. Full descriptions of these previously identified LUTE EIR mitigation measures are provided in Attachment D.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with General Plan Policies CO-12.1, CO-12.4, and CO-12.6 in the OSCAR Element, along with City SCA 25 (currently SCA #80) for preparation of a Transportation Demand Management plan, SCA 26 and SCA 27 (currently SCA #21 and SCA #22) to minimize dust and equipment emissions during construction, SCA 41 (currently SCA #27) for asbestos removal in structures, and SCA 94 and SCA 95 (currently SCA #24) to minimize exposure to toxic air contaminants, would ensure that development under the Housing Element complies with federal, State, and local laws regarding air quality. The Housing Element EIR determined the preparation of project-specific Health Risk Assessments, as required by SCA 95 (currently SCA#24), to assess each Housing sites' exposure to gaseous Toxic Air Contaminants (TACs) may not result in equivalent measures to reduce local gaseous TAC exposures to acceptable levels. The Housing Element EIR also determined the development could expose residents to objectionable odors associated with existing activities in the city. As such, the Housing Element EIR determined impacts related to the exposure of TACs and objectionable odors would be significant and unavoidable. Nonetheless, by adhering to the OSCAR Element of the General Plan and the City SCAs, the Housing Element EIR and Addendum determined all other air quality impacts, including cumulative impacts, would be less than significant (City of Oakland 2010b, City of Oakland 2014).

Project Analysis and Conclusion

Stantec Consulting Services Inc. (Stantec) prepared an Air Quality and Greenhouse Gas (GHG) Technical Memorandum (Memo) (Attachment F) to evaluate whether the proposed project would cause significant air quality or GHG impacts, and whether the proposed project would expose sensitive receptors to TACs in excess of established thresholds.

- a) Construction of the proposed project is expected to occur over a 12-month period. If construction were delayed to later years, the emissions would be expected to decrease as new regulations requiring lower polluting construction equipment take effect that would require the turnover of higher polluting equipment. Construction activities associated with development activities contemplated by the proposed project would include grading, building construction, paving, and painting. Generally, the most substantial air pollutant emissions would be dust generated from grading. If uncontrolled, these emissions could lead to both health and nuisance impacts. Construction activities would also temporarily create emissions of equipment exhaust and other air contaminants. Table 1 and Table 2 in Attachment F summarize the 2019 construction-generated emissions and 2019 construction-generated emissions by project construction phase in annual tons, respectively, and provides the average daily emissions. As shown, in Table 2 in Attachment

F, the project construction emissions would not exceed the City thresholds of 54 pounds per day (9.86 tons per year) for reactive organic gas (ROG), nitrous oxide (NO_x), or PM_{2.5}; or 82 pounds per day (14.97 tons per year) for PM₁₀. Furthermore, during construction of the proposed project, the Applicant would comply with City **SCA AIR-1 (#21)**: Dust Controls – Construction Related and **SCA AIR-2 (#22)**: Criteria Air Pollutant Controls – Construction Related, and incorporate applicable dust control measures and basic control measures to minimize criteria air pollutant emissions during construction of the project. As such, impacts associated with project construction emissions would be less than significant.

- b) As discussed in Attachment F, long-term operation of the proposed project would generate an increase in traffic volumes on the local roadways within the project vicinity and would increase localized emissions. The annual operational emissions for the proposed project are shown in Table 3 in Attachment F. Table 4 shows the daily operational emissions for the project in Attachment F. As shown in these tables, the proposed project's annual and daily operation emissions would not exceed the City's thresholds of 54 pounds per day of ROG, NO_x, or PM_{2.5}, or 82 pounds per day of PM₁₀; or result in maximum annual emissions of 10 tons per year of ROG, NO_x, or PM_{2.5} or 15 tons per year of PM₁₀. Impacts associated with project operation emissions would be less than significant.
- c) During construction, fugitive dust (PM₁₀) would be generated from site grading and other earth-moving activities. The majority of this fugitive dust would remain localized and would be deposited near the project site. The proposed project would comply with City **SCA AIR-1 (#21)** and **SCA AIR-2 (#22)** and incorporate applicable dust control measures and basic control measures to minimize criteria air pollutants during construction of the project. As such, implementation of these SCAs would minimize the proposed project's construction-generated fugitive dust impacts to a less than significant level and would not contribute to a carbon monoxide (CO) hotspot.

During operation of the proposed project, localized high levels of CO are associated with traffic congestion and idling or slow-moving vehicles. A review of the 2015 Congestion Management Plan for Alameda County indicates that the proposed project is consistent with the applicable congestion management plan. According to the Traffic Evaluation Memo prepared by Stantec (Attachment I), the proposed project would result in 197 daily trips; therefore, would not increase traffic volumes on nearby roadways above 44,000 vehicles per hour. Furthermore, the adjacent roadways are located in an area with free vertical and horizontal mixing of the air mass, and where there are no physical barriers such as bridge overpasses or urban or natural canyon walls that could result in substantial limitations to air movement. Therefore, the proposed project would not significantly contribute to an existing or projected CO hotspot, and impacts would be less than significant.

- d, e) A health risk assessment using dispersion modeling was prepared to assess potential health impacts to nearby sensitive receptors (residences) because of construction activities for the project. The modeling was prepared in accordance with the Office of Environmental Health Hazard Assessment (OEHHA) and BAAQMD guidelines. As shown in Table 5 in Attachment F the proposed project's construction would not exceed the City's thresholds

of significance for health risks to nearby sensitive receptors. City **SCA AIR-2 (#22)** requires implementation of basic air pollution control measures to reduce equipment exhaust, which is the primary source of diesel particulate matter, which further reduces potential health risks. In accordance with BAAQMD guidance, a cumulative TAC analysis was prepared to account for all potential sources within 1,000 feet. Table 6 in Attachment F provides a summary of the cumulative health risk analysis for existing sensitive receptors for all sources including construction. As shown in Table 6, the project would not expose existing sensitive receptors to a significant health risk. The project is locating new sensitive receptors (residents) in an area where they could be subject to existing and reasonably foreseeable sources of TACs. The approach for assessing the cumulative health risks to future sensitive receptors on the project site is the same method as evaluating impacts to existing receptors with the exception that construction risks are not included. As shown in Table 7 in Attachment F, the health risks to future residents are less than significant. Construction of the project would have a less than significant impact to health risks and the cumulative health risks to existing and future residents are also less than significant. The proposed project would be below the carcinogenic and non-carcinogenic thresholds established by the Office of Environmental Health Hazard Assessment and the City of Oakland. Hazardous air emissions generated from the stationary and mobile sources within 1,000 feet of the project site are not anticipated to pose an actual or potential endangerment to residents occupying the project site. Impacts from TAC sources would be less than significant.

The proposed project would involve demolition of the building on-site. The BAAQMD has regulations that require compliance with the asbestos demolition and renovation requirements. Regulation 11-2-401.3 requires that for every demolition (even when no asbestos is present), a notification must be made to the BAAQMD at least 10 working days (except in special circumstances) prior to commencement of demolition/renovation. This requirement is included as **SCA AIR-3 (#27): Asbestos in Structures**, by the City of Oakland to reduce potential health risks from demolishing asbestos containing building materials to a less than significant level. In addition, there is no potential for naturally occurring asbestos to occur on-site. The nearest ultramafic rock outcroppings are located approximately 10 miles southeast of the project site (USGS 2011). Therefore, impacts related to naturally occurring asbestos would be less than significant.

As discussed above, operation of the proposed project is not expected to generate a CO hotspot. Therefore, the project would not expose receptors to substantial CO concentrations from operational activities. Diesel exhaust and ROG would be emitted during construction of the proposed project, the odors of which are objectionable to some. However, emissions would disperse rapidly from the project site and would not create objectionable odors affecting a substantial number of people. Odor impacts during construction would be less than significant.

The project site is located 550 feet from the Shattuck Auto Collision Center. The facility is permitted (Facility ID 1065) through BAAQMD as it includes auto body painting. The facility uses only waterborne paint products and is fully compliant with ROG regulations that took effect in January of 2009. The wind blows from the northwest to the southeast in Oakland

and based on the location of the Collision Center and the wind direction the air would not typically blow towards the project site. As recommended by the BAAQMD CEQA Guidelines a records request (BAAQMD Public Records Request No. 2017-11-0083) was made on November 7, 2017 for the previous 3-year period to determine if any odor complaints had been filed against the facility. The BAAQMD responded via email the same day to confirm that no complaints had been filed against the facility. Based on this information it can be concluded that the Shattuck Collision Center would not be a significant odor source. Therefore, odor impacts would be less than significant during project operations.

The Prior EIRs and Addendum noted potential air quality impacts would be less than significant with implementation of mitigation measures and SCAs. The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on the previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the proposed project would be required to comply with City **SCA AIR-1 (#21), SCA AIR-2 (#22), and SCA AIR-3 (#27)**. In addition to these SCAs, the Housing Element EIR and Addendum previously identified the requirement for a Transportation Demand Management Program. As discussed in Section 7.16, Transportation and Traffic, this SCA would not be applicable to the proposed project, because the project would generate less than 50 new net a.m. and p.m. peak hour vehicle trips and would not require the preparation of a Transportation and Parking Demand Management Plan.

The proposed project would also implement previously identified LUTE EIR Mitigation Measure E.4, which requires residential development located above commercial uses, parking garages, or other uses (mixed-use developments) to be properly ventilated. Previously identified LUTE EIR Mitigation Measure E.5a, Mitigation Measure E.5b, and Mitigation Measure E.5c are not applicable to the proposed project because it is not located in either the Downtown Showcase District or the Coliseum Showcase District.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to air quality.

7.4 BIOLOGICAL RESOURCES

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands (as defined by Section 404 of the Clean Water Act) or state protected wetlands, through direct removal, filling, hydrological interruption, or other means?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Fundamentally conflict with the City of Oakland Tree Protection Ordinance (Oakland Municipal Code (OMC) Chapter 12.36) by removal of protected trees under certain circumstances [NOTE: Factors to be considered in determining significance include the number, type, size, location and condition of (a) the protected trees to be removed and/or impacted by construction and (b) protected trees to remain, with special consideration given to native trees. ¹² Protected trees include <i>Quercus agrifolia</i> (California or coast live oak) measuring four inches diameter at breast height (dbh) or larger, and any other tree measuring nine inches dbh or larger except eucalyptus and <i>Pinus radiata</i> (Monterey pine); provided, however, that Monterey pine trees on City property and in development-related situations where more than five Monterey pine trees per acre are proposed to be removed are considered to be protected trees.]?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
g) Fundamentally conflict with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect biological resources. [NOTE: Although there are no specific, numeric/quantitative criteria to assess impacts, factors to be considered in determining significance include whether there is substantial degradation of riparian and/or aquatic habitat through (a) discharging a substantial amount of pollutants into a creek, (b) significantly modifying the natural flow of the water, (c) depositing substantial amounts of new material into a creek or causing substantial bank erosion or instability, or (d) adversely impacting the riparian corridor by significantly altering vegetation or wildlife habitat.]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined impacts to habitat for special status species, resource conservation areas, special status plants and wildlife, and the loss of mature trees would be less than significant. The LUTE EIR did not identify any mitigation measures pertaining to biological resources (City of Oakland 1998).

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with General Plan Policies CO-2.4, CO-5.3, CO-6.1, CO-6.4, CO-6.5, CO-7.1, CO-7.3, CO-7.4, CO-8.1, CO-9.1, CO-11.1, CO-11.2, W-3.1, and W-3.2; Chapters 13.6 and 12.36 of the Municipal Code; and City SCA 43 and SCA 72 (currently SCA #58) for vegetation management on creekside properties; SCA 44 (currently SCA #30) for tree removal during breeding season; SCAs 45 through 47 (currently SCA #31) for a tree removal permit; SCA 75 (currently SCA #50) for the preparation of a Stormwater Pollution Prevention Plan (SWPPP); SCA 76 (currently SCA #51) for drainage plans on hillside properties; SCA 77, SCA 82 (currently SCA #48) for implementation of erosion and sedimentation control measures; SCA 78 (currently SCA #52) for implementation of site design measures to reduce stormwater; SCA 79 (currently SCA #53) for implementation of source control measures to reduce stormwater pollution; SCA 80 and SCA 81 (currently SCA #54) for preparation of a post-construction stormwater plan and maintenance agreement; SCA 83, SCA 85, and SCA 86 (currently SCA #58) for preparation of a creek protection plan, SCA 84 (currently SCA #15) for obtaining regulatory permits and authorizations by applicable agencies; and SCA 87 and SCA 88 (currently SCA #59) for creek dewatering and diversion would ensure development under the Housing Element would have a less than significant impact related to biological resources (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a-g) The project site and vicinity are located within an urban area in the City of Oakland on a disturbed site that has been previously developed since 1933 (SOMA Engineering 2011). The project site consists of an existing brick structure, formerly occupied by a gas station and service center. The project site does not provide natural habitat for special status species, wildlife corridors, or riparian or sensitive habitat.

There are no trees located on the project site, and therefore the proposed project would not require the removal of any trees that are protected by the City of Oakland Tree Protection Ordinance. The proposed project would include approximately 700 square feet total of landscaping on the ground floor and the second-floor podium, and drought tolerant trees and shrubs would be planted on the rooftop communal courtyard area and along the west boundary of the project site. Project landscaping would not be substantive enough to result in potential bird collisions, nor is the proposed project located immediately adjacent to a recreation area, or water body. Furthermore, the project site is not located near any open section of a creek, and therefore the City's Creek Protection Ordinance does not apply to the proposed project. The proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan as the City does not have any such adopted plan and the site is fully disturbed. Impacts related to biological resources would be less than significant with implementation of the proposed project.

As discussed above, the proposed project does not provide suitable habitat for special status species, wildlife corridors, or riparian habitat, and would not require the removal of any trees. The proposed project is not located near a body of water, or any open section of a creek that would require protection under the City's Creek Protection Ordinance, or permit authorization from the Regional Water Quality Control Board or U.S. Army Corps of Engineers for a Section 401/404 permit. Therefore, City SCA 43 through SCA 47 (currently SCA #58, SCA #30, and SCA #31), SCA 72 through SCA 88 (currently SCA #58, SCA #50, SCA #51, SCA #48, SCA #52, SCA #53, SCA #54, SCA #48, SCA #15, and SCA #59) previously identified in the Housing Element EIR and Addendum would not be applicable to the proposed project.

The LUTE EIR determined that impacts related to biological resources would be less than significant, and no mitigation measures were identified. Therefore, based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to biological resources.

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7.5 CULTURAL RESOURCES

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.5? Specifically, a substantial adverse change includes physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be "materially impaired." The significance of a historical resource is "materially impaired" when a project demolishes or materially alters, in an adverse manner, those physical characteristics of the resource that convey its historical significance and that justify its inclusion on, or eligibility for inclusion on an historical resource list (including the California Register of Historical Resources, the National Register of Historical Resources, Local Register, or historical resources survey form (DPR Form 523) with a rating of 1-5)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined impacts to undiscovered paleontological remains would be less than significant. The LUTE EIR determined impacts related to the demolition of historical resources would be less than significant with adherence to the following existing policies from the City's Historic Preservation Element: Policy 1.3, Policy 2.1, Policy 2.4, Policy 2.5, Policy 2.6, Policy 3.4, and Policy 3.5.

The LUTE EIR determined potential impacts to undiscovered archeological resources would be less than significant with the implementation of Mitigation Measure G.2. Mitigation Measure G.2 calls for establishing criteria and interdepartmental referral procedures for determining when discretionary City approval of ground-disturbing activities should be subject to special conditions to safeguard potential archaeological resources.

The LUTE EIR identified historic resources located downtown and along transit corridors could be at risk for demolition or removal for new redevelopment and high density uses. The LUTE determined this impact would be less than significant with implementation of Mitigation Measure

Evaluation of the Environmental Impacts

G.3a and Mitigation Measure G.3b. These mitigation measures call for the City to amend the Zoning Regulations text to incorporate new preservation regulations and incentives, and adopt design guidelines for Landmarks and Preservation Districts.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum compliance General Plan Policies 2.1, 2.6, N9.8, D1.1, D2.1, D1.4, 2.4, 3.1, 3.5, 3.6, and 4.1; Municipal Code (Title 17); and City SCA 52 and SCA 54 (currently SCA #33) for discovery of archaeological and paleontological resources discovered during construction, SCA 53 (currently SCA #35) for discovery of human remains during construction, SCA 56 (currently SCA #36) for relocation of a historic property, SCA 57 (currently SCA #70) for construction activities next to a historical resource, and LUTE EIR Mitigation Measure G.2 would ensure development under the Housing Element would comply with federal and state laws protecting cultural resources, resulting in a less than significant impact (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

a-d) The project site is not located within an identified historic district. The proposed project would require demolition of the existing brick structure on-site, which was occupied by a gas station and service center prior to October 2009. This structure is not designated a City of Oakland Landmark or Heritage Property, listed on the National Register of Historic Places, or older than 50 years of age. In addition, there are no historic structures adjacent to the project site, which could be impacted by the construction or operation of the proposed project. The proposed project would have no direct or indirect impacts on a historic resource.

The project site would be excavated approximately 24 inches under the existing brick structure in order for the foundation concrete to be removed. Unidentified archaeological resources, paleontological resources, or human remains may be discovered during construction. If so, the proposed project would be required to comply with **SCA CUL-1 (#33)**: Archaeological and Paleontological Resources- Discovery During Construction, and **SCA CUL-2 (#35)**: Human Remains-Discovery During Construction. Implementation of these City SCAs would require all construction activities to stop to reduce impacts. As such, impacts related to the discovery of unidentified archeological resources, paleontological resources, and human remains would be less than significant.

The Prior EIRs and Addendum determined impacts to paleontological, archeological, human remains, and historic resources would be less than significant with the incorporation of mitigation measures and SCAs. Implementation of previously identified LUTE EIR Mitigation Measure G.2, Mitigation Measure G.3a, and Mitigation Measure G.3b are to be carried out by the City not project applicants, and therefore are not applicable to the proposed project (City of Oakland 1998). Full descriptions of these mitigation measures are provided in Attachment D.

The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on the previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent.

Therefore, the proposed project would be required to comply with City **SCA CUL-1 (#33)** and **SCA CUL-2 (#35)**. In addition to these SCAs, SCA 56 (currently SCA #36) and SCA 57 (currently SCA #70) were previously identified in the Housing Element EIR; however, would not be applicable to the proposed project. SCA 56 (currently SCA #36) would not be applicable to the proposed project because the project would not involve the demolition of a designated historic property or a CEQA Historic Resource. SCA 57 (currently SCA #70) would not be applicable because there are no historic properties adjacent to the project site that would be impacted by project construction-related vibration impacts.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to cultural resources that were not identified in the Prior EIRs or Addendum.

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7.6 GEOLOGY AND SOILS

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death, involving:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? [NOTE: Refer to California Geological Survey 42 and 117 and Public Resources Code section 2690 et. seq.]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction, lateral spreading, subsidence, collapse; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil, creating substantial risks to life, property, or creeks/waterways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on expansive soil, as defined in section 1802.3.2 of the California Building Code (2007, as it may be revised), creating substantial risks to life or property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located above a well, pit, swamp, mound, tank vault, or unmarked sewer line, creating substantial risks to life or property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Be located above landfills for which there is no approved closure and post-closure plan, or unknown fill soils, creating substantial risks to life or property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined potential impacts related to ground failure and other earthquake-related hazards would be less than significant. Additionally, the LUTE EIR determined that implementation of the LUTE would result in a less than significant impact related to geologic hazards, landslides, expansive soils, and soil erosion. The LUTE EIR did not identify any mitigation measures related to geology and soils (City of Oakland 1998). The geologic setting of the project area has not changed since the certification of the LUTE EIR.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with City General Plan Policies CO-1.1, CO-2.1, CO-2.2, CO-2.4, CO-5.3, W3.1, an N7.6; and City SCA 35 (currently SCA #43) for incorporation of best management practices (BMPs) to minimize groundwater and soil hazards ; SCA 58 (currently SCA #38) for preparation of a soils report; SCA 59 and SCA 60 (currently SCA #39) for preparation of a geotechnical report; SCA 68 (currently SCA #44) for incorporation of BMPs to minimize groundwater and soil contamination; SCA 72 (currently SCA #58) for vegetation management on Creekside properties; SCA 83, SCA 85, and SCA 86 (currently SCA #59) for preparation of a Creek Protection plan, and SCA 89 (currently SCA #15) for obtaining regulatory permits and authorizations would ensure development under the Housing Element would have a less than significant impact related to seismic failures, geologic instability, erosion, and expansive soils.

In addition, the Housing Element EIR and Addendum identified the following SCAs from the Hydrology and Water Quality and Hazards and Hazardous Materials Sections: SCA 77 (currently SCA #48) for incorporation of erosion and sedimentation control measures, SCA 82 (currently SCA #54), and SCA 69 (currently SCA #44) to minimize soil and groundwater hazards. The 2010 Housing Element EIR and 2014 Addendum also determined there would be no impact related to the City's soils capacity to support septic tanks (City of Oakland 2009; City of Oakland 2014). The General Plan policies listed above have been developed to ensure that future development would comply with federal and State laws regarding geology and soils, and the City's Municipal Code. Future development under the Housing Element would also be required to prove site suitability, regarding geologic hazards, through a geological investigation.

Project Analysis and Conclusion

- a) (i-iv) The nearest active fault to the project site is the Hayward Fault, located over 2 miles east. The project site is not located within or adjacent to the Hayward fault's Alquist-Priolo Earthquake Fault Zone, and therefore would not result in a significant impact with respect to rupture of a known earthquake fault (City of Oakland 2009). However, the project site is, like the rest of the San Francisco Bay Area, located in an area subject to high risk from seismic shaking. The proposed project would be required to comply with City **SCA GEO-1 (#37)**: Construction-Related Permit(s), which ensures that all buildings are designed and built in conformance with all standards, requirements, and conditions contained in the City's construction related codes (which includes but is not limited to the City's Building Code) to ensure structural integrity and safe construction of project structures.

According to the California Geologic Survey (CGS) Earthquake Zones of Required Investigation for the Oakland West Quadrangle Map (Revised 2003), the proposed project is located just outside of an identified liquefaction zone (CGS 2003). According to a search of the Natural Resources Conservation Service (NRCS), Web Soil Survey, the linear extensibility of the project site is 4.5 percent, which represents a moderate liquefaction potential (USDA 2018). The proposed project would be required to comply with **SCA GEO-2 (#40)**: Seismic Hazards Zone

(Landslide/Liquefaction), which would require the proposed project to implement the recommendations of a site-specific geotechnical report prepared by a registered geotechnical engineer for appropriate project design. The geotechnical report would address potential issues related to ground shaking, liquefaction, and settlement, and prevent exposure of people or structures to potential substantial adverse effects during a large earthquake. Therefore, implementation of the proposed project would result in a less than significant impact regarding ground shaking, seismic-related ground failure, and liquefaction

The topography of the project site is relatively flat and is not mapped within a landslide hazard area by CGS (CGS 2003). Therefore, no impact related to landslides would occur.

- b) The proposed project could result in potential impacts related to soil erosion and loss of topsoil. The proposed project would disturb an area of approximately 8,334 square feet (0.19 acres, the entire project site). Grading for the proposed project would only occur where the existing brick structure is located. The rest of the project site has already been graded to the desired grade. Approximately 74 cubic yards of soil would be excavated for the proposed project. Pursuant to Section 15.04.660 of the City Planning Code, projects which propose to excavate more than 500 cubic yards of soil are required to obtain a Grading Permit. As such, the proposed project would not require a Grading Permit. During construction activities, the proposed project would be required to implement **SCA GEO-3 (#38): Soils Report** and **SCA HYD-1 (#48): Erosion and Sedimentation Control Measures for Construction**, which would require the Applicant to prepare a soils report to assess suitability of the project site soils and implement BMPs to reduce erosion, sedimentation, and water quality impacts during construction. Impacts related to soil erosion and loss of the topsoil would be less than significant.
- c) According to the NRCS Web Soil Survey, the project site consists of Urban land-Tierra complex, 2 to 5 percent slopes (NRCS 2018). According to the Alameda County Soil Report for the Western Part prepared by the United States Department of Agriculture (USDA), this complex consists of urban land and Tierra loam. Urban land consists of areas that are covered by buildings and other urban structures. The soil material has been altered or mixed during urban development. Tierra soils is characterized as very deep and moderately well drained soils. Permeability and runoff of Tierra soils is low, and the hazard of erosion is slight. The shrink-swell potential of the Urban land-Tierra complex is high (USDA 1981). The proposed project would be required to comply with City **SCA GEO-2 (#40)** and prepare a site-specific geotechnical report. The design of the project would be required to implement any recommendations to mitigate potential expansive soils impacts. Therefore, impacts related to expansive soils would be less than significant.
- d) The project site is in an urban, mixed-use residential and commercial area within the City's Bushrod community. The project site is relatively flat, and previously disturbed. There is an existing vacant brick structure on the project site, which was formerly occupied by the East Bay Smog Center. Six onsite USTs were removed from the site in October 2009 under oversight by ACEHD, and environmental remediation of the site was completed by SOMA

Evaluation of the Environmental Impacts

Engineering on June 26, 2014. Based on the findings provided by SOMA Engineering, ACEHD issued the Applicant a Site Closure letter on June 26, 2014. As such, the proposed project would not be located above a well, pit, swamp, mound, tank vault, or unmarked sewer line. The potential to create substantial risks to life or property with implementation of the proposed project would be less than significant.

- e) The proposed project would not create a substantial risk to life or property related to landfills as one is not located on, or near the site. No impact related to landfills would occur.
- f) The project site is served by a sanitary sewer system maintained and operated by the City, and discharged to the EBMUD sewer interceptor system. The proposed project would have access to these systems, and the use of septic systems would be neither required nor permitted. The project would have no impact in this regard.

The LUTE EIR determined geologic and soil impacts would be less than significant, and no mitigation measures were identified. The Housing Element EIR and Addendum determined impacts related to geology and soils would be less than significant with the incorporation of City SCAs. The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. As such, the proposed project would be required to comply with City **SCA GEO-1 (#37)**, **SCA GEO-2 (#40)**, **SCA GEO-3 (#38)**, and **SCA HYD-1 (#48)**.

In addition to these SCAs, the Housing Element EIR and Addendum previously identified the following SCAs to reduce potential impacts related to geology and soils: SCA 35 (currently SCA #43); SCA 58 (currently SCA #38), SCA 59 and SCA 60 (currently SCA #39); SCA 68 and SCA 69 (currently SCA #44); SCA 72 (currently SCA #58); SCA 77 (currently SCA #48); SCA 82 (currently SCA #54); SCAs 83, 85, 86 (currently SCA #59); and SCA 89 (currently SCA #15). As discussed in Section 7.8, Hazards and Hazardous Materials, the proposed project would comply with SCA 35 (**SCA HAZ-1 [#43]**: Hazardous Materials Related to Construction), SCA 68 and SCA 69 (**SCA HAZ-2 [#44]**: Hazardous Building Materials and Site Contamination), and SCA 89 (**SCA HAZ-3 [#15]**: Regulatory Authorizations and Permits).

Previously identified SCA 59 and SCA 60 (currently SCA #39), SCA 72 (currently SCA #58), SCA 82 (currently SCA #54), and SCA 83, SCA 85, and SCA 86 (currently SCA #59) would not be applicable to the proposed project. These SCAs are not applicable because the proposed project is not located in an Earthquake Fault Zone per the State Alquist-Priolo Fault Zoning Act, is not a regulated project under the National Pollutant Discharge Elimination System, and does not require a Creek Protection Permit. Additionally, the project site is not located within the City's Wildfire Assessment District, or located on a parcel with a slope greater than 20 percent.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to geology and soils.

7.7 GREENHOUSE GASES

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
<p>a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, specifically:</p> <ul style="list-style-type: none"> i. For a project involving a stationary source, produce total emissions of more than 10,000 metric tons of CO₂e annually [NOTE: Stationary sources are projects that require a BAAQMD permit to operate.]. ii. For a project involving a land use development, produce total emissions of more than 1,100 metric tons of CO₂e annually AND more than 4.6 metric tons of CO₂e per service population annually [NOTE: Land use developments are projects that do not require a BAAQMD permit to operate. The service population includes both the residents and the employees of the project. The project's impact would be considered significant if the emissions exceed BOTH the 1,100 metric tons threshold and the 4.6 metric tons threshold. Accordingly, the impact would be considered less than significant if the project's emissions are below EITHER of these thresholds.] [NOTE: The project's expected greenhouse gas emissions during construction should be annualized over a period of 40 years and then added to the expected emissions during operation for comparison to the threshold. A 40-year period is used because 40 years is considered the average life expectancy of a building before it is remodeled with considerations for increased energy efficiency. The thresholds are based on the BAAQMD thresholds. The BAAQMD thresholds were originally developed for project operation impacts only. Therefore, combining both the construction emissions and operation emissions for comparison to the threshold represents a conservative analysis of potential greenhouse gas impacts.] 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>b) Fundamentally conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing greenhouse gas emissions?</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR, 2010 Housing Element EIR, and 2014 Addendum

Climate change and GHG emissions were not expressly addressed in the LUTE EIR. The 2010 Housing Element EIR and 2014 Addendum determined development under the Housing Element would have a less than significant impact related to GHGs. Development under the Housing Element would comply with all regulatory requirements; City SCA 25 (currently SCA #80) and SCA 26 (currently SCA #21 and SCA #22); General Plan LUTE Element Policies T2.1, T2.2, T3.5, T3.6, T4.2, N3.2, T4.5; OSCAR Element Policies OS-1.1, OS-2.1, CO-5.3, CO-12.3, CO-12.5, CO-13.2, CO-13.3, and CO-13.4; Safety Element Policies FI-3, FL-1, and FL-2; and Municipal Code Chapter 15.34 (City of Oakland 2010b, City of Oakland 2014).

Project Analysis and Conclusion

- a) The proposed project is in Alameda County, which is a part of the San Francisco Bay Area Air Basin (Air Basin). The Air Basin is regulated by the BAAQMD. GHG emissions were estimated for construction and operation of the proposed project using the California Emissions Estimator model version 2016.3.1 (Attachment F). The proposed project would emit GHG emissions during construction from off-road equipment, worker vehicles, and any hauling activities that may occur. The GHG emissions from project construction equipment and worker vehicles are shown below in Table 7.7-1.

Table 7.7-1: Construction Greenhouse Gas Emissions

Year	Emissions (MTCO _{2e})
2019	88
Amortized emissions (40-year life expectancy)	2
Note: MTCO _{2e} = metric tons of CO ₂ equivalent	

As shown in Table 7.7-1, total construction emissions for the proposed project would be approximately 88 MTCO_{2e}, resulting in 2 MTCO_{2e} amortized annually over the life of the project. Construction GHG emissions would not exceed the City’s threshold (established by the BAAQMD) of 1,100 MTCO_{2e}.

Long-term, operational GHG emissions would result from project generated vehicular traffic, on-site combustion of natural gas, operation of any landscaping equipment, offsite generation of electrical power over the life of the proposed project, the energy required to convey water to and wastewater from the project site, and the emissions associated with the hauling and disposal of solid waste from the project site. Operational emissions for the proposed project are shown below in Table 7.7-2.

Table 7.7-2: Operational Greenhouse Gas Emissions (2019)

Emission Source	Emissions (MTCO₂e)
Area Sources	2
Energy	78
Mobile (Motor Vehicles)	110
Waste	16
Water	6
Total Operational Emissions¹	212
Amortized Construction Emissions ²	2
Total GHG Emissions	214
Service Population³	51
City of Oakland Significance Threshold 1	1,100
City of Oakland Significance Threshold 2	4.6 MTCO₂e/SP/yr.
Project Emission Generation	4.2 MTCO₂e/SP/yr.
Exceed City of Oakland Significance Threshold 2	No
Significant Impact?	No
Notes: SP = Service Population yr. = year 1. Includes CalEEMod "mitigation" for increased density, locational features, and compliance with regulatory measure. 2. Construction emissions annualized over an anticipated 40-year project lifespan. 3. Based on CalEEMod default estimate based on Alameda County specific data for individuals per household	

b) The City sets thresholds of 1,100 MTCO₂e and 4.6 MTCO₂e/SP/yr. for determining whether projects would generate significant GHG emissions. As shown above in Table 7.7-2, the total GHG emissions generated by the proposed project would be 214 MTCO₂e and would not exceed the City's threshold of 1,100 MTCO₂e. In addition, the proposed project would generate 4.2 metric tons of CO₂e per service population annually and would not exceed the City's threshold of 4.6 metric tons of CO₂e per service population annually. Pursuant the City's thresholds, a project must exceed both thresholds to result in a significant impact. GHG emissions generated by the proposed project would be below both of the City's thresholds of significance, and therefore impacts to GHGs would be less than significant. The City of Oakland's adopted Energy and Climate Action Plan (ECAP) provides strategies to reduce GHG emissions. The purpose of the ECAP is to identify and prioritize actions the City can take to reduce energy consumption and GHG emissions associated with the City. The ECAP outlines a 10-year plan including more than 150 actions that would enable the City to achieve a 36 percent reduction in GHG emissions below the 2005 level by 2020. These measures support implementation of the green planning policies in the City of

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Oakland's General Plan by promoting energy efficiency and minimizing vehicle emissions. The proposed project would incorporate the following sustainability features to reduce demand for resources, utilize non-toxic materials, and promote waste reduction:

The 18 residential units would be within walking distance of the Ashby BART Station and multiple AC Transit bus stops and surrounding businesses.

- The inclusion of neighborhood-oriented retail services would reduce automotive trips.
- The proposed project structure would be constructed over the podium parking garage, which allows for greater landscaping and green space, thereby reducing heat island effects.

In addition, the proposed project is subject to the City's SCAs, some of which reduce GHG emissions. These include but are not limited to **SCA UTIL-1 (#85)**: Construction and Demolition Waste Reduction and Recycling, **SCA UTIL-2 (#87)**: Recycling Collection and Storage Space, and **SCA UTIL-4 (#88)**: Green Building Requirements. The proposed project would not be subject to a GHG Reduction Plan under the City's SCA (#42), because estimated GHG emissions are below the City's thresholds of significance and the proposed project is not large enough to trigger the requirement for a GHG Reduction Plan.

Climate change and GHG emissions were not expressly addressed in the LUTE EIR. The Housing Element EIR and the Addendum determined impacts related to GHGs are less than significant with implementation of SCAs. The Housing Element EIR identified SCAs related to a Transportation Demand Management Program and a Greenhouse Gas Reduction Plan to reduce potential greenhouse gas impacts. The proposed project would not be required to incorporate a Transportation Demand Management Program since the project would generate less than 50 new net peak hour vehicle trips (further discussed in Section 7.16, Traffic and Transportation).

The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on the previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. As discussed above, the proposed project would be subject to these SCAs, some of which reduce GHG emissions, which include but are not limited to City **SCA UTIL-1 (#85)**, **SCA UTIL-2 (#87)**, and **SCA UTIL-4 (#88)**.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to greenhouse gases.

7.8 HAZARDS AND HAZARDOUS MATERIALS

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Create a significant hazard to the public through the storage or use of acutely hazardous materials near sensitive receptors [NOTE: Per the BAAQMD CEQA Guidelines, evaluate whether the project would result in persons being within the Emergency Response Planning Guidelines (ERPG) exposure level 2 for acutely hazardous air emissions either by siting a new source or a new sensitive receptor. For this threshold, sensitive receptors include residential uses, schools, parks, daycare centers, nursing homes, and medical centers]?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Emit hazardous emissions or handle hazardous or acutely-hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to <i>Government Code Section 65962.5</i> and, as a result, would it create a significant hazard to the public or the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Result in less than two emergency access routes for streets exceeding 600 feet in length unless otherwise determined to be acceptable by the Fire Chief, or his/her designee, in specific instances due to climatic, geographic, topographic, or other conditions.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and would result in a significant safety hazard for people residing or working in the project area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Be located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Fundamentally impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined potential impacts related to the release, transport, use, or exposure to hazardous waste and materials would be less than significant with compliance to existing City policies and applicable regulatory requirements. The LUTE EIR identified the following City policies to reduce potential impacts to a less than significant level: Policy I/C4.2, Policy N5.1, Policy W1.2, Policy W6.2, Policy I/C2.2, Policy CO-1.2, Action CO-1.2.1, Policy I/C2.1, and Policy I/C.3. The LUTE EIR did not identify any mitigation measures related to hazards and hazardous materials (City of Oakland 1998).

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with General Plan Policies HM-1, HM-3, CO-1.2, I/C4.2, N5.1, W1.2, W6.2, I/C2.2, FI-3.1, FI-3.2, and FI-3.3; Chapters 8.12, 8.42, 8.50.060, and 17.100A of the City's Municipal Code; City SCA 35 (currently SCA #43) for incorporation of BMPs to minimize groundwater and soil hazards, SCA 41 (currently SCA #27) for asbestos removal in structures, SCA 42 (currently SCA #28) for asbestos removal in soils, SCA 61 through SCA 69 (currently SCA #43 and SCA #44) for conducted environmental assessments on contaminated sites, SCA 70 and SCA 73 (currently SCA #47) for vegetation management in a wildfire prevention assessment district and ensuring fire safety during construction, SCA 71 (currently SCA #46) for preparation of a fire safety phasing plan, SCA 72 (currently SCA #58) for vegetation management on creekside properties, would ensure hazardous building materials, contaminated soils, and/or groundwater would be properly identified, handled, removed, and/or remediated. In addition, compliance with City SCAs and policies of the General Plan would ensure the health and safety of construction workers and sensitive receptors is protected. The Housing Element EIR determined development under the Housing Element would have a less than significant impact related to hazards and hazardous materials (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a-c) Demolition of the existing brick structure, and construction of the proposed project would involve the use, transport, and handling of hazardous materials such as diesel fuels, lubricants, solvents, asphalt, paints, building materials, and finishing materials. The transportation and handling of these materials could result in the exposure of workers to hazardous materials or could be inadvertently spilled or otherwise spread if not properly handled. The transportation and handling of hazardous materials would be required to follow all applicable laws and regulations related to transportation, use, and storage of all hazardous materials to safeguard workers and the general public. The construction of the proposed project would be required to implement City **SCA HAZ-1 (#43)**: Hazardous Materials Related to Construction, which would ensure BMPs are implemented by the contractor to properly maintain, store, and transport hazardous materials. Asbestos containing materials may be present in the existing brick structure. During demolition of the existing structure, the proposed project would implement City **SCA AIR-2 (#27)**: Asbestos in Structures and comply with all applicable laws and regulations related to the

demolition of structures with the potential to contain asbestos materials. As discussed in Section 7.3, Air Quality, the project site does not contain naturally occurring asbestos. Impacts associated with the transport, use, disposal, or storage of hazardous materials during construction would be less than significant with implementation of **SCA HAZ-1 (#43)** and **SCA AIR-2 (#27)**.

Operation of commercial and residential functions at the project site would not create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials. Commercial stores and residential units do not generate or use significant amounts of hazardous materials and require only limited storage of materials for use in routine cleaning of buildings and maintenance. These materials would be used, stored, and disposed of in accordance with applicable federal, state, and local procedures and regulations. As such, the release of hazardous materials after demolition and construction is unlikely, and impacts related to the transport, use, disposal, or storage of hazardous materials during operation would be less than significant.

- d) The proposed project is within a quarter mile of Sankofa Academy to the southeast of the project site. The proposed project would act in accordance with existing federal, State, and local laws and regulations, including **SCA HAZ-1 (#43)** and **SCA HAZ-2 (#44)**: Hazardous Building Materials and Site Contamination. Compliance with these regulations and practices would limit risks associated with construction activity and mitigate impacts to sensitive receptors at nearby schools. Additionally, the commercial and residential activities that would occur on the project site would not generate or use significant amounts of hazardous materials. Impacts related to the use or transport of hazardous materials within a quarter mile of a school would be less than significant.
- e) The project site is listed as "Completed- Case Closed" on the State "Cortese" list pursuant to *Government Code Section 65962.5*. As discussed in Section 3.0, Background, the project site was formerly occupied by a gas station and service center prior to October 2009. According to the SWRCB GeoTracker database, six onsite USTs were removed from the site in October 2009 under oversight by ACEHD. Following UST removal activities, the Applicant conducted environmental remediation of the site with the assistance of SOMA Engineering. On June 26, 2014, ACEHD issued a Case Closure Letter for the site, confirming the completion of the investigation and cleanup of the reported UST release at the site, deeming the case closed. Following case closure, additional assessments were undertaken by the property Applicant in 2015 to ensure that the site is adequate for residential construction (Attachment E). In November 2015, SOMA Engineering provided documentation that the June 26, 2014 ACEHD closure letter indicates that the site is meeting LTCP criteria for commercial and residential land use scenarios. The November 24, 2015 letter from SOMA Engineering further states, "contaminant levels remained in soil and groundwater after site remediation are significantly lower than the recommended LTCP criteria for soil and groundwater. As such, the site is eligible to be utilized for both residential and commercial purposes." On September 12, 2016, ACEHD issued a letter concluding that the level of cleanup at the site is suitable for residential and commercial use (Attachment E). The Applicant would be required to comply with City **SCA HAZ-3 (#15)**: Regulatory Authorizations and **SCA HAZ-2 (#44)**. In accordance with these SCAs, the

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Applicant would provide all necessary documentation to the City, which identifies that remedial action has been completed for the site, and that it is suitable for residential and commercial use.

- g, h) The project site is not located within the Oakland International Airport land use planning area. Oakland International Airport is located approximately 12 miles to the south of the project site. The proposed project is located approximately 1 mile north of the Oakland Children's Hospital Heliport. The proposed project would not introduce a structure which exceeds 199 feet, or would interfere with aircraft or helicopter travel. As such, the proposed project would not result in a safety hazard for people residing or working in the project area, and no impact would occur.
- f, i) The proposed project would not involve any physical changes to streets, access, evacuation routes, or incorporate unusual design features that could result in traffic hazards. As such, impacts related to emergency access, or an emergency evacuation plan would be less than significant.
- j) The project site is not within an area subject to wildland fire hazards, or located within the Oakland Wildfire Prevention Assessment District. The surrounding area is completely urbanized, and development of the proposed project would not increase exposure to wildland fire hazards in any significant way. No impact from wildland fires would occur with implementation of the proposed project.

As discussed above, after conclusion of SOMA Engineering's remediation activities, the Alameda County Health Care Services issued a closure letter for the project site on June 26, 2014 indicating the project site is meeting LTCP criteria for both commercial and residential scenarios. Therefore, the project site is suitable for commercial and residential use. The LUTE EIR determined impacts related to hazards and hazardous materials are less than significant, and no mitigation measures are necessary. The Housing Element EIR and Addendum determined impacts related to hazards and hazardous materials are less than significant with incorporation of City SCAs.

The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on the previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the proposed project would be required to implement City **SCA HAZ-1 (#43)**, **SCA HAZ-2 (#44)**, **SCA AIR-2 (#27)**, and **SCA HAZ-3 (#15)**. In addition to these SCAs, the Housing Element EIR and Addendum identified the following SCAs to reduce potential impacts related to hazards and hazardous materials: SCA 42 (currently SCA #28) and SCAs 70 through 73 (currently SCA #47, SCA #46, and SCA #58). However, these SCAs are not applicable to the proposed project because the project site is not within an Oakland Wildlife Prevention District, is not within an area containing naturally occurring asbestos, or adjacent to a creek that would require vegetation management. The project site is also within 50 feet of a fire hydrant and would not require the approval of a Fire Safety Phasing Plan. Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to hazards and hazardous materials.

7.9 HYDROLOGY AND WATER QUALITY

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Violate any water quality standards or waste discharge requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there should be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in substantial erosion or siltation on- or off-site that would affect the quality of receiving waters?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in substantial flooding on- or off-site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Create or contribute substantial runoff which would be an additional source of polluted runoff?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Otherwise substantially degrade water quality?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, that would impede or redirect flood flows?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving flooding?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k) Expose people or structures to a substantial risk of loss, injury, or death as a result of inundation by seiche, tsunami, or mudflow?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course, or increasing the rate or amount of flow, of a creek, river, or stream in a manner that would result in substantial erosion, siltation, or flooding, both on- or off-site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
m) Fundamentally conflict with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect hydrologic resources. [Note: Although there are no specific, numeric/quantitative criteria to assess impacts, factors to be considered in determining significance include whether there is substantial degradation of water quality through (a) discharging a substantial amount of pollutants into a creek, (b) significantly modifying the natural flow of the water or capacity, (c) depositing substantial amounts of new material into a creek or causing substantial bank erosion or instability, or (d) substantially endangering public or private property or threatening public health or safety?]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR identified that implementation of the LUTE would result in increased development activity at various locations throughout the city, including locations adjacent to creeks and waterways, which could result in water quality impacts during construction. The LUTE EIR determined that this impact would be less than significant.

The LUTE EIR also identified that implementation of the LUTE would result in increased development activity that could alter drainage patterns, could increase impermeable surfaces leading to increased volume of runoff, and could potentially affect the quality of stormwater runoff. The areas proposed for the greatest change are already developed with similar uses, the changes in runoff patterns, volume, and quality would be negligible. The LUTE EIR determined that this impact would be less than significant.

The LUTE EIR did not identify any mitigation measures pertaining to hydrology and water quality (City of Oakland 1998).

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with General Plan Policies CO-1.1, CO-2.4, CO-5.1, CO-5.2, CO-5.3, CO-6.1, CO-6.4, CO-6.5, CO-8.1, and W-3.1; Chapter 13.16 and Ordinances 10312, 10446, and 11590 of the Municipal Code; and City SCA 20 and SCA 21 (currently SCA #11) for public improvements, SCA 23 (currently SCA #12) for complying with the SCAs provided in the compliance matrix (Attachment A), SCA 24 (currently SCA #13) for preparing a construction management plan, SCA 34 and SCA 77 (currently SCA #48) for implementing erosion and sedimentation control measures during construction, SCA 35 and SCA 55 (currently SCA #49) for preparing an erosion and sedimentation control plan, SCA 43 and

SCA 72 (currently SCA #58) for vegetation management on creekside properties, SCA 46 and SCA 47 (currently SCA #31) for obtaining a tree removal permit, SCA 68 (currently SCA #44) for implementing BMPs to minimize groundwater and soil hazards, SCA 75 (currently SCA #50) for the preparation of a SWPPP, SCA 76 (currently SCA #51) for drainage plans on hillside properties, SCA 78 (currently SCA #52) for implementation of site design measures to reduce stormwater, SCA 79 (currently SCA #53) for implementation of source control measures to reduce stormwater pollution, SCA 80 and SCA 81 (currently SCA #54) for preparation of a post-construction stormwater plan and maintenance agreement, SCA 82 (currently SCA #54) for implementation of erosion and sedimentation control measures, SCA 83, SCA 85, and SCA 86 (currently SCA #58) for preparation of a creek protection plan, SCA 84 (currently SCA #15) for obtaining regulatory permits and authorizations by applicable agencies, SCA 88 (currently SCA #59) for creek dewatering and diversion, SCA 89 (currently SCA #15) for regulatory permits and authorizations, SCA 90 (currently SCA #61) for placing structures within a floodplain, and SCA 91 (currently SCA #90 and SCA #91) to confirm there is adequate capacity provided by the City's stormwater and sewer system would ensure development would not result in a significant impact as a result of runoff/erosion, groundwater depletion, and/or flooding/hazards. The Housing Element EIR and 2014 Addendum determined impacts associated with hydrology and water quality would be less than significant (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a, c, f, g) The project site is currently a disturbed site (approximately 8,334 square feet) with a vacant brick building (approximately 800 square feet) previously used for car maintenance services. The proposed project would replace the existing 800 square feet of impervious surface with 8,000 square feet of new impervious surface. Therefore, post-construction runoff would exceed runoff from existing conditions due to an increase in impermeable surface area. Because the proposed project would replace at least 2,500 square feet, but less than 10,000 square feet of impervious surface, the proposed project is considered a "Small Project" pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under NPDES. The proposed project would be required to comply with City **SCA HYD-1 (#48)**: Erosion and Sedimentation Control Measures for Construction, **SCA HYD-2 (#52)**: Site Design Measures to Reduce Stormwater Runoff, **SCA HYD-3 (#53)**: Source Control Measures to Limit Stormwater Pollution, and **SCA HYD-4 (#55)**: NPDES C.3 Stormwater Requirements for Small Projects. Compliance with these City SCAs would require the Applicant to incorporate site design measures during construction and operation activities to prevent the significant degradation of water quality. Therefore, impacts to water quality would be less than significant with implementation of the proposed project.
- b) The project site does not represent a major groundwater recharge source because it is already disturbed and surrounded by urban development. The proposed project would not involve dewatering of groundwater under the project site surface. In 2014, well monitoring was conducted by SOMA Engineering as part of the site closure process, and the depth to groundwater was measured at 3 to 8.6 feet below ground (Attachment E). Excavation for the proposed project would only occur for the removal of the existing on-site brick structure. The maximum depth of cut and fill onsite would

be approximately 24 inches except for the area of the future elevator which would be excavated an additional 24 inches, and therefore it is unlikely that excavation activities would encounter groundwater. The proposed project would have no impact on groundwater supplies, recharge, or local groundwater table levels.

- d, e) The proposed project would create approximately 7,200 square feet of new impervious areas compared to existing conditions. The site was almost entirely covered in impervious surface during the previous gas station operation, so runoff following the completion of the proposed project would be comparable to previous land use conditions. Due to the project site's small size and generally flat topography the proposed project would not generate a substantial amount of stormwater that would increase the risk of on-site or offsite flooding. Stormwater release from the project site would be primarily treated and controlled by landscaped areas, permeable pavement, and flow-through planters along the western property boundary. Stormwater would then be conveyed to the gutter along 65th Street and enter the City's existing stormwater drainage system. The proposed project would also be required to comply with City **SCA HYD-2 (#52)**, **SCA HYD-3 (#53)**, and **SCA HYD-4 (#55)**, which would incorporate C.3 design measures to reduce the amount of stormwater runoff at the project site. Impacts related to stormwater drainage systems would be less than significant with implementation of the proposed project.
- h- j) According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 06001C0057G, the project site does not lie within a 100-year flood zone (FEMA 2009). The proposed project would not expose people or structures to a significant risk of loss, injury, or death involving flooding. No impacts would occur related to these hazards.
- k) As shown in Figure 6.1, Flooding Hazards, in the General Plan Safety Element the proposed project is not mapped within an area susceptible to mud flows, seiches, or tsunamis (City of Oakland 2012). No impacts would occur related to these hazards.
- l, m) There are no creeks, streams, or rivers in the immediate vicinity, or on the project site that would be altered with implementation of the proposed project. The proposed project would direct stormwater to the southern border of the project site and into the gutter along 65th street. From there, stormwater would enter the City's stormwater drainage system. The rate, amount, and water quality of stormwater generated by the project site would be controlled by onsite design, such as the use of flow through planters and permeable pavement. Additionally, the implementation of **SCA HYD-1 (#48)**, **SCA HYD-2 (#52)**, **SCA HYD-3 (#53)**, and **SCA HYD-4 (#55)** would further limit potential indirect water quality impacts in the project area. There are no nearby creeks, rivers, or streams that would be impacted by stormwater release or runoff from the project site. The proposed project would not conflict with the City's Creek Protection Ordinance. Therefore, potential impacts related to hydrological resources, as defined by the City's Creek Protection Ordinance, would be less than significant.

The LUTE EIR determined hydrology and water quality impacts would be less than significant, and no mitigation measures were identified. The Housing Element EIR and Addendum determined impacts related to hydrology and water quality would be less than significant with the incorporation of City SCAs.

The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the proposed project would be required to comply with City **SCA HYD-1 (#48)**, **SCA HYD-2 (#52)**, **SCA HYD-3 (#53)**, and **SCA HYD-4 (#55)**. Separate from CEQA review the proposed project would implement **SCA HYD-5 (#56)**: Trash Capture Devices. Based on the City's trash generation maps, the project site is identified within a high trash area and would require improvements to the right-of-way (ROW). Prior to obtaining any construction-related permit, the Applicant would install trash capture devices at all storm drain inlets or catch basins located on the property and on the adjacent ROW.

In addition to these SCAs, the Housing Element EIR and Addendum identified City SCA 20 and SCA 21 (currently SCA #11), SCA 23 (currently #12), SCA 24 (currently SCA #13), SCA 35 and SCA 55 (currently SCA #49), SCA 43 and SCA 72 (currently SCA #58), SCA 46 and SCA 47 (currently SCA #31), SCA 68 (currently SCA #44), SCA 75 (currently SCA #50), SCA 76 (currently SCA #51), SCA 80, SCA 81, and SCA 82 (currently SCA #54), SCA 83, SCA 85, and SCA 86 (currently SCA #58), SCA 84 and SCA 89 (currently SCA #15), SCA 88 (currently SCA #59), SCA 90 (currently SCA #61), and SCA 91 (currently SCA #90 and SCA #91) to minimize impacts associated with hydrology and water quality. As discussed in Section 7.9, Hazards and Hazardous Materials, the proposed project would comply with SCA 68 (currently **SCA HAZ-2 [#44]**), and SCAs 84 and 89 (currently **SCA HAZ-3 [#15]**). These SCAs would require the Applicant to incorporate applicable BMPs to minimize potential impacts to groundwater, soils, and human health. The proposed project would comply with SCA 20 and SCA 21 (currently **SCA LAND-1 [#11]**: Public Improvements) and obtain all necessary permits/approvals from the City prior to conducting work in the public ROW.

The following SCAs previously identified in the Housing Element EIR and Addendum would not be applicable to the proposed project: SCA 23 (currently SCA #12), SCA 24 (currently SCA #13), SCAs 43 and 72 (currently SCA #58), SCA 46 and SCA 47 (currently SCA #31), SCA 35 and SCA 55 (currently SCA #49), SCA 75 (currently SCA #50), SCA 76 (currently SCA #51), SCA 80 through SCA 82 (currently SCA #54), SCA 83, SCA 85, SCA 86 (currently SCA #58), and SCA 88 (currently SCA #59), SCA 90 (currently SCA #61), and SCA 91 (currently SCA #90 and SCA #91). The project site is not located adjacent to a creek and would not require a Creek Protection Plan, Creek Dewatering, or Diversion Plan. The project site is not located on a hillside property, would disturb less than one acre of surface area, and would replace less than 10,000 square feet of impervious surface. The proposed project would not be in a mapped 100-year flood zone, would not require a regulatory permit from the Alameda County Flood Control and Water Conservation District, and would not require the approval of a Section 401/404 permit from the Regional Water Quality Control Board or U.S. Army Corps of Engineers. The proposed project would not involve the removal of any trees, or require a Tree Permit in accordance with the City's Tree Protection Ordinance. Lastly, the proposed project would not require a Construction Management Plan, a

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Sewer Impact Analysis, or the construction of a storm drain system because the project would construct less than 50 residential units, and less than 50,000 square feet of nonresidential floor area.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to hydrology and water quality.

7.10 LAND USE AND PLANNING

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Physically divide an established community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in a fundamental conflict between adjacent or nearby land uses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Fundamentally conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect and actually result in a physical change in the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Fundamentally conflict with any applicable habitat conservation plan or natural communities' conservation plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined impacts regarding conflicts with nearby or adjacent land uses would be less than significant with adherence to General Plan policies I/C4.1, I/C4.2, (Industrial/Commercial Policies) D10.7 (Downtown Policies), W1.2, W2.2, W3.2, W7.1, W8.7, W9.6, W10.7, W10.5, (Waterfront Policies) N1.5, N2.7, N3.9, N5.1, N8.2, and N12.6 (Neighborhood Policies) including those neighborhoods within the CCERP project area. The LUTE EIR determined that all policies listed above may not fully mitigate impacts specifically related to General Plan map changes and changes to the General Plan land use classifications. These mitigation measures include Mitigation Measures A.1a, A.1b, A.1c, A.1d, A.1e, A.2a, A.2b, A.2c, A.2d, A.2e, and A.2f. Full descriptions of these mitigation measures are provided in Attachment D. The LUTE EIR determined all other potential impacts related to land use would be less than significant.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with the goals, policies, and programs of the City's General Plan Policies I/C4.1, D1.5, D1.7, D10.1, D10.2, D10.6, D11.1, D11.2, W1.3, W6.9, W9.2, W9.7, W12.5, N3.4, N3.11, N4.4, N5.2, N5.3, N7.2, N7.5, N8.1, N9.7, and N11.6; Title 17 of the City's Municipal Code; SCA 4 and SCA 5 (currently SCA #3 and #5) for compliance with other applicable federal, state, and local requirements; and LUTE EIR Mitigation Measures LU-1a, LU-1b, LU-1c, LU-1d, LU-1e, and LU-1f would ensure development does not conflict with adjacent land uses, divide an existing community, or conflict with applicable land use policies. The Housing Element EIR and Addendum determined development would have a less than significant impact regarding land use (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a) The proposed project would include the development of an urban infill site at the northwest corner of Shattuck Avenue and 65th Street. As determined in the Housing Element EIR and Addendum, development under the Housing Element would not include physical barriers that physically separate planning areas or housing sites from their surroundings. The proposed project would not involve construction of a physical feature (e.g., a highway or rail line), or the removal of an existing means of access (e.g., a road or bridge linking different portions of a community) that would physically divide an established community. The development of the proposed project would represent the continuation of an already developed mixed residential and commercial use area, and no impact would occur.
- b, c) The proposed project is in a mixed-use residential and commercial neighborhood. The proposed project would involve the development of 18 residential units and 1,975 square feet of ground floor commercial space. Adjacent and nearby land uses include: a one-story communal art studio to the north; mixed-use buildings consisting of commercial and residential use ranging from one to three stories, including a three-story structure occupied by the Nomad Café and two stories of residential studios above (to the east); and one- to two-story residential land uses to the south and west.

The General Plan designation for the site is Neighborhood Center Mixed Use, which is intended to *"identify, create, maintain, and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses."* Though the project site is currently zoned CN-3, the Project Application was deemed complete by the City prior to the City's approval of the new CN-3 zoning on April 14, 2011. Therefore, the proposed project would be processed under the C-10 zoning requirements. The intent of the C-10 Zone is to *"create, improve, and enhance areas of small-scale retail establishments serving frequently recurring needs in convenient locations, and is typically appropriate to small shopping clusters located within residential communities."* Commercial facilities consisting of general food sales, general retail sales, consumer service, and small sidewalk cafes (subject to the provisions of Section 17.102.335) are permitted uses within the C-10 zone. Multifamily dwelling units are conditionally permitted uses in the C-10 zone.

As discussed in greater detail in Attachment B, the proposed project is aligned with LUTE Policies N1.1, N1.2, N1.5, N1.8, and N3.2. The proposed project is consistent with the Housing Element criteria of sites suitable for new housing development. The proposed project would be consistent with the C-10 zoning requirements upon the approval of a CUP. The height of the building, approximately 43 feet, would be consistent with the City's Planning Code. The building's front and rear yard setbacks are approximately 15 feet, which is consistent with the City's Planning Code. The side yard setback is approximately 5 feet at the request of the adjacent neighbors. The proposed project would exceed the public open space requirements for the C-10 zone and meet the public open space demand for

the residential portion of the project. The proposed project would also landscape the west boundary of the site with trees and shrubs to create a visual buffer between the adjacent residential use. The design of the proposed project would be required to comply with the City's design standards and surrounding streetscape, as specified by the Planning Code and City's design review process. As such, potential conflicts with any land use plan, policy, regulation, or adjacent land use would be less than significant with implementation of the proposed project.

- d) There are currently no approved Habitat Conservation Plans or Natural Community Conservation Plans applicable to the project site, or its immediate surroundings. The proposed project would therefore not conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan. No impact would occur.

The LUTE EIR determined impacts related to land use and planning would be less than significant, with implementation of mitigation measures. These mitigation measures pertain to the City establishing design requirements and performance-based zoning regulations for large-scale commercial and industrial development, and live/work housing to ensure such development is compatible with surrounding land uses and adequate buffers are provided between such uses and residential uses. These previously identified LUTE EIR mitigation measures would not apply to the proposed project since these mitigation measures are to be carried out by the City and not project applicants.

The 2010 Housing Element and Addendum determined impacts related to land use and planning would be less than significant with incorporation of SCAs. The proposed project would be required to comply with the City's General Administrative Conditions, as outlined in their SCAs. The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the Applicant would comply with **SCA LAND-2 (#3)**: Compliance with Other Requirements, and **SCA LAND-3 (#5)**: Compliance with Conditions of Approval, and incorporate the applicable local, state, and federal regulations, and the City's SCAs into the project.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to land use and planning. Furthermore, as discussed in Attachment B, the proposed project would be consistent with the General Plan LUTE Policies, criteria for new housing development established under the Housing Element, and the C-10 zoning requirements upon approval of a CUP.

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7.11 MINERAL RESOURCES

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR, 2010 Housing Element EIR, and 2014 Addendum

The LUTE EIR, 2010 Housing Element EIR, and 2014 Addendum determined future development would have no impact on any known mineral resources of local importance, value to the region or residents of the State, or locally-important mineral resource recovery sites within the City of Oakland (City of Oakland 1998, City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a, b) The project site is in a highly-urbanized area of North Oakland and does not contain any known mineral resources of value or identified as a locally-important mineral resource recovery site in the City. Therefore, development of the proposed project would have no impact on mineral resources of local or regional importance, or locally-important mineral resource recovery sites.

The Prior EIRs and Addendum determined no impacts would occur to mineral resources. The Prior EIRs and Addendum did not identify any mitigation measures or SCAs related to minerals, and none would be required for the proposed project. The project's minerals impacts would result in an equal or a less severe impact than previously identified in the Program EIRs.

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7.12 NOISE

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code section 17.120.050) regarding construction noise, except if an acoustical analysis is performed that identifies recommended measures to reduce potential impacts? During the hours of 7 p.m. to 7 a.m. on weekdays and 8 p.m. to 9 a.m. on weekends and federal holidays, noise levels received by any land use from construction or demolition shall not exceed the applicable nighttime operational noise level standard?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Generate noise in violation of the City of Oakland nuisance standards (Oakland Municipal Code section 8.18.020) regarding persistent construction-related noise?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code section 17.120.050) regarding operational noise?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Generate noise resulting in a 5 dBA permanent increase in ambient noise levels in the project vicinity above levels existing without the project; or, if under a cumulative scenario where the cumulative increase results in a 5 dBA permanent increase in ambient noise levels in the project vicinity without the project (i.e., the cumulative condition including the project compared to the existing conditions) and a 3 dBA permanent increase is attributable to the project (i.e., the cumulative condition including the project compared to the cumulative baseline condition without the project) [NOTE: Outside of a laboratory, a 3 dBA change is considered a just-perceivable difference. Therefore, 3 dBA is used to determine if the project-related noise increases are cumulative considerable. Project-related noise should include both vehicle trips and project operations.]?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Expose persons to interior Ldn or CNEL greater than 45 dBA for multi-family dwellings, hotels, motels, dormitories and long-term care facilities (and may be extended by local legislative action to include single-family dwellings) per California Noise Insulation Standards (CCR Part 2, Title 24)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Expose the project to community noise in conflict with the land use compatibility guidelines of the Oakland General Plan after incorporation of all applicable Standard Conditions of Approval?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
g) Expose persons to or generate noise levels in excess of applicable standards established by a regulatory agency (e.g., occupational noise standards of the Occupational Safety and Health Administration [OSHA])?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) During either project construction or project operation expose persons to or generate groundborne vibration that exceeds the criteria established by the Federal Transit Administration (FTA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Be located within an airport land use plan and would expose people residing or working in the project area to excessive noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Be located within the vicinity of a private airstrip, and would expose people residing or working in the project area to excessive noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined impacts related to General Plan map changes to allow a mix of commercial and residential uses would be less than significant with adherence to the following General Plan policies and mitigation measures: Policy I/C4.1, Policy I/C4.2, Policy N1.5, Mitigation Measure L.3a, Mitigation Measure L.3b, and Mitigation Measure L.4. Mitigation Measure L.3a calls for establishing buffers between residential uses and large-scale commercial development. Mitigation Measure L.3b calls for rezoning to consider compatible land uses, specifically mixed residential and non-residential neighborhoods. Mitigation Measure L.4 calls for high density residential developments adjacent to low density residential developments to be designed in a manner that minimizes potential noise impacts.

The LUTE EIR identified General Plan map changes to allow live-work and other forms of housing in transitional industrial areas could result in future noise compatibility problems. The LUTE EIR determined such impacts would be less than significant with the implementation of Mitigation Measure L.5a, Mitigation Measure L.5b, Mitigation Measure L.5c, and Mitigation Measure L.5d. Mitigation Measure L.5a pertains to the city establishing distinct definitions of live/work operations and defining appropriate locations for such uses. Mitigation Measure L.5b pertains to eliminating residential zoning within predominantly industrial areas. Mitigation Measure L.5c pertains to establishing performance-based standards for noise, odors, light/glare, and traffic volumes for industrial activities located near residential or commercial areas. Mitigation Measure L.5d pertains to developing performance zoning regulations that permit industrial and commercial uses based on their compatibility with adjacent land uses.

The LUTE EIR identified implementation of the LUTE could result in future transportation improvements that could create aggravate noise compatibility problems with sensitive receptors. The LUTE EIR determined such noise impacts would be less than significant with implementation of

Mitigation Measure L.7. Mitigation Measure L.7 calls for future transit improvements to be designed sufficiently to estimate noise levels along streets.

The LUTE EIR determined construction noise impacts in the Downtown Showcase District and Coliseum Showcase District would be significant and unavoidable (City of Oakland 1998).

Due to the nature of the proposed project, Mitigation Measure L.3a, Mitigation Measure L.3b, Mitigation Measure L.4, Mitigation Measure L.5a, Mitigation Measure L.5b, Mitigation Measure L.5c, Mitigation Measure L.5d, and Mitigation Measure L.7 are not applicable, as discussed below. Full descriptions of these mitigation measures are provided in Attachment D.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with Policies 1, 2, and 3 of the Noise Element; Policies N3.9, N5.2, and N11.4 of the LUTE Element; Chapter 17 of the City's Municipal Code; and City SCA 28 (currently SCA #63) for construction work hours, SCA 29 (currently SCA #64) to implement noise control reduction measures, SCA 30 (currently SCA #67) for tracking noise complaints pertaining to construction noise, SCA 31 (currently SCA #68) to comply with the City's interior noise requirements, SCA 32 (currently SCA #69) to comply with the City's operational noise performance standards, SCA 38 (currently SCA #70) to reduce groundborne vibration, SCA 39 (currently SCA #65) to reduce extreme noise generating from construction impacts, and SCA 57 (currently SCA #71) to reduce vibrations on adjacent historic structures would ensure development under the Housing Element would have a less than significant impact related to noise (City of Oakland 2010b, City of Oakland 2014).

Project Analysis and Conclusion

To evaluate the proposed project's potential construction and operation noise impacts, a Noise Technical Report was prepared by Stantec (Attachment G). In addition, Stantec conducted noise monitoring at five locations in November 2017, to determine existing ambient noise conditions. Noise levels were measured over a time interval of 15 minutes. The results from the noise monitoring are summarized in Table 7.12-1.

Table 7.12-1: Existing Noise Levels

Monitoring Location	Approximate Distance from Project Site Boundary (feet)	Daytime Leq (dBA)	Nighttime Leq (dBA)	Ldn (dBA)
Location 1	93	69	66	73
Location 2	< 5	68	65	72
Location 3	47	61	58	65
Location 4	Onsite	55	55	61
Location 5	111	52	51	58

Evaluation of the Environmental Impacts

Monitoring Location	Approximate Distance from Project Site Boundary (feet)	Daytime Leq (dBA)	Nighttime Leq (dBA)	Ldn (dBA)
Notes: Leq: total sound level during 8 hours. Ldn: Day-night sound level. Noise measured over a 24-hour period, with a 10-dB penalty added to the levels between 11:00 p.m. and 7:00 a.m.				

a, b) Construction activities for the proposed project are expected to occur over a 12-month period. Construction activities would include demolition of the on-site brick building, excavation, and construction of the new building. There is nothing unique or peculiar about the project’s construction activities that would substantially increase the level of significance of construction noise impacts over those identified in the Prior EIRs or result in new significant construction noise impacts not previously identified. The proposed project does not propose to use pile-driving. However, as discussed in Attachment G, construction-generated noise could temporarily expose sensitive receptors to noise levels in excess of the City’s Noise Ordinance Standards. In accordance with **SCA NOI-1 (#66)**: Project Specific Construction Noise Reduction Measures, a draft construction noise reduction memo has been prepared for the proposed project (Attachment H). As shown in Table 13 of Attachment G, estimated noise levels at the nearest sensitive receptors are not expected to exceed 90 dB(A) (e.g., “extreme noise” levels per the SCAs). Therefore, the Applicant and its contracting team would incorporate site-specific measures consistent with those cited in the SCAs to ensure construction noise is minimized to the greatest extent feasible at the closest receptors. These SCAs would include the following: **SCA NOI-2 (#63)**: Construction Days/Hours, to limit the days and hours of construction; **SCA NOI-3 (#64)**: Construction Noise, to implement noise reduction measures; **SCA NOI-4 (#65)**: Extreme Construction Noise, to extreme construction noise; and **SCA NOI-5 (#67)**: Construction Noise Complaints, to provide measures to respond to and track construction noise complaints (if any). As such, impacts related to construction noise would be less than significant.

c, d) Long-term operation of the proposed project would generate an increase in traffic volumes on the local roadways within the project vicinity. As Shown in Table 7.12-1, the existing conditions currently range from 58 to 73 dB Ldn (day-night sound level), which is considered “conditionally acceptable” for mixed-use developments by the City’s General Plan (City of Oakland 2005). As discussed in the Traffic Memo (Attachment I) prepared for this project, the proposed project would generate approximately 197 additional vehicle trips per day. The additional vehicle trips generated by the proposed project would not substantially increase the noise levels on the already busy, urban streets. Estimated noise levels resulting from the development of the proposed project would change slightly from existing conditions and are expected to increase as a result of typical residential and commercial uses, such as, landscape maintenance, waste collection, and people congregating and talking at the community gathering areas. It is not anticipated that the existing noise level would increase more than 3 dB, which is typically indistinguishable to the human ear. This would be considered an insignificant increase in noise levels and

would not be considered a significant impact. The proposed project would also be required to implement **SCA NOI-6 (#69)**: Operational Noise, which requires all operational noise to comply with the performance standards of Chapter 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. Compliance with **SCA NOI-6 (#69)** would ensure the proposed project would not violate the City of Oakland operational noise standards and would not contribute to a cumulative impact. Impacts related to operation noise would be less than significant impact.

- e, f) As shown in Table 7.12-1, ambient noise levels at the project site range from (58 to 73 dB Ldn). This range is considered "conditionally acceptable" for mixed-use developments in accordance with the City's General Plan and land use compatibility guidelines (City of Oakland 2005). The proposed project would be required to comply with **SCA NOI-7 (#68)**: Exposure to Community Noise, and incorporate noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve acceptable interior noise levels to the maximum extent practicable. Future occupants of the proposed project would not be exposed to unacceptable interior noise levels. The design of the proposed project would be in accordance with the City's land use compatibility guidelines, and therefore impacts would be less than significant with implementation of **SCA NOI-7 (#68)**.
- g) The construction and operation of the proposed project would not result in noise levels, which exceed applicable standards established by a regulatory agency. The proposed project would be required to comply with City **SCA NOI-1(#66)**, **SCA NOI-2 (#63)**, **SCA NOI-3 (#64)**, **SCA NOI-4 (#65)**, **SCA NOI-5 (#67)**, **SCA NOI-6 (#69)**, and **SCA NOI-7 (#68)**. Compliance with these SCAs would reduce potential noise impacts from project construction and operation activities and would not expose sensitive receptors to excessive noise levels. The proposed project would comply with the applicable regulatory agency standards, and construction and operation noise impacts would be less than significant.
- h) During construction of the proposed project, equipment such as cranes, excavators, graders, loaders, and backhoes may be used as close as 25 feet from the nearest sensitive receptor. The proximity of the project site to sensitive receptors, and the types of construction equipment that would be used as part of the proposed project, are similar to other projects in urban areas. Because the project site and its vicinity are part of an established, urbanized area, periodic exposure to construction-related noise and vibration are part of the existing conditions. There are no historic buildings within the vicinity of the proposed project, which would be exposed to vibration impacts from the proposed project, and the project site is not located adjacent to an active rail line. As shown in Table 14 of Attachment G, construction equipment used during project construction would generate vibration levels between 0.003 and 0.089 peak particle velocity (PPV), as measured at a distance of 25 feet from the operating machinery. The groundbourne vibration levels are below the Federal Transit Authority vibration threshold at which human annoyance would occur (0.1 PPV). Therefore, impacts related to groundbourne vibration would be less than significant.

- i, j) The proposed project is not located within an airport land use planning area. The project site is approximately 1 mile north of the Oakland Children's Hospital Heliport. The proposed project is located within an urban area that is substantially built out and already exposed to noise from aircraft operation. The existing ambient noise levels at the project site range from 58 to 73 dB Ldn, which is considered "conditionally acceptable" for mixed-use developments by the City's General Plan. As such, the proposed project would not expose people working in the project area to excess noise levels, or conflict with an airport land use plan. Impacts pertaining to aircraft noise would be less than significant.

The Prior EIRs and Addendum determined noise impacts would be less than significant with incorporation of mitigation measures and SCAs. As discussed above, the proposed project would result in a less than significant impact related to land use compatibility. Therefore, previously identified LUTE EIR Mitigation Measure L.3a, Mitigation Measure L.3b, Mitigation Measure L.4, Mitigation Measure L.5a, Mitigation Measure L.5b, Mitigation Measure L.5c, Mitigation Measure L.5d, and Mitigation Measure L.7 are not applicable to the proposed project.

The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the proposed project would be required to comply with City **SCA NOI-1 (#66), SCA NOI-2 (#63), SCA NOI-3 (#64), SCA NOI-4 (#65), SCA NOI-5 (#67), SCA NOI-6 (#69), and SCA NOI-7 (#68)**. In addition to these SCAs, the Housing Element EIR and Addendum identified SCA 38 (currently SCA #70) and SCA 57 (currently SCA #71) to reduce potential noise impacts. However, these SCAs would not be applicable to the proposed project. As discussed above, the proposed project would not result in a significant impact related to vibration. Furthermore, there are no historic structures adjacent to the project site that would be impacted by vibration; City SCA #70 and SCA #71 would not be applicable to the proposed project.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to noise.

7.13 POPULATION AND HOUSING

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure) such that additional infrastructure is required but the impacts of such were not previously considered or analyzed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere in excess of that contained in the City's Housing Element?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people necessitating the construction of replacement housing elsewhere in excess of that contained in the City's Housing Element?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR, 2010 Housing Element EIR, and 2014 Addendum

The LUTE EIR, 2010 Housing Element EIR, and 2014 Addendum determined impacts associated with population and housing would be less than significant. No mitigation measures or City SCAs were identified by the Prior EIRs and Addendum (City of Oakland 1998; City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a) The proposed project would construct a new mixed-use building with 18 residential units and approximately 1,975 square feet of retail space. The existing brick structure that was formerly an auto service center and is currently abandoned would be demolished to accommodate the project. Therefore, the proposed project would result in a net increase of 18 housing units and 1,975 square feet of commercial use (approximately 38 residents and 20 employees)² in the City. The 18 housing units would assist the city in meeting its housing demand. The 20 employees estimated for the commercial space would be reasonably expected to be drawn from the local pool and would not induce population growth. Employment during the construction phase would not result in construction workers relocating their place of residence. Additionally, the proposed project is located adjacent to existing development and would not require new services, roads, or utilities

² The Housing Element EIR assumed approximately 1.87 residents per dwelling unit. Jobs are calculated using the USGBC generation rate of 100 square feet per employee (USGBC 2008).

that might induce growth. Implementation of the proposed project would have no impact related to project-induced population growth.

- b, c) The project site is currently occupied by an abandoned brick structure that was a former auto service center. The structure is inhabitable and would be demolished. Therefore, the proposed project would not result in a substantial decrease in the number of housing units that would necessitate the construction of replacement housing elsewhere. Furthermore, the proposed project would not displace any existing population, which would require the construction of replacement housing. The project would be required to pay the affordable housing impact fee (**SCA POP-1 [#73]**). No impact would occur.

As discussed above, the proposed project would result in an equal or a less severe impact than previously identified in the Prior EIRs and Addendum. The Prior EIRs and Addendum did not identify any mitigation measures or SCAs related to population and housing, and none would be required for the proposed project.

7.14 PUBLIC SERVICES

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:			
• Fire protection?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Police protection?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Schools?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Other public facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR concluded that development consistent with the LUTE would result in higher levels of population and employment, thereby increasing the demand for police services, fire protection services, schools, and other public services. The LUTE EIR determined these impacts would be less than significant with the incorporation of the following policies from the LUTE: N13.1, N2.2, N7.2, N13.5, and T3.8. Additionally, the LUTE EIR identified 18 mitigation measures, related fire and police protection services, schools, and other public facilities, to further reduce potential impacts should such impacts not be reduced to a less than significant level with the adherence to the identified LUTE policies. Implementation of these 18 mitigation measures call for the City to implement specific parameters for the review and development of additional public services, such as fire, police and school facilities. These mitigation measures are to be carried out by the City not project applicants, and therefore are not applicable to the proposed project (City of Oakland 1998). Full descriptions of these 18 previously identified mitigation measures are provided in Attachment D.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined impacts associated with public services would be less than significant. The Housing Element EIR determined all new development pursuant the Housing Element would be required to comply with General Plan policies, Municipal Code regulations, mitigation measures adopted by the LUTE, and SCA 4 (currently SCA #3) for complying with other applicable federal, state, regional, and local requirements, SCA 61 (currently SCA #44) for site review by the Fire Services Division , SCA 71 (currently SCA #46) for a

fire safety phasing plan, and SCA 73 (currently SCA #47) for ensuring project construction equipment is fitted with spark arrestors (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

The nearest fire station to the project site is Oakland Fire Department Station No. 19, approximately 1.5 miles southeast. According to Action FI-1.2 of the City's Safety Element, the City's fire and emergency service standard is to respond to fires and other emergencies within seven minutes of notification 90 percent of the time, and can generally provide this service in that timeframe to areas within 1.5 miles of a fire station (City of Oakland 2009). The Oakland Police Department is located at 455 7th Street, approximately 4 miles south of the project site. The Oakland Police Department does not set a standard ratio of sworn police officers to residents. The Oakland Police Department aims to respond to Priority 1 calls within five minutes. There are no set goals for priority 1, 2, 3, or 4 calls, and performance is not tracked (City of Oakland 2009). The Oakland Police Department Strategic Plan (2016) determined that the department is understaffed, and staffing was budgeted to increase to 777 officers in July 2016.

The proposed project would develop 18 residential units and 1,975 square feet of ground floor commercial space, thereby, adding a population of approximately 38 residents and 20 employees. The project site is within the service area of Oakland Fire Department Station No. 19 and onsite construction would comply with applicable Fire Code requirements to reduce the need for fire services. The proposed project would also incorporate safety features, such as nighttime lighting and secured parking, to reduce the need for police services. In addition, the proposed project would be required to adhere to General Plan Policies N.12.1, N.12.2, N.12.5, FI-1, and FI-2, which would reduce potential impacts to less than significant levels. Under the Prior EIRs, a student generation rate of 0.364 students per household was applied to future residential units, based on the Oakland Unified School District (OUSD) Developer Impact Fee Justification Study (City of Oakland 2009). The Justification Study was updated in December 2016, and revised the OUSD student generation rate to 0.274 students per household (OUSD 2016). Based on the OUSD student generation rate of 0.274 students per household, the proposed project would increase student enrollment by a total of five students. Pursuant to Senate Bill (SB) 50, the Applicant would be required to pay school impact fees, which are established to offset potential impacts from new residential development on school facilities. Payment of development impact fees is considered full mitigation. Therefore, impacts on school facilities from the proposed project would be less than significant.

The proposed project would comply with **SCA PUB-1(#74)**: Capital Improvements Impact Fee and **SCA TRA-3 (#81)**: Transportation Impact Fee, and pay the City's Transportation and Capital Improvements Impact fee. The City's Transportation and Capital Improvements Impact fee is required for new housing units and new nonresidential projects in accordance with Chapter 15.74 of the City's Municipal Code

The Prior EIRs and Addendum determined impacts related to public services would be less than significant with incorporation of mitigation measures and SCAs. The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and

Addendum, and have been found to be equivalent or more stringent. The Housing Element EIR and Addendum identified the following SCAs to reduce potential impacts related to public services: SCA 4 (currently SCA #15), SCA 61 (currently SCA #44), SCA 71 (currently SCA #46), and SCA 73 (currently SCA #47).

As discussed in Section 7.8, Hazards and Hazardous Materials, the proposed project would comply with SCA 71 (currently **SCA HAZ-2 [#44]**) and provide all necessary documentation to the City showing that remedial action has been completed for the site, and that it is suitable for residential and commercial use. The Applicant would also comply with SCA 4 (currently **SCA HAZ-3 [#15]**), which requires the development of the project to comply with applicable local, state, and federal regulations, and the City SCAs. As discussed in Section 7.8, Hazards and Hazardous Materials, SCA 71 (currently SCA #46) and SCA 73 (currently SCA #47) do not apply to the proposed project because the project site is within 150 feet of a fire hydrant and not located within the Oakland Wildlife Prevention District.

The previously identified LUTE EIR mitigation measures would not be applicable to the proposed project since these mitigation measures are to be carried out by the City and not project applicants. If there is any increase in the need for fire or police protection facilities, the proposed project would be required to adhere to General Plan Policies N.12.1, N.12.2, and N.12.5, FI-1, and FI-2, which would minimize potential impacts to less than significant levels. The proposed project would also be required to comply with **SCA PUB-1(#74)** and **SCA TRA-3(#81)** and pay the City's Capital Improvement Impact Fees, which has recently been adopted by the City Council for this purpose.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to public services that were not identified in the Prior EIRs and Addendum.

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7.15 RECREATION

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial Increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have a substantial adverse physical effect on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR determined impacts associated with recreation would be less than significant with adherence to the following existing policies outlined in the City's OSCAR Element: Policy REC-3.1, Policy REC-3.2, Policy REC-3.3, Policy REC-4.1, Policy REC-6.1, Policy REC-6.2, Policy REC-6.3, Policy REC-7.1, Policy REC-10.1, Policy REC-10.2, and Policy OS-2.5. The LUTE EIR did not identify any mitigation measures related to parks or recreation facilities (City of Oakland 1998).

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with policies from the City General Plan OSCAR Element Policies REC-3.1, REC-6.2, REC-10.2, REC-10.4, OS-4.1, and OS-4.2, and Title 16 and Title 17 from the City's Municipal Code would ensure development provides adequate on-site open space areas for residents, and impacts related to recreation would be less than significant (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

- a, b) The proposed project would provide approximately 1,583 square feet of public open space for the residential portion of the project, which would consist of a 682 square feet rooftop communal courtyard, and 901 square feet of communal courtyard on the podium level. The proposed project would also provide approximately 3,146 square feet of private open space for the residential portion of the project, which would consist of 233 square feet of private patio space on the second floor and 1,340 square feet of private patio space on the fourth floor. The proposed project would provide approximately 4,759 square feet of usable open space total, which exceeds the required 3,600 square feet total of usable open space for the C-10 zone.

The proposed project would likely increase the use of local parks and open space. However, since the proposed project would generate a limited number of potential users

Evaluation of the Environmental Impacts

and would exceed the requirement for on-site open space, it is not anticipated that the proposed project would result in significant impacts to recreation facilities or require the construction or expansion of recreational facilities. The proposed project would exceed the recreational demands associated with development of the residential units, and therefore impacts related to recreation would be less than significant.

Based on an examination of the analysis, findings, and conclusions in the Prior EIRs and Addendum, the proposed project would not substantially increase the severity of any significant impacts related to recreation, nor would it result in new significant impacts related to recreation that were not identified in the Prior EIRs or Addendum. Neither the Prior EIRs or Addendum identified any mitigation measures or SCAs related to recreation, and none would be required for the proposed project.

7.16 TRAFFIC AND TRANSPORTATION

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Conflict with a plan, ordinance, or policy addressing the safety or performance of the circulation system, including transit, roadways, bicycle, and pedestrian facilities (except for automobile level of service or other measures of vehicle delay)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause substantial additional vehicle miles traveled (per capita, per service population, or other appropriate efficiency measure)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially induce additional automobile travel by increasing physical roadway capacity in congested areas or by adding new roadways to the network.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR identified implementation of the LUTE would degrade the LOS on several roadway segments. None of the roadway segments identified by the LUTE EIR are within the vicinity of the proposed project. The LUTE EIR determined this impact would remain significant and unavoidable.

The LUTE EIR identified projects in the Coliseum Showcase District would result in the degradation of intersection levels of services. The LUTE EIR determined this impact would be less than significant with implementation of previously identified Mitigation Measure B.4a, Mitigation Measure B.4b, Mitigation Measure B.4c, and Mitigation Measure B.4d. These mitigation measures call for the installation of a traffic signal at the intersection of 66th Avenue and I-880 southbound and northbound ramps, installation of a traffic signal at the intersection of 66th Avenue and Oakport Street, and to widen the northbound approach at the High Street and Coliseum Way intersection.

The LUTE EIR identified development of Downtown Showcase District projects would result in degradation of intersection levels of service. The LUTE EIR determined this impact would be less than significant with implementation of Mitigation Measure B.3. Mitigation Measure B.3 calls for the intersection of 12th Street and Brush Street cycle length to be increased to 120 seconds (City of Oakland 1998).

Evaluation of the Environmental Impacts

The proposed project is not located within either the City's Downtown Showcase District or Coliseum Showcase District. Therefore, previously identified LUTE EIR Mitigation Measure B.3 Mitigation Measure B.4a, Mitigation Measure B.4b, Mitigation Measure B.4c, and Mitigation Measure B.4d are not applicable to the proposed project. Full descriptions of these mitigation measures are provided in Attachment D.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with General Plan Policies T2, T2.2, T2.3, T2.4, T.25, T.26, T3.5, T4.1 in the LUTE Element; SCA 25 (currently SCA #80) to prepare a Transportation Demand Management plan, SCA 33 (currently SCA #13) to prepare a Construction Management plan, and SCA 92 (currently SCA #82) to pay impact fees for future traffic demand in southeast Oakland; and Municipal Code Chapter 17.116 would ensure development under the Housing Element would comply with federal, State, and local laws regarding transportation impacts. Compliance with these policies and SCAs would ensure impacts related to pedestrian and bicycle facilities, traffic impacts during construction, and emergency access routes would be less than significant.

The Housing Element EIR also determined development under the Housing Element would result in significant and unavoidable impacts related to level of service on several roadway segments, and contribution of traffic to roadway segments that would operate at an unacceptable level of service (LOS) without future development. The Housing Element EIR determined significant and unavoidable impacts would result in significant cumulative impacts. The Housing Element EIR would incorporate Mitigation Measure TR-1.1 and TR-1.2 to reduce cumulative impacts. Mitigation Measure TR-1.1 calls for the preparation of a Traffic Impact Study for residential projects that may impact roadway segment or intersection. Incorporation of Mitigation Measure TR-1.2 is dependent on the results of the Traffic Impact Study. Mitigation Measure TR-1.2 calls for the incorporation of feasible measures that would reduce impacts to congested roadway segments and intersections. However, the Housing Element EIR determined even with the incorporation of Mitigation Measure TR-1.1 and TR-1.2 cumulative impacts would remain significant and unavoidable (City of Oakland 2010b, City of Oakland 2014).

Project Analysis and Conclusion

- a) The proposed project is consistent with applicable plans, ordinances, and policies, and would not cause a significant impact by conflicting with adopted plans, ordinances, or policies addressing the safety and performance of the circulation system, including transit, roadways, bicycle lanes, and pedestrian paths. The project site is located within a half mile of the Ashby BART station and is served by AC Transit. The proposed project would encourage the use of non-automobile transportation modes such as public transit, bicycling, and walking. In addition, the proposed project would provide on-site commercial uses, which are within walking distance to the surrounding neighborhood. The proposed project would be consistent with the City's Bicycle Master Plan and Pedestrian Master Plan and would provide on-site bicycle storage facilities in accordance with the City's Bicycle Parking requirements and City **SCA TRA-1 (#78)**: Bicycle Parking. The proposed project would be consistent with the City's Planning Code and would meet the

property development standards and code requirements for driveway width and vehicle parking. Therefore, the proposed project would not conflict with City plans, ordinances, or policies. No impact would occur.

- b) A preliminary traffic evaluation memo was prepared for the proposed project by Stantec (Attachment I). Table 7.16-1 shows the estimated net new trips generated by the proposed project. As shown in the table, the proposed project would generate approximately 16 vehicle trips on a typical weekday during the a.m. peak hour, with 7 inbound trips and 9 outbound trips. The proposed project is expected to generate approximately 16 p.m. peak hour trips, including 11 inbound trips and 5 outbound trips during the p.m. peak hour. Because the proposed project would not generate 50 new peak hour vehicle trips, its impacts would be considered less than significant, and a Transportation Impact Assessment would not be required per the City's SCAs.

Table 7.16-1: Project Trip Generation

Land Use (ITE Code)	Units ¹	ITE Code	Rate	Daily	A.M. Peak Hour				P.M. Peak Hour			
					Rate	In	Out	Total	Rate	In	Out	Total
Apartments (220)	18 DU	220 ²	6.65	120	0.50	2	7	9	.62	8	4	12
Restaurant (932)	1.975 KSF	932 ³	127.15	252	10.81	1 2	10	22	9.85	12	8	20
<i>Subtotal</i>				372		1 4	17	31		20	12	32
Non-Auto Reduction (46.9) ⁴				-175		-7	-8	-15		-10	-6	-16
Net New Project Trips				197		7	9	16		11	5	16

Source: Institute of Transportation Engineers (ITE) Trip Generation, 9th Edition, 2012; City of Oakland Transportation Impact Study Guidelines, 2017.

Notes:

1. DU = Dwelling Units, KSF = 1,000 square feet.
2. ITE Trip Generation (9th Edition) land use category 220 (Apartment):
 Daily: $T = 6.65 * (X)$
 AM Peak Hour: $T = 0.51 * (X)$ (20% in, 80% out) PM Peak Hour: $T = 0.62 * (X)$ (65% in, 35% out)
3. ITE Trip Generation (9th Edition) land use category 932 (High-Turnover (Sit-Down) Restaurant): Daily: $T = 127.15 * (X)$
 AM Peak Hour: $T = 10.81 * (X)$ (55% in, 45% out)
 PM Peak Hour: $T = 9.85 * (X)$ (60% in, 40% out)
4. Reduction of 46.9% assumed based on City of Oakland Transportation Impact Study Guidelines data for development in an urban environment with a distance less than 0.5 mile of a BART Station.

Vehicle Miles Traveled Analysis

As discussed in Attachment I, the City recently adopted new thresholds of significance and Transportation Impact Study Guidelines related to transportation impacts, "in order to implement the directive from California SB 743 to modify local environmental review process by removing automobile delay, as described solely by LOS or similar measures of vehicular capacity or traffic congestion, as a significant impact on the environment pursuant to CEQA." The new thresholds replace LOS with criteria for VMT to determine whether a project causes a significant impact on the environment related to transportation.

The City provides initial screening criteria for assessing the potential significance of impacts from VMT for land use development projects based on project size, project location related to a low-VMT area, and project location related to transit stations. If the project meets any one of the screening criteria, its impacts on transportation are presumed to be less than significant and a detailed VMT analysis is not required. The screening guidelines are as follows, accompanied by the applicability of each criterion to the proposed project:

1. **Presumption of Less Than Significant Impact for Small Projects:** Absent substantial evidence indicating that a project would generate a potentially significant level of vehicle miles traveled, projects that generate fewer than 100 vehicle trips per day generally may be assumed to cause a less-than-significant transportation impact.

Project: The proposed project would generate more than 100 vehicle trips per day (see Table 7.16-1 above), so it does not meet the presumption of less than significant impacts based on project size.

2. **Presumption of Less Than Significant Impact for Residential, Retail, and/or Office Projects in Low-VMT Areas:** The proposed project meets map-based screening criteria by being located in an area that exhibits below threshold VMT, or 15 percent or more below the regional average. Residential, retail, and office projects that locate in areas with low VMT, and that incorporate similar features (e.g., density, mix of uses, transit accessibility) will tend to exhibit similarly low VMT. Therefore, maps illustrating areas that exhibit below threshold VMT should be used to screen out residential, office, and retail projects which may not require a detailed VMT analysis.

Project: Based on the Metropolitan Transportation Commission’s map of VMT by Transit Area Zones (TAZ), the proposed project is in TAZ 1001, which has a per capita VMT of 9.5, which is 36 percent lower than the Plan Bay Area regional average of 14.9 for 2020. The per employee VMT for TAZ 1001 is 20.8, which is 10 percent below the regional average of 23.2 for 2020 (Table 7.16-2). Based on the per employee VMT for TAZ 1001, the proposed project does not meet the presumption of less than significant impacts based on VMT.

Table 7.16-2: VMT Analysis

Commuter	Bay Area		TAZ 1001
	Regional Average	Regional Average minus 15%	
Commercial (workers)	23.2	19.7	20.8
Residential (Per Capita)	14.9	12.6	9.5

3. **Presumption of Less Than Significant Impact Near Transit Stations:** Presume that residential, retail, and office projects, as well as mixed-use projects which are a mix of these uses, proposed within 0.5 mile of an existing major transit stop or an existing stop along a high-quality transit corridor will have a less than significant impact on VMT. This presumption

would not apply; however, if project-specific or location-specific information indicates that the project will still generate significant levels of VMT.

Project: The project site is located within approximately 0.25 miles from the Ashby BART Station and AC Transit Line 6. There is no project-specific or location-specific information which indicates that the proposed project would generate significant levels of VMT. Therefore, its transportation impacts are presumed less than significant and detailed VMT analysis is not required.

The proposed project meets screening criteria #3 for VMT; therefore, it is reasonable to conclude that the project impact on VMT would be less than significant.

- c) The proposed project would not add any new roadways in the area or incorporate new design features which could result in traffic hazards to motor vehicles, bicycles, or pedestrians. As discussed above, the proposed project would comply with the City's established VMT threshold criteria and would not substantially induce vehicle travel in the project area. The proposed project would have a less than significant impact on the capacity of the surrounding roadway network.

Additionally, independent of CEQA, all projects within the City of Oakland are required to comply with City **SCA TRA-2 (#77): Construction Activity in the Public ROW**. City **SCA TRA-2 (#77)** requires Applicants to obtain an Obstruction Permit from the City prior to placing any temporary construction-related obstruction in the public ROW (including City streets and sidewalks), submit a Traffic Control Plan to the City, and repair any damage to the public ROW, including streets and sidewalks caused by project construction. During construction, the proposed project would be required to comply with **SCA TRA-2 (#77)** to reduce project construction activity impacts in the public ROW.

The Prior EIRs and Addendum determined traffic and transportation impacts would be less than significant with implementation of mitigation measures and City SCAs. As discussed above, the previously identified LUTE EIR Mitigation Measure B.3 Mitigation Measure B.4a, Mitigation Measure B.4b, Mitigation Measure B.4c, and Mitigation Measure B.4d are not applicable to the proposed project because the project site is not within either the Coliseum Showcase District or Downtown Showcase District. The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. Therefore, the proposed project would be required to comply with City **SCA TRA-1 (#78)** and **SCA TRA-2 (#77)**. The proposed project would also comply with City **SCA TRA-3 (#81): Transportation Impact Fee**, per City of Oakland Municipal Code Chapter 15.74, and **SCA TRA-4 (#84): Plug-In Electric Vehicle Charging Infrastructure**, and provide a public charging station for each residential unit next to their parking spot on the ground floor.

In addition, the Housing Element EIR and Addendum identified the following SCAs to reduce potential impacts related to traffic: SCA 25 (currently SCA #80), SCA 33 (currently SCA #13), and SCA 92 (currently SCA #82). However, none of these previously identified SCAs would apply to the proposed project because the project would generate less than 50 new net peak hour vehicle

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trips, would construct less than 50 dwelling units and less than 50,000 square feet of nonresidential floor area, and because the project site is not located in the southeast Oakland Traffic Impact Fee Program Area.

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to transportation and traffic that were not identified in the Prior EIRs and Addendum.

7.17 UTILITIES AND SERVICE SYSTEMS

Would the Project:	Equal or Less Severity of Impact Previously Identified in Prior EIRs	Substantial increase in Severity of Previously Identified Significant Impact in Prior EIRs	New Significant Impact
a) Exceed wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Exceed water supplies available to serve the proposed project from existing entitlements and resources, and require or result in construction of water facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the providers' existing commitments and require or result in construction of new wastewater treatment facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs and require or result in construction of landfill facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Violate applicable federal, State, and local statutes and regulations related to solid waste?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Violate applicable federal, State, and local statutes and regulations relating to energy standards?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Result in a determination by the energy provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider' existing commitments and require or result in construction of new energy facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Previously Completed Environmental Analysis

LUTE EIR

The LUTE EIR identified that implementation of the LUTE would allow for the continued development of hill area subdivisions and additional development of vacant land in the Oakland Hills, which could increase stormwater drainage problems. The LUTE EIR determined that this impact would be less than significant with the incorporation of previously identified Mitigation Measure D.3-2a, Mitigation Measure D.3-2b, Mitigation Measure D.3-2c, and Mitigation Measure D.3-2d. These mitigation measures call for the City to review new development proposals within the Oakland Hills area to determine project water, wastewater, and storm drainage loads. Additionally, these mitigation measures call for the preparation of a comprehensive drainage study for the Oakland Hills area and identify additional drainage policies for the area in the City's Safety Element. Due to the nature of the proposed project, these mitigation measures are not applicable, as discussed below.

The LUTE EIR also found that new development consistent with the LUTE would increase the demand for solid waste services. The LUTE EIR determined that this impact would be less than significant with incorporation of Mitigation Measure D.4-1a, Mitigation Measure D.4-1b, and Mitigation Measure D.4-1c. These mitigation measures call for the City to continue to implement programs and incentives that reduce the amount of solid waste by encouraging recycling, composting, and other activities consistent with the City's Source Reduction and Recycling Element. These mitigation measures are now incorporated into the applicable City of Oakland SCAs and discussed below.

The LUTE EIR identified that development consistent with the LUTE would result in an increase in water demand, flows to the regional wastewater treatment plant, and an increase in stormwater runoff. The LUTE EIR determined these potential impacts would be less than significant.

The LUTE EIR identified that increased water demand and sanitary sewer flows would require localized improvements to the water delivery system and sewage collection systems. These increases could require the addition of new infrastructure. The LUTE EIR determined that these impacts would be less than significant with implementation of Mitigation Measure D.1-2 and Mitigation Measure D.2-2. Mitigation Measure D.1-2 and Mitigation Measure D.2-2 call for the review of new major development projects to determine projected water, wastewater, and storm drainage loads (City of Oakland 1998). Mitigation Measure D.2-2 are now incorporated into the applicable City of Oakland SCAs and discussed below.

Full descriptions of Mitigation Measure D.1-2, Mitigation Measure D.2-2, Mitigation Measure D.3-2a, Mitigation Measure D.3-2b, Mitigation Measure D.3-2c, Mitigation Measure D.3-2d, Mitigation Measure D.4-1a, Mitigation Measure D.4-1b, and Mitigation Measure D.4-1c are provided in Attachment D.

2010 Housing Element EIR and 2014 Addendum

The 2010 Housing Element EIR and 2014 Addendum determined compliance with General Plan Policies I/C1.9, T5.1, D4.1, N7.2, CO-1.1, CO-4.1, CO-4.2, CO-4.3, CO-4.4; LUTE EIR Mitigation Measures D.2-2, D.4-1a, D.4-1b, D.4-1c; and City SCA 91 (currently SCA #90 and SCA #91) to confirm capacity of the City's surrounding stormwater and sewer system, SCA 78 (currently SCA #52) for implementation of site design measures to reduce stormwater, SCA 80 (currently SCA #54) for preparation of a post-construction stormwater plan and maintenance agreement, and SCA 36 (currently SCA #85) for waste reduction and recycling would ensure impacts related to utilities and service systems are less than significant. The Housing Element EIR determined development under the Housing Element would have a less than significant impact related to utilities and service systems (City of Oakland 2009; City of Oakland 2014).

Project Analysis and Conclusion

a-i) Water Supply Facilities

Water supply is provided to the project site by EBMUD. As discussed in the Housing Element EIR, EBMUD has accounted for future water demand associated with City wide development and has planned for improvements to the City's water treatment system to improve system reliability and accommodate projected growth. Therefore, development under the Housing Element would not prompt the need to expand treatment facilities. Anticipated water consumption for the residential portion of the proposed project is approximately 90 gallons per unit per day (pers. Comm. A. Magganas, August 2017). Therefore, the total anticipated water consumption for the residential portion of the proposed project would be approximately 1,620 gallons per day (18 units x 90 gallons per day).

For the commercial portion of the proposed project, the anticipated water demand would range from approximately 691 to 1,975 gallons per day ([0.35 gallons per day x 1,975 square feet] and [1 gallons per day x 1,975 square feet]). This is considered a conservative estimate. It is expected the commercial portion of the project would be occupied by small café type uses; however, commercial tenants have not been identified at this time. Nonetheless, due to the overall square footage of the commercial space it is expected that the water demand for the commercial portion of the proposed project would not be significant. Furthermore, all plumbing fixtures would be low water use for the commercial and residential portions of the project.

Water supply facilities for the proposed project would connect to the existing City water main facilities to provide water to the project site. Anticipated water demand for the proposed project is consistent with the Housing Element and would be consistent with the density requirements of the City's Municipal Code through the approval of a CUP. Therefore, the proposed project would have a less than significant impact on existing water supplies and facilities.

Wastewater Facilities

The Housing Element EIR determined EBMUD has adequate wastewater treatment capacity to accommodate increased sewer generation in the project area and that development under the Housing Element would not require or result in the construction of new wastewater treatment facilities, or the expansion of existing treatment facilities. The proposed project would develop 18 residential units and approximately 1,975 square feet of ground floor commercial space. Sanitary sewer facilities for the proposed project would connect to existing facilities located in 65th Street, which ultimately connect to the sewer line in Adeline Street. Due to the size of the proposed project, wastewater generated at the project site would not be significant, and would not be required to submit a Sanitary Sewer Impact Analysis to the City for review because it would construct less than 50 residential units and less than 50,000 square feet of nonresidential floor area. The proposed project would be consistent with the Housing Element and would be consistent with the density requirements of the City's Municipal Code through the approval of a CUP. Wastewater generated by the proposed project would be subject to both primary and secondary treatment and would not violate the wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board. As such, the proposed project would have a less than significant impact on wastewater treatment facilities.

Stormwater Drainage

The proposed project would not substantially increase impervious surfaces due to the small project area size and previously disturbed nature of the site. The total site area is approximately 8,334 square feet. The total post-project impervious surface would be approximately 8,000 square feet. Stormwater runoff from the project site would be directed to landscaped areas, permeable pavement, and flow through planters prior to discharge to the existing gutter along 65th street and the city's stormwater drainage system. These project features would control the rate and amount of stormwater flow generated on the project site. The proposed project would also implement City **SCA HYD-2 (#52)**: Site Design Measures to Reduce Stormwater Runoff, **SCA HYD-3 (#53)**: Source Control Measures to Limit Stormwater Pollution, and **SCA HYD-4 (#55)**: NPDES C.3 Stormwater Requirements for Small Projects, to address potential impacts on stormwater drainage facilities. As such, impacts on stormwater drainage facilities would be less than significant with implementation of the proposed project.

Solid Waste and Recycling

Solid waste collection service at the project site is provided by Waste Management. Trash from the project site would be disposed of at the Altamont Landfill. The Prior EIRs and Addendum determined the Altamont Landfill has sufficient capacity to accommodate solid waste generated by new housing and commercial development. The Prior EIRs also determined that new development would be designed in accordance with state and local solid waste regulations. The proposed project would be consistent with the findings of the Prior EIRs and there would be sufficient capacity to accept nonhazardous waste generated by the new employees and residents at the project site. To further reduce

waste generated by project construction and operation activities, the proposed project would also be required to comply with City **SCA UTIL-1 (#85)**: Construction and Demolition Waste Reduction and Recycling, and **SCA UTIL-2 (#87)**: Recycling Collection and Storage Space. Therefore, impacts pertaining to solid waste services and landfill capacity would be less than significant.

Energy

New residential and nonresidential development is subject to Title 24, California's Energy Efficiency Standards for Residential and Nonresidential Buildings. As such, the proposed project would be required to comply with the standards of Title 24. In addition, the proposed project would be required to implement **SCA UTIL-3 (#86)**: Underground Utilities, and **SCA UTIL-4 (#88)**: Green Building Requirements, which require all construction projects to implement underground all new gas, electric, cable, and telephone facilities, and incorporate energy-conserving design measures to minimize energy demand. All new utilities would be installed in accordance with standard specifications of the utility provider. The proposed project would have a less than significant impact related to energy resources.

The Prior EIRs and Addendum determined impacts related to utilities and service systems would be less than significant with implementation of mitigation measures and SCAs. As discussed above, development of the proposed project would not require the expansion of water treatment facilities, wastewater facilities, or solid waste disposal facilities, and therefore previously identified LUTE EIR Mitigation Measure D.1-2 and Mitigation Measure D.2-2 would not be applicable to the project.

The project site is not located in the Oakland Hills area, and therefore previously identified LUTE EIR Mitigation Measure D.3-2a, Mitigation Measure D.3-2b, Mitigation Measure D.3-2c, and Mitigation Measure D.3-2d are not applicable to the proposed project. Mitigation Measures D.4-1a, D.4-1b, and D.4-1c are applicable to the proposed project; however, would be implemented as City **SCA UTIL-1(#85)** and **SCA-UTIL-2 (#87)**, which are equivalent or more stringent than the previously identified LUTE EIR mitigation measures.

The City has incrementally updated their SCAs since the adoption of the Housing Element EIR and Addendum. The updated SCAs further clarify and expand on previously identified SCAs in the Housing Element EIR and Addendum, and have been found to be equivalent or more stringent. The proposed project would be required to comply with City **SCA HYD-2 (#52)**, **SCA HYD-3 (#53)**, **SCA HYD-4 (#55)**, **SCA UTIL-1 (#85)**, **SCA UTIL-2 (#87)**, **SCA UTIL-3 (#86)**, **SCA UTIL-4 (#88)**. In addition to these SCAs, the Housing Element EIR and Addendum identified the following SCAs to reduce potential impacts related to utilities and service systems: City SCA 91 (currently SCA #90 and #91), and SCA 80 (currently SCA #54), none of which would be applicable to the proposed project. These previously identified SCAs would not be applicable because the project would construct less than 50 residential units and less than 50,000 square feet of nonresidential floor area, and would replace less than 10,000 square feet of impervious surface.

Evaluation of the Environmental Impacts

Based on the project-specific analysis and the findings and conclusions in the Prior EIRs and Addendum, implementation of the proposed project would not substantially increase the severity of previously identified significant impacts, or result in new significant impacts related to utilities and service systems that were not identified in the Prior EIRs and Addendum

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9.0 LIST OF PREPARERS

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Attachment A

ATTACHMENT A: STANDARD CONDITIONS OF APPROVAL COMPLIANCE

The purpose of the City of Oakland Standard Conditions of Approval (SCA) is to briefly describe the roles and responsibilities of government agencies in implementing and enforcing the adopted SCAs identified in the Infill Environmental Checklist prepared for the 6501 Shattuck Avenue Mixed-Use Project (proposed project).

The SCAs incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, Green Building Ordinance, historic/landmark status, California Building Code, and Uniform Fire Code, among others), which have been found to substantially mitigate environmental impacts. These SCAs are incorporated into projects as conditions of approval, regardless of the determination of a project's environmental impacts. As applicable, the SCAs are adopted as requirements of an individual project when it is approved by the City, and are designed to, and would, avoid or substantially reduce a project's environmental effects.

The City and its contractors will be required to comply with the SCAs in all respects. In any instance where non-compliance occurs, the City-designated environmental monitors will issue a warning to the party responsible for implementation and the City's Project Manager. Any decisions to halt work due to non-compliance will be made by the City. The City's designated environmental monitors will keep records of any incidents that are non-compliant with the SCAs. Copies of these documents will be supplied to the City.

The following SCA compliance matrix includes the applicable SCAs identified in the Infill Environmental Checklist, prepared for the proposed project. The purpose of the compliance table is to provide the City with a comprehensive list of the SCAs. The SCAs will be implemented through the verification of required approvals by City staff. The compliance matrix consists of the following components:

- The first column identifies the SCA applicable to the resource category in the Infill Checklist document.
- The second column identifies the monitoring schedule or timing applicable to the proposed project.
- The third column identifies the party responsible for initial approval of the required action for the proposed project.
- The fourth column identifies the party responsible for monitoring the required action for the proposed project.

The City will be responsible for ensuring compliance with the SCAs applicable to the proposed project. Staff will prepare, or require preparation of reports which identify compliance with the SCAs. Once construction has begun and is underway, the City will carry out monitoring of the SCAs associated with construction. The SCA compliance matrix will be maintained in the City's files for use in construction and operation of the proposed project. The SCAs included in the Infill Exemption document and this Appendix are numbered sequentially, and referred to by an abbreviation for the environmental topic area. In addition, the SCA number that corresponds to the City's master SCA list is included with each SCA for reference (e.g., **SCA AIR-1 (#21)**, **SCA AIR-2 (#22)**, etc.).

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Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
Section 7.1: Aesthetics			
<p>SCA AES-1 (#18): Landscape Plan</p> <p>a. <i>Landscape Plan Required</i> <u>Requirement:</u> The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominately drought-tolerant. Specifications of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at http://www2.oaklandnet.com/oakcal/groups/pwa/documents/report/oak042662.pdf http://www2.oaklandnet.com/oakcal/groups/pwa/documents/form/oak025595.pdf respectively), and with any applicable streetscape plan.</p> <p>b. <i>Landscape Installation</i> <u>Requirement:</u> The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.</p> <p>c. <i>Landscape Maintenance</i> <u>Requirement:</u> All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.</p>	<p>a. Prior to approval of construction-related permit</p> <p>b. Prior to final building permit</p> <p>c. Ongoing</p>	<p>a. Bureau of Planning</p> <p>b. Bureau of Planning</p> <p>c. N/A</p>	<p>a. N/A</p> <p>b. Bureau of Building</p> <p>c. Bureau of Building</p>
<p>SCA AES-2 (#17): Graffiti Control</p> <p>a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti</p>	<p>Ongoing</p>	<p>N/A</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:</p> <ul style="list-style-type: none"> i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces. ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces. iii. Use of paint with anti-graffiti coating. iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED). v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement. <p>b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:</p> <ul style="list-style-type: none"> i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system. ii. Covering with new paint to match the color of the surrounding surface. iii. Replacing with new surfacing (with City permits if required). 			
<p>SCA AES-3 (#16): Trash and Blight</p> <p><u>Requirement:</u> The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.</p>	Ongoing	N/A	Bureau of Building
<p>SCA AES-4 (#19): Lighting</p> <p><u>Requirement:</u> Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.</p>	Prior to final building permit.	N/A	Bureau of Building
Section 7.2: Agriculture and Forestry Resources			
There are no SCAs pertaining to agriculture and forestry resources applicable to the proposed project.			

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
Section 7.3: Air Quality			
<p>SCA AIR-1 (#21): Dust Controls – Construction Related</p> <p><u>Requirement:</u> The project applicant shall implement all the following applicable dust control measures during construction of the project:</p> <ul style="list-style-type: none"> a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible. b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer). c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. d. Limit vehicle speeds on unpaved roads to 15 miles per hour. e. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph. f. All trucks and equipment, including tires, shall be washed off prior to leaving the site. g. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12-inch compacted layer of wood chips, mulch, or gravel. 	During construction.	N/A	Bureau of Building
<p>SCA AIR-2 (#22): Criteria Air Pollutant Controls – Construction Related</p> <p><u>Requirement:</u> The project applicant shall implement all the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:</p> <ul style="list-style-type: none"> a. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points. b. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 	During Construction.	N/A	Bureau of Building

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).</p> <p>c. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.</p> <p>d. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.</p> <p>e. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.</p> <p>f. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”) and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.</p>			
<p>SCA AIR-3 (#27): Asbestos in Structures</p> <p><u>Requirement:</u> The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.</p>	<p>Prior to approval of construction related permit.</p>	<p>Applicable regulatory agency with jurisdiction</p>	<p>Applicable regulatory agency with jurisdiction</p>
<p>Section 7.4: Biological Resources</p>			
<p>There are no SCAs pertaining to biological resources applicable to the proposed project.</p>			

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
Section 7.5: Cultural Resources			
<p>SCA CUL-1 (#33): Archaeological and Paleontological Resources- Discovery During Construction</p> <p><u>Requirement:</u> Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.</p> <p>In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.</p> <p>In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional</p>	<p>During construction.</p>	<p>N/A</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.</p>			
<p>SCA CUL-2 (#35): Human Remains- Discovery During Construction <u>Requirement:</u> Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt, and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.</p>	<p>During construction.</p>	<p>N/A</p>	<p>Bureau of Building</p>
Section 7.6: Geology and Soils			
<p>SCA GEO-1 (#37): Construction- Related Permit(s) <u>Requirement:</u> The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>
<p>SCA GEO-2 (#40): Seismic Hazards Zone (Landslide/Liquefaction) <u>Requirement:</u> The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the site, an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>SCA GEO-3 (#38) Soils Report The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>
<p>The project would also comply with SCA HAZ-1 (#43): Hazardous Materials Related to Construction, SCA HAZ-2 (#44): Hazardous Building Materials and Site Contamination, SCA HAZ-3 (#15): Regulatory Authorizations, and SCA HYD-1 (#48): Erosion and Sedimentation Control Measures for Construction See Section 7.8, Hazards and Hazardous Materials and Section 7.9, Hydrology and Water Quality, for full descriptions of these SCAs.</p>			
<p>Section 7.7: Greenhouse Gases</p>			
<p>The proposed project is subject to City's SCAs, some of which reduce GHG emissions. These include but are not limited to SCA UTIL-1 (#85): Construction and Demolition Waste Reduction and Recycling; SCA UTIL-2 (#87): Recycling Collection and Storage Space; SCA UTIL-4 (#88): Green Building Requirements; and SCA AIR-1 (#21): Dust Controls- Construction Related. See Section 7.17, Utilities and Service Systems; and Section 7.3, Air Quality, for full descriptions of these applicable SCAs.</p>			
<p>Section 7.8: Hazards and Hazardous Materials</p>			
<p>SCA HAZ-1 (#43): Hazardous Materials Related to Construction <u>Requirement</u>: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:</p> <ul style="list-style-type: none"> a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction; b. Avoid overtopping construction equipment fuel gas tanks; c. During routine maintenance of construction equipment, properly contain and remove grease and oils; d. Properly dispose of discarded containers of fuels and other chemicals; 	<p>During construction.</p>	<p>N/A</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and</p> <p>f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.</p>			
<p>SCA HAZ-2 (#44) Hazardous Building Materials and Site Contamination</p> <p>a. Hazardous Building Materials Assessment <u>Requirement:</u> The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.</p> <p>b. Environmental Site Assessment Required <u>Requirement:</u> The project applicant shall submit a Phase I Environmental Site Assessment report, and Phase II Environmental Site Assessment report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations</p>	<p>a. Prior to approval of demolition, grading, or building permits</p> <p>b. Prior to approval of construction-related permit</p> <p>c. Prior to approval of construction-related permit</p> <p>d. During construction</p>	<p>a. Bureau of Building</p> <p>b. Applicable regulatory agency with jurisdiction</p> <p>c. Bureau of Building</p> <p>d. N/A</p>	<p>a. Bureau of Building</p> <p>b. Applicable regulatory agency with jurisdiction</p> <p>c. Bureau of Building</p> <p>d. Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.</p> <p>c. <i>Health and Safety Plan Required</i> <u>Requirement:</u> The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.</p> <p>d. <i>Best Management Practices (BMPs) Required for Contaminated Sites</i> <u>Requirement:</u> The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:</p> <ul style="list-style-type: none"> i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state, and federal requirements. ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building. 			
<p>SCA HAZ-3 (#15): Regulatory Permits and Authorizations from Other Agencies</p> <p><u>Requirement:</u> The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.</p>	<p>Prior to activity requiring permit/authorization from regulatory agency.</p>	<p>Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning</p>	<p>Applicable regulatory agency with jurisdiction</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
The proposed project is also required to comply with SCA AIR-2 (#27): Asbestos in Structures. See Section 7.3: Air Quality, for a full description of this applicable SCA.			
Section 7.9: Hydrology and Water Quality			
SCA HYD-1 (#48): Erosion and Sedimentation Control Measures for Construction <u>Requirement:</u> The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City’s storm drain system and creeks.	During Construction	N/A	Bureau of Building
SCA HYD-2 (#52): Site Design Measures to Reduce Stormwater Runoff <u>Requirement:</u> Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following: <ul style="list-style-type: none"> a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas; b. Utilize permeable paving in place of impervious paving where appropriate; c. Cluster structures; d. Direct roof runoff to vegetated areas; e. Preserve quality open space; and f. Establish vegetated buffer areas. 	Ongoing	N/A	N/A
SCA HYD-3 (#53): Source Control Measures to Limit Stormwater Pollution <u>Requirement:</u> Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following: <ul style="list-style-type: none"> a. Stencil storm drain inlets “No Dumping – Drains to Bay;” b. Minimize the use of pesticides and fertilizers; c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas; d. Cover trash, food waste, and compactor enclosures; and 	Ongoing	N/A	N/A

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<ul style="list-style-type: none"> e. Plumb the following discharges to the sanitary sewer system, subject to City approval: f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants; g. Dumpster drips from covered trash, food waste, and compactor enclosures; h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories; i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible. 			
<p>SCA HYD-4 (#55): NPDES C.3 Stormwater Requirements for Small Projects <u>Requirement:</u> Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:</p> <ul style="list-style-type: none"> a. Direct roof runoff into cisterns or rain barrels for reuse; b. Direct roof runoff onto vegetated areas; c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas; d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas; e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces. <p>The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Planning; Bureau of Building</p>	<p>Bureau of Building</p>
<p>SCA HYD-5 (#56): Trash Capture Devices <u>Requirement:</u> Plans shall be submitted for review and approval by the City of Oakland that show a full trash capture device installed at all storm drain inlets or catch basins located on the property and on the adjacent right of way. The plans shall show the design of the device. The Director of Public Works or his/her designee may require that the plans also show the device installed near projects that may generate a large quantity of trash. The applicant shall install these devices according to the approved plans. The owner is responsible for the maintenance of the devices.</p>	<p>Plans shall be approved prior to approval of any construction-related permit. Installation shall be completed prior to issuance of certificate of occupancy.</p>	<p>Bureau of Planning based on standard specifications from the Bureau of Engineering and Construction; Department of Transportation approves devices to be in the public Right-of-Way.</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>The proposed project is also required to comply with SCA LAND-1 (#11): Public Improvements, SCA AIR-2 (#27): Asbestos in Structures, SCA HAZ-1 (#43): Hazardous Materials Related to Construction, and SCA HAZ-2 (#44): Hazardous Building Materials and Site Contamination. See Section 7.3, Air Quality; Section 7.8, Hazards and Hazardous Materials; and Section 7.10, Land Use and Planning for full descriptions of these applicable SCAs.</p>			
<p>Section 7.10: Land Use and Planning</p>			
<p>SCA LAND-1 (#11): Public Improvements The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.</p>	<p>Prior to work in the public right-of-way</p>	<p>Bureau of Planning; Bureau of Building</p>	<p>Bureau of Building</p>
<p>SCA LAND-2 (#3): Compliance with Other Requirements. The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.</p>	<p>Ongoing</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>
<p>SCA LAND-3 (#5): Compliance with Conditions of Approval</p> <p>a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.</p> <p>b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.</p> <p>c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning</p>	<p>a. Prior to approval of construction related permit.</p> <p>b. Prior to final building permit.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.</p>			
<p>Section 7.11: Mineral Resources</p>			
<p>There are no SCAs pertaining to mineral resources applicable to the proposed project.</p>			
<p>Section 7.12: Noise</p>			
<p>SCA NOI-1 (#66): Project-Specific Construction Noise Reduction Measures <u>Requirement:</u> The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts. The project applicant shall implement the approved Plan during construction.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>
<p>SCA NOI-2 (#63): Construction Days/Hours <u>Requirement:</u> The project applicant shall comply with the following restrictions concerning construction days and hours:</p> <ul style="list-style-type: none"> a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday. c. No construction is allowed on Sunday or federal holidays. <p>Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.</p> <p>Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and</p>	<p>During construction.</p>	<p>N/A</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>a consideration of nearby residents' /occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.</p>			
<p>SCA NOI-3 (#64): Construction Noise <u>Requirement:</u> The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:</p> <ul style="list-style-type: none"> a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible. b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures. c. Applicant shall use temporary power poles instead of generators where feasible. d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction. <p>The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.</p>	<p>During construction.</p>	<p>N/A</p>	<p>Bureau of Building</p>
<p>SCA NOI-4 (#65): Extreme Construction Noise a. Construction Noise Management Plan Required</p>	<p>Prior to approval of construction-related</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p><u>Requirement:</u> Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:</p> <ul style="list-style-type: none"> i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings; ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions; iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site; iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings using sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and v. Monitor the effectiveness of noise attenuation measures by taking noise measurements. <p>b. Public Notification Required</p> <p><u>Requirement:</u> The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.</p>	<p>permit and during construction.</p>		
<p>SCA NOI-5 (#67): Construction Noise Complaints</p> <p><u>Requirement:</u> The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise and shall implement the procedures during construction. At a minimum, the procedures shall include:</p>	<p>Prior to approval of construction-related permits.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>a. Designation of an on-site construction complaint and enforcement manager for the project;</p> <p>b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;</p> <p>c. Protocols for receiving, responding to, and tracking received complaints; and</p> <p>Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.</p>			
<p>SCA NOI-6 (#69): Operational Noise <u>Requirement:</u> Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.</p>	Ongoing.	N/A	Bureau of Building
<p>SCA NOI-7 (#68): Exposure to Community Noise <u>Requirement:</u> The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:</p> <p>a. 45 dBA: Residential activities, civic activities, hotels</p> <p>b. 50 dBA: Administrative offices; group assembly activities</p> <p>c. 55 dBA: Commercial activities</p> <p>d. 65 dBA: Industrial activities.</p>	Prior to approval of construction-related permit	Bureau of Planning	Bureau of Building

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
Section 7.13: Population and Housing			
<p>SCA POP-1 (#73) Affordable Housing Impact Fee <u>Requirement:</u> The project applicant shall comply with the requirements of the City of Oakland Affordable Housing Impact Fee Ordinance (chapter 15.72 of the Oakland Municipal Code).</p>	<p>Prior to issuance of building permit; subsequent milestones pursuant to ordinance.</p>	<p>Bureau of Building</p>	<p>N/A</p>
Section 7.14: Public Services			
<p>SCA PUB-1 (#74): Capital Improvement Impact Fee <u>Requirement:</u> The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).</p>	<p>Prior to issuance of building permit.</p>	<p>Bureau of Building</p>	<p>N/A</p>
<p>The proposed project would comply with SCA HAZ-2 (#44): Hazardous Building Materials and Site Contamination, SCA HAZ-3 (#15): Regulatory Permits and Authorizations from Other Agencies, and TRA-3 (#80): Transportation Impact Fee. See Section 7.9, Hazards and Hazardous Materials; Section 7.10, Land Use and Planning; and Section 7.16, Traffic and Transportation for full descriptions of these applicable SCAs.</p>			
Section 7.15: Recreation			
<p>There are no SCAs pertaining to recreation applicable to the proposed project.</p>			
Section 7.16: Traffic and Transportation			
<p>SCA TRA-1 (#78): Bicycle Parking <u>Requirement:</u> The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Planning</p>	<p>Bureau of Building</p>
<p>SCA TRA-2 (#77): Construction Activity in the Public Right-of-Way</p> <ul style="list-style-type: none"> a. Obstruction Permit Required <u>Requirement:</u> The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets and sidewalks. b. Traffic Control Plan Required 	<ul style="list-style-type: none"> a. Prior to approval of construction related permit 	<ul style="list-style-type: none"> a. Bureau of Building b. Public Works Department, 	<ul style="list-style-type: none"> a. Bureau of Building b. Bureau of Building

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p><u>Requirement:</u> In the event of obstructions to vehicle or bicycle travel lanes, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian detours, including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The project applicant shall implement the approved Plan during construction.</p> <p>c. Repair of City Streets <u>Requirement:</u> The project applicant shall repair any damage to the public right-of way, including streets and sidewalks caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.</p>	<p>b. Prior to final building permit</p>	<p>Transportation Services Division</p> <p>c. N/A</p>	<p>c. Bureau of Building</p>
<p>SCA TRA-3 (#81): Transportation Impact Fee</p> <p><u>Requirement:</u> The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).</p>	<p>Prior to issuance of building permit.</p>	<p>Bureau of Building</p>	<p>N/A</p>
<p>SCA TRA-4 (#84): Plug-In electric Vehicle Charging Infrastructure</p> <p>a. PEV-Ready Parking Spaces <u>Requirement:</u> The applicant shall submit, for review and approval of the Building Official and the Zoning Manager, plans that show the location of parking spaces equipped with full electrical circuits designated for future PEV charging (i.e. "PEV-Ready") per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-Ready parking spaces.</p> <p>b. PEV-Capable Parking Spaces <u>Requirement:</u> The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the requirements of Chapter 15.04 of the Oakland Municipal</p>	<p>Prior to issuance of building permit.</p>	<p>Bureau of Building</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.</p> <p>c. ADA-Accessible Spaces <u>Requirement:</u> The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).</p>			
Section 7.17: Utilities and Service Systems			
<p>SCA UTIL-1 (#85): Construction and Demolition Waste Reduction and Recycling <u>Requirement:</u> The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Public Works Department, Environmental Services Division</p>	<p>Public Works Department, Environmental Services Division</p>
<p>SCA UTIL-2 (#87): Recycling Collection and Storage Space <u>Requirement:</u> The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two cubic feet of storage and collection space per residential unit is required, with a minimum of ten cubic feet. For nonresidential projects, at least two cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten cubic feet.</p>	<p>Prior to approval of construction-related permit.</p>	<p>Bureau of Planning</p>	<p>Bureau of Building</p>
<p>SCA UTIL-3 (#86): Underground Utilities <u>Requirement:</u> The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other</p>	<p>During construction.</p>	<p>N/A</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<p>wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.</p>			
<p>SCA UTIL-4 (#88): Green Building Requirements</p> <p><i>a. Compliance with Green Building Requirements During Plan-Check</i></p> <p><u>Requirement:</u> The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).</p> <p>i. The following information shall be submitted to the City for review and approval with the application for a building permit:</p> <ul style="list-style-type: none"> • Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards. • Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit. • Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit. • Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below. • Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance. • Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit. • Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance. <p>ii. The set of plans in subsection (i) shall demonstrate compliance with the following:</p> <ul style="list-style-type: none"> • CALGreen mandatory measures. 	<p>a. Prior to approval of construction-related permit</p> <p>b. During Construction</p> <p>c. Prior to Final Approval</p>	<p>a. Bureau of Building</p> <p>b. N/A</p> <p>c. Bureau of Planning</p>	<p>a. N/A</p> <p>b. Bureau of Building</p> <p>c. Bureau of Building</p>

Standard Conditions of Approval	When Required	Initial Approval	Monitoring/ Inspection
<ul style="list-style-type: none"> • All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted. • The required green building point minimums in the appropriate credit categories. <p>b. Compliance with Green Building Requirements During Construction</p> <p><u>Requirement:</u> The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.</p> <p>The following information shall be submitted to the City for review and approval:</p> <ul style="list-style-type: none"> i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit. ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance. iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance. <p>c. Compliance with Green Building Requirements After Construction</p> <p><u>Requirement:</u> Prior to the final Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.</p>			
<p>The proposed project is also required to comply with SCA HYD-2 (#52): Site Design Measures to Reduce Stormwater Runoff, SCA HYD-3 (#53): Source Control Measures to Limit Stormwater Pollution, and SCA HYD-4 (#55): NPDES C.3 Stormwater Requirements for Small Projects. See Section 7.9, Hydrology and Water Quality, for full descriptions of these applicable SCAs.</p>			

Attachment B

ATTACHMENT B: PROJECT CONSISTENCY WITH COMMUNITY PLANS OR ZONING, PER CEQA GUIDELINES SECTION 15183

Section 15183(a) of the California Environmental Quality Act (CEQA) Guidelines states that “projects which are consistent with the development density established by the existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as may be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.”

Project. The proposed project includes the demolition of the existing vacant brick structure, formerly occupied by the East Bay Smog Center. The proposed project would develop a four-story 17,480 square foot (excluding parking) mixed-use building consisting of 18 multifamily residential units and approximately 1,975 square feet of ground floor commercial space that opens onto Shattuck Avenue and 65th Street. It is anticipated small restaurants and cafes would occupy the space. The residential units would be a mix of six junior units, six 1-bedroom units, and six 2-bedroom units. The proposed project would include approximately 4,582 square feet of podium garage space, with a total of 18 parking stalls, consistent with the City’s updated Parking Requirements. The proposed project would provide approximately 4,759 square feet of usable open space. Project open space would consist of approximately 1,583 square feet of public open space, which includes a 682 square foot rooftop communal courtyard, and 3,146 square feet of private open space.

The height of the building would be approximately 43 feet, consistent with the 45 feet height limit applicable to the Local Retail Commercial Zone (C-10) zoning. The building’s front and rear yard setbacks are approximately 15 feet. The side yard setback is approximately 5 feet at the request of the adjacent neighbors. The project setbacks are consistent with the C-10 zoning requirements.

Project Consistency

The City of Oakland completed an update of the General Plan Land Use and Transportation Element (LUTE) in March 1998. The LUTE includes the City’s current Land Use and Transportation Diagram as well as strategies, policies, and priorities for Oakland’s development and enhancement during a two-decade period. The EIR certified for the LUTE is used to simplify the task of preparing environmental documents on later projects that occur as a result of LUTE implementation. Cumulative environmental effects identified in the LUTE’s EIR as (a) significant and unavoidable or (b) significant but can be reduced to less than significant through mitigation, are limited to the following topics: aesthetics/winds, cultural resources, hazards/hazardous materials, land use/planning, transportation/circulation, population/housing, and public services.

The following analysis provides substantial evidence to support a conclusion that the proposed project qualifies for an exemption under CEQA Guidelines Section 15183 as a project consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified.

Criterion §15183(a): General Plan & Zoning Consistency

Yes No

**The Project is consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified.****General Plan-- Land Use and Transportation Element**

The project site is located in the North Oakland Planning Area, as described in the LUTE. The land use designation for the project site is Neighborhood Center Mixed Use (CN). The intent of the CN classification is to identify, create, maintain, and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses.

1. The Project is aligned with policies set forth in the LUTE of the General Plan as listed below:

In Neighborhood Center Mixed Use areas, the General Plan promotes future development that is commercial or mixed use, and that is urban residential with ground floor commercial. Development in these areas must fulfill the following policy objectives, as detailed in the LUTE: Neighborhood Objectives N1, N2, N3, N6, N8, N9, N10, N11, and related policies; Industry and Commercial Objectives I/C1, I/C2, and I/C3; and Transportation Objectives T2 and T6

Specifically, the proposed project is consistent with the following policies in the LUTE:

- **Policy N1.1 Concentrating Commercial Development.** Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail.
- **Policy N1.2 Placing Public Transit Stops.** The majority of commercial development should be accessible by public transit. Public transit stops should be placed in strategic locations in Neighborhood Activity Centers and Transit-Oriented Districts to promote browsing and shopping by transit users.
- **Policy N1.5 Designing Commercial Development.** Commercial development should be designed in a manner that is sensitive to surrounding residential uses.
- **Policy N1.8 Making Compatible Development.** The height and bulk of commercial development in "Neighborhood Mixed-Use Center" and "Community Commercial" areas should be compatible with that which is allowed for residential development.
- **Policy N3.2 Encouraging Infill Development.** In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland.

The proposed project is consistent with the above General Plan policies for the following reasons:

- An existing vacant brick structure currently occupies the project site. The proposed project would demolish this building and replace it with infill housing and commercial uses on the ground floor. The proposed project would comply with the City's design standards and respect the surrounding streetscape, as specified by the City's Planning's Code. The proposed project would be subject to the City's design review process. Compliance with the City's design review process would ensure the proposed project is designed in an attractive manner, and is compatible with the surrounding residential and commercial land uses.

- The proposed project would redevelop an existing unused developed lot with a mixed-use residential development that would include ground floor commercial uses and provide new infill housing in a neighborhood mixed-use center.
- The proposed project would be compatible with the mixed-use buildings surrounding the project site. The proposed project would provide residential uses above ground floor commercial, which would complement the surrounding buildings that also provide similar uses.

Therefore, the proposed project would be consistent with the General Plan policies detailed above.

2. The Project is consistent with the Housing Element 2015-2023 of the General Plan

- It is an underutilized site with outdated facilities and/or marginal existing use;
- The proposed project is located along Shattuck Avenue, a key corridor identified by the LUTE. The proposed project utilizes ground floor commercial space with housing above, as encouraged by zoning and development guidelines to maximize residents' access to services including retail opportunities, transportation alternatives, and civic activities, while reducing the need for automobiles and increasing the sustainability of such development.

3. The Project is consistent with the development density established by existing Zoning, Community Plan or General Plan policies.

On April 14, 2011, the zoning classification for the project site changed from C-10 to Neighborhood Commercial – 3 Zone (CN-3) after the City adopted new zoning classifications within the city boundaries. However, the land use designations did not change. The purpose of the CN-3 Zone is to: “create, improve, and enhance areas neighborhood commercial centers that have a compact, vibrant pedestrian environment (City of Oakland 2017).” However, the Project Application was deemed complete by the City prior to the City’s approval of the new zoning on April 14, 2011. Therefore, the proposed project would be processed under the C-10 zoning requirements.

The proposed project would include the development of 18 residential units on a 0.19 acre lot. The proposed project residential density is 94.74 dwelling units per acre. As such, in accordance with the C-10 zoning requirements the proposed project would require a Major Conditional Use Permit (CUP) to develop multifamily units (more than two dwelling units). Commercial activities such as general food sales, general retail sales, consumer service, and small sidewalk cafes (subject to the provisions of Section 17.102.335) are permitted facilities within the C-10 zone. The proposed project height of 43 feet is consistent with the C-10 zoning requirements maximum height (45 feet). The project front (15 feet), rear (15 feet), and side yard setback (5 feet at the request of the adjacent neighbors) are also consistent with the C-10 zoning requirements. The proposed project would be consistent with the development density/intensity requirements for the C-10 zone upon the approval of the CUP.

Therefore, the proposed project adheres to the criteria of CEQA Guidelines Section 15183(a) as being consistent with both the General Plan and applicable zoning regulations for the site.

Since the proposed project is consistent with the development assumptions for the site as provided under the LUTE EIR, and would be within the overall range of development within the Neighborhood Center Mixed Use designation as assumed by the Housing Element EIR, the proposed project’s potential contribution to cumulatively significant effects has already been addressed in these prior EIRs. Therefore, the proposed project is eligible for consideration of an

exemption under California Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines.

Attachment C

ATTACHMENT C: INFILL PERFORMANCE STANDARDS PER CEQA GUIDELINES SECTION 15183.3

Based on California Environmental Quality Act (CEQA) Guidelines Section 15183.3(d)(1), the Lead Agency must examine an eligible infill project in light of the Prior Environmental Impact Report (EIR) to determine whether the infill project would cause any effects that require additional review under CEQA. This evaluation shall:

- a) Document whether the infill project satisfies the applicable performance standards in Appendix M.
- b) Explain whether the effects of the infill project were analyzed in a prior EIR.
- c) Explain whether the infill project will cause new specific effects (defined as “an effect that was not addressed in the prior EIR and that is specific to the infill project or the infill project site”).
- d) Explain whether substantial new information shows that the adverse environmental effects of the infill project are more significant (defined as “substantially more severe”) than described in the prior EIR.

If the infill project will cause new specific effects or more significant effects, the evaluation should indicate whether uniformly applicable development policies or standards will substantially mitigate those effects.

The following information demonstrates that the proposed project is eligible for permit streamlining pursuant to CEQA Guidelines Section 15183.3 as a qualified infill project, and fulfills the review requirements of its provisions.

Appendix M Performance Standards

The following analysis demonstrates that the proposed project is located in an urban area on a site that has been previously developed; satisfies the performance standards provided in CEQA Guidelines Appendix M; and is consistent with the General Plan land use designation, density, building intensity and applicable policies. As such, this environmental review is limited to an assessment of whether the proposed project may cause any project-specific effects, and relies on uniformly applicable development policies or standards to substantially mitigate cumulative effects.

CEQA Eligibility Criteria		Eligible / Notes for Proposed Project
1	Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter. For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way	Yes. The project site has been previously developed as a gas station and service center. The proposed project is in an urban area, and adjoined by existing urban uses, as described in Section 5.0, Project Description, of the CEQA Analysis document.
2	Satisfy the performance Standards provided in Appendix M (CEQA Guidelines Section 15183.3[b][b]) as presented in 2a and 2b below:	
2a	<i>Performance Standards Related to Project Design. All Projects must implement all of the following:</i>	
	<p>Non-Residential Projects. All nonresidential Projects shall include onsite renewable power generation, such as solar photovoltaic, solar thermal, and wind power generation, or clean back-up power supplies, where feasible.</p> <p>Residential Projects. Residential Projects are also encouraged to include such onsite renewable power generation</p>	<p>Not Applicable.</p> <p>According to Section IV (G) of CEQA Appendix M, for mixed-use Projects "...the performance standards in this section that apply to the predominant use shall govern the entire Project." Because the predominant use is residential, the proposed project is not required to include onsite renewable power generation.</p>

CEQA Eligibility Criteria	Eligible / Notes for Proposed Project
<p>Soil and Water Remediation. If the Project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, the Project shall document how it has remediated the site, if remediation is completed. Alternatively, the Project shall implement the recommendations provided in a preliminary endangerment assessment or comparable document that identifies remediation appropriate for the site.</p>	<p>Yes.</p> <p>The project site is listed in the State Water Resources Control Board (SWRCB) GeoTracker online database, one of the lists included under Section 65962.5 of the Government Code. According to the SWRCB GeoTracker online database, six onsite underground storage tanks (USTs) were removed from the site in October 2009 under oversight by Alameda County Environmental Health Department (ACEHD). Following removal of the six USTs, site remediation was completed. On June 26, 2014, ACEHD issued a Case Closure Letter for the site, confirming the completion of the investigation and cleanup of the reported UST release at the site, deeming the case closed. Following the case closure, additional assessments were undertaken to ensure that the site is adequate for residential occupation. Based on the additional data collected at the site by SOMA Engineering, it was determined that "containment levels remained in soil and groundwater after site remediation are significantly lower than the recommended Low Threat Closure Policy (LTCP) criteria soil and groundwater. As such, on September 12, 2016, ACEHD issued a letter to the Applicant concluding that the level of cleanup at the site is suitable for both commercial and residential use.</p>

CEQA Eligibility Criteria		Eligible / Notes for Proposed Project
	<p>Residential Units Near High-Volume Roadways and Stationary Sources.</p> <p>If a Project includes residential units located within 500 feet, or other distance determined to be appropriate by the local agency or air district based on local conditions, of a high volume roadway or other significant sources of air pollution, the Project shall comply with any policies and standards identified in the local general plan, specific plan, zoning code, or community risk reduction plan for the protection of public health from such sources of air pollution. If the local government has not adopted such plans or policies, the Project shall include measures, such as enhanced air filtration and Project design, that the lead agency finds, based on substantial evidence, will promote the protection of public health from sources of air pollution. Those measures may include, among others, the recommendations of the California Air Resources Board, air districts, and the California Air Pollution Control Officers Association.</p>	<p>Not Applicable.</p> <p>For Projects that include residential units, the BAAQMD recommends evaluating the cumulative health risks to the residents from mobile and stationary sources of TAC emissions within 1,000 feet of the Project.</p> <p>A Health Risk Assessment was completed for the proposed project. The Shattuck Auto Collision Center is the only stationary source of toxic air contaminants within 1,000 feet of the project site. The project site is adjacent to Shattuck Avenue and 65th Street, which are anticipated to have less than 5,000 vehicles per day; therefore, the project is not considered to be located near high-volume roadways. Based on a comparison of the carcinogenic and non-carcinogenic thresholds established by Office of Environmental Health Hazard Assessment and the City of Oakland, hazardous emissions generated from the stationary and mobile sources within 1,000 feet of the project site are not anticipated to pose an actual or potential endangerment to residents occupying the project site (Attachment F).</p>
2b	<p>Additional Performance Standards by Project Type. In addition to implementing all the features described in criterion 2a above, the Project must meet eligibility requirements provided below by Project type.</p>	

CEQA Eligibility Criteria	Eligible / Notes for Proposed Project
<p>Residential. A residential Project must meet one of the following:</p> <p>A. Projects achieving below average regional per capita vehicle miles traveled. A residential Project is eligible if it is located in a “low vehicle travel area” within the region;</p> <p>B. Projects located within ½ mile of an Existing Major Transit Stop or High Quality Transit Corridor. A residential Project is eligible if it is located within ½ mile of an existing major transit stop or an existing stop along a high quality transit corridor (A major transit stop is defined as “a site containing... the intersection of two or more major bus routes with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods”); or</p> <p>C. Low – Income Housing. A residential or mixed-use Project consisting of 300 or fewer residential units all of which are affordable to low income households is eligible if the developer of the development Project provides sufficient legal commitments to the lead agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.</p>	<p>The project satisfies both A and B.</p> <p>A. The project site is located in a Transit Area Zone that is below the average level of per capita residential vehicle miles traveled (VMT) in the Region.</p> <p>B. The project site is within a ½ mile of an Existing Major Transit Stop (Ashby BART Station). The project site is also served by various AC Transit bus and shuttle lines including bus route 18, along Shattuck Avenue; and route 688 along Alcatraz Avenue, within 500 feet of the project site.</p>
<p>Commercial/Retail. A commercial/retail Project must meet one of the following:</p> <p>A. Regional Location. A commercial Project with no single-building floor-plate greater than 50,000 square feet is eligible if it locates in a “low vehicle travel area”; or</p> <p>B. Proximity to Households. A Project with no single building floor-plate greater than 50,000 square</p>	<p>Not Applicable. According to Section IV (G) of CEQA Appendix M, for mixed-use Projects “...the performance standards in this Section that apply to the predominant use shall govern the entire Project.” Because the predominant use is residential, the requirements for commercial/retail projects do not apply.</p>

CEQA Eligibility Criteria		Eligible / Notes for Proposed Project
	feet located within ½ mile of 1,800 households is eligible	
	<p>Office Building. An office building Project must meeting one of the following:</p> <p>A. Regional Location. Office buildings, both commercial and public, are eligible if they locate in a low vehicle travel area; or</p> <p>B. Proximity to a Major Transit Stop. Office buildings, both commercial and public, within ½ mile of an existing major transit stop, or ¼ mile of an existing stop along a high quality transit corridor, are eligible</p>	Not Applicable.
	<p>Schools. Elementary schools within 1 mile of 50 percent of the Projected student population are eligible. Middle schools and high schools within 2 miles of 50 percent of the Projected student population are eligible. Alternatively, any school within ½ mile of an existing major transit stop or an existing stop along a high quality transit corridor is eligible. Additionally, to be eligible, all schools shall provide parking and storage for bicycles and scooters, and shall comply with the requirements of Sections 17213, 17213.1, and 17213.2 of the California Education Code.</p>	Not Applicable.
	<p>Transit. Transit stations, as defined in Section 15183.3(e)(1), are eligible.</p>	Not Applicable.
	<p>Small Walkable Community Projects. Small walkable community Projects, as defined in Section 15183.3, subdivision (f)(5), that implement the Project features in 2a above are eligible.</p>	Not Applicable.
3	Be consistent with the general use designation, density, building intensity, and applicable policies specified for the Project area in either a sustainable communities strategy or an alternative planning strategy, except as provided in CEQA Guidelines Sections 15183.3(b)(3)(A) or (b)(3)(B). (CEQA Guidelines Section 15183.3[b][3])	<p>Yes.</p> <p>The adopted Plan Bay Area (2017) serves as the sustainable communities strategy for the Bay Area, per Senate Bill 375. Plan Bay Area identifies Priority Development Areas (PDAs), where new</p>

CEQA Eligibility Criteria		Eligible / Notes for Proposed Project
		<p>development will support the needs of residents and workers in a pedestrian friendly environment served by transit. The project site is located within Oakland’s PDA, as established by Plan Bay Area. In addition, the General Plan Housing Element 2015-2023, identifies the project site within a Potential Planned PDA. The mixed-use project would be consistent with the general land use designation, density, building intensity, and applicable policies specified in the General Plan, as described in further detail in Attachment B.</p> <p>The General Plan land use designation for the site is Neighborhood Center Mixed Use; this classification is intended to enhance the character of established neighborhood commercial centers that have a compact, vibrant pedestrian environment. The proposed mixed-use project would be consistent with this designation.</p>

Attachment D

ATTACHMENT D: PREVIOUSLY IDENTIFIED LUTE EIR MITIGATION MEASURES

Section 7.1: Aesthetics
LUTE EIR Mitigation Measure F.2a: Develop guidelines or a “step back” ordinance for height and bulk for new development projects in the downtown area. Projects should be encouraged to be designed at pedestrian-scale on the street-side, with high towers or strong vertical elements stepping back from the street.
LUTE EIR Mitigation Measure F.2b: Analyze the desired height of downtown office development and develop zoning regulations that support the preferred skyline design.
LUTE EIR Mitigation Measure F.2c: Define view corridors and, based upon these views, designate appropriate height limits and other requirements. Views of Lake Merritt, the Estuary, and architecturally or historically significant buildings should be considered.
LUTE EIR Mitigation Measure F.3a: Standard design guidelines for all Neighborhood Commercial areas should be developed that require continuous or nearly continuous storefronts located along the front yard setback, promote small scale commercial activities rather than large scale establishments at the street level, restrict front yard parking lots and driveways, require small scale pedestrian-oriented signage, have a relatively low height limit. and promote the pedestrian friendly amenities at the street level.
LUTE EIR Mitigation Measure F.3b: Ensure that structures and sites are designed in an attractive manner which harmonizes with or enhances the visual appearance of the surrounding environment by preparing and adopting industrial and commercial design guidelines.
LUTE EIR Mitigation Measure F.3c: Develop design guidelines for parking facilities of all types.
Section 7.3: Air Quality
LUTE EIR Mitigation Measure E.4: Where residential development would be located above commercial uses, parking garages, or any other uses with a potential to generate odors, the odor-generating use should be properly vented (e.g., located on rooftops) and designed (e.g., equipped with after burners) so as to minimize the potential for nuisance odor problems.
LUTE EIR Mitigation Measure E.5a: The following Basic Control Measures shall be implemented at all construction sites: <ul style="list-style-type: none">• Water all active construction areas at least twice daily.• Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.• Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.• Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
LUTE EIR Mitigation Measure E.5b: The following enhanced control measures shall be implemented at all construction sites when more than four acres are under construction at any one time: <ul style="list-style-type: none">• Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).• Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)• Limit traffic speeds on unpaved roads to 15 mph.• Install sandbags or other erosion control measures to prevent silt runoff to public roadways.• Replant vegetation in disturbed areas as quickly as possible.

LUTE EIR Mitigation Measure E.5c: BAAQMD dust control measures would be implemented by contractors of future development projects as outlined in BAAQMD CEQA Guidelines (1996) or any subsequent applicable BAAQMD updates. They are as follows:

- Any stationary motor sources (such as generators and compressors) to be located within 100 feet of any residence or school (sensitive receptors) would be equipped with a supplementary pollution control system on its exhaust as required by Bay Area Air Quality Management District (BAAQMD) and California Air Resources Board (CARB).
- To minimize construction equipment emissions, low- NOx tune-ups should be performed on all construction equipment. Contractors should be required to utilize equipment with recent (within 30 days) low- NOx tune-ups to minimize NOx emissions. This would apply to all diesel-powered equipment greater than 50 horsepower and periodic tune-ups (every 90 days) would be required for equipment used continuously for construction of a specific development.

Section 7.5: Cultural Resources

LUTE EIR Mitigation Measure G.2: Establish criteria and interdepartmental referral procedures for determining when discretionary City approval of ground-disturbing activities should be subject to special conditions to safeguard potential archaeological resources.

LUTE EIR Mitigation Measure G.3a: Amend the Zoning Regulations text to incorporate the new preservation regulations and incentives.

LUTE EIR Mitigation Measure G.3b: Develop and adopt design guidelines for Landmarks and Preservation Districts.

Section 7.12: Noise

LUTE EIR Mitigation Measure L.3a: Establish design requirements for large-scale commercial development that requires adequate buffers from residential uses. Use of open space, recreation space, or transit installations as buffers should be encouraged. (Neighborhood Working Group)

LUTE EIR Mitigation Measure L.3b: Mixed residential/ non-residential neighborhoods should be rezoned after determining which should be used for residential, mixed, or non-residential uses. Some of the factors that should be considered when rezoning mixed use areas include the future intentions of the existing residents or businesses, natural features, or health hazards. (Neighborhood Working Group)

LUTE EIR Mitigation Measure L.4: Where high density residential development would be located adjacent to existing lower density residential development, new development shall be designed to minimize noise impacts on any existing residential uses due to increased traffic on local roadways and increased parking activities.

LUTE EIR Mitigation Measure L.5a: The City should develop distinct definitions for home occupation, live/work and work/live operations; define appropriate locations for these activities and performance criteria for their establishment; and create permitting procedures and fees that facilitate the establishment of those activities which meet the performance criteria. (Neighborhood Working Group)

LUTE EIR Mitigation Measure L.5b: Avoid proliferation of existing incompatible uses by eliminating, through appropriate rezoning actions, pockets of residential zoning within predominantly industrial areas. (Neighborhood Working Group)

LUTE EIR Mitigation Measure L.5c: Establish performance-based standards which designate appropriate levels of noise, odors, light/glare, traffic volumes, or other such characteristics for industrial activities located near commercial or residential areas. (Neighborhood Working Group)

LUTE EIR Mitigation Measure L.5d: Develop performance zoning regulations which permit industrial and commercial uses based upon their compatibility with other adjacent or nearby uses. (Neighborhood Working Group)

<p>LUTE EIR Mitigation Measure L.7: Future transit improvements shall be designed sufficiently so that future noise levels along these streets can be adequately estimated and considered in the design of future residential or other noise-sensitive developments.</p>
<p>Section 7.14: Public Services</p>
<p>LUTE EIR Mitigation Measure D.5-1a: In reviewing major land use or policy decisions, consider the availability of police and fire protection services, park and recreation services, schools, and library services in the affected areas, as well as the impact of the project on current service levels.</p>
<p>LUTE EIR Mitigation Measure D.5-1b: Develop target ratios of police officers and firefighters to population for annual budgeting purposes. These ratios should be used to assess the feasibility and merits of service fees on new development which finance additional police officers and fire fighters. (Neighborhood Working Group)</p>
<p>LUTE EIR Mitigation Measure D.5-1c: Increase police foot patrols and cruisers in high visibility downtown areas and locate funding sources to support them. (Downtown Working Group)</p>
<p>Mitigation Measure D.5-1d: Analyze the distribution of services provided by the public and privately operated civic and institutional uses, identify underserved areas of the City and increase services in those areas. (Neighborhood Working Group)</p>
<p>LUTE EIR Mitigation Measure D.5-1e: Solicit comments from the Oakland Police and Fire Departments on major new development proposals to ensure that law enforcement and fire protection impacts are appropriately addressed and mitigated.</p>
<p>LUTE EIR Mitigation Measure D.6-1a: In reviewing major land use or policy decisions, consider the availability of police and fire protection services, park and recreation services, schools, and library services in the affected areas, as well as the impact of the project on current service levels.</p>
<p>LUTE EIR Mitigation Measure D.6-1b: Develop target ratios of police officers and firefighters to population for annual budgeting purposes. These ratios should be used to assess the feasibility and merits of service fees on new development which finance additional police officers and fire fighters. (Neighborhood Working Group)</p>
<p>LUTE EIR Mitigation Measure D.6-1c: Retain the existing Fire Stations at all three military bases to facilitate the provision of adequate public services to users of these sites as well as to surrounding properties.</p>
<p>LUTE EIR Mitigation Measure D.6-1d: Solicit comments from the Oakland Police and Fire departments on major new development proposals to ensure that law enforcement and fire protection impacts are appropriately addressed and mitigated during project planning and design.</p>
<p>LUTE EIR Mitigation Measure D.7-1a: Mitigation measures available to the School District to reduce overcrowding include:</p> <ol style="list-style-type: none"> 1. Reassigning students among district schools to account for changing population and new development; 2. Continuation and expansion of year-round school; 3. More efficient use of underutilized and/or abandoned school facilities; 4. Addition of portable classrooms; and 5. The busing of students to less crowded schools. <p>If these measures do not reduce overcrowding, OUSD may have to expand existing schools or construct new schools. All of these measures would require varying amounts of funding. If current sources of funding including the City of Oakland school mitigation fees, increases in property taxes and sales tax revenues, and increases in state funding are insufficient to pay for the cost of these mitigating overcrowding, the OUSD should formulate and implement specific measures to raise additional funds. Funding sources which may be considered by OUSD include:</p> <ol style="list-style-type: none"> 1. Adjustments of school mitigation fees on commercial and residential development;

<ol style="list-style-type: none"> 2. The creation of special assessment or Mello Roos districts or annexation to a Community Facilities District; 3. Sale of surplus OUSD property; and 4. Any other funding mechanisms available to the OUSD by state law or local ordinances, including those measures identified in the OUSD's 1996 Developer Fee Justification Study.
<p>LUTE EIR Mitigation Measure D.7-1b: In reviewing major land use or policy decisions, the City will consider the availability of police and fire protection services, park and recreational services, schools, and library services in the affected areas and the impact of the project on the current service levels.</p>
<p>LUTE EIR Mitigation Measure D.7-1c: Support the School District's efforts to use local bond issues and voter approved assessment districts as a means of providing adequate school facilities.</p>
<p>LUTE EIR Mitigation Measure D.7-1d: Where feasible and appropriate, encourage the inclusion of child care centers in major residential and commercial developments near transit centers, community centers, and schools.</p>
<p>LUTE EIR Mitigation Measure D.7-1e: Continue to assist the Oakland Unified School District in securing all of the fees, grants, and other financial resources possible. (Neighborhood Working Group)</p>
<p>LUTE EIR Mitigation Measure D.7-1f: Work with the School District to coordinate land use and school facility planning and continue efforts by the City to collect impact fees and monitor the school capacity impacts of new development.</p>
<p>LUTE EIR Mitigation Measure D.7-1g: The Office of Parks and Recreation, Real Estate Division of the Office of Public Works, and the Oakland Unified School District should assess the use of City and school-owned parcels for use as civic, institutional, or recreational facilities. (Neighborhood Working Group)</p>
<p>LUTE EIR Mitigation Measure D.7-1h: Support state and federal legislation to promote affordable, safe, high-quality child care, including children with special needs</p>
<p>LUTE EIR Mitigation Measure D.8-1: In reviewing major land use or policy decisions, consider the availability of police and fire protection services, park and recreation services, schools, and library services in the affected areas, as well as the impact of the project on current service levels.</p>
<p>Section 7.16: Transportation and Traffic</p>
<p>LUTE EIR Mitigation Measure B.3: The impacts at the intersection of 12th Street and Brush Street can be mitigated by increasing the cycle length to 120 seconds. This would result in a LOS D.</p>
<p>LUTE EIR Mitigation Measure B.4a: Install a traffic signal at the intersection of 66th Avenue and I-880 southbound ramps and restripe the lanes of the southbound off-ramp. This intersection meets the Caltrans peak hour signal warrants under PM peak hour conditions.</p>
<p>LUTE EIR Mitigation Measure B.4b: Install a traffic signal at the intersection of 66th Avenue and I-880 northbound ramps. This intersection meets the Caltrans peak hour signal warrants under PM peak hour conditions.</p>
<p>LUTE EIR Mitigation Measure B.4c: Install a traffic signal at the intersection of 66th Avenue and Oakport Street and widen Oakport Street to provide a through and turn lane in each direction. This intersection meets the Caltrans peak hour signal warrants under PM peak hour conditions.</p>
<p>LUTE EIR Mitigation Measure B.4d: Widen the northbound approach at the High Street and Coliseum Way intersection to provide an additional left-turn lane or restripe the eastbound approach to provide double left-turn lanes and a shared through/right-turn lane. This intersection may be subject to changes in traffic patterns as a result of the current studies being conducted to reconfigure the High Street and 42 Street intersection. The identified mitigation measure should be implemented only after the reconfiguration of the High Street and 42nd Street intersection is approved.</p>

Section 7.17: Utilities and Service Systems

LUTE EIR Mitigation Measure D.1-2: Review major new development proposals to determine projected water, wastewater, and storm drainage loads compared with available water, sewer, and storm drain capacity. Where appropriate, determine appropriate capital improvement requirements, fiscal impacts, and funding sources prior to project approval.

LUTE EIR Mitigation Measure D.2-2: Review major new development proposals to determine projected water, wastewater, and storm drainage loads compared with available water, sewer, and storm drain capacity. Where appropriate, determine appropriate capital improvement requirements, fiscal impacts, and funding sources prior to project approval.

LUTE EIR Mitigation Measure D.3-2a: Review major new development proposals to determine projected water, wastewater, and storm drainage loads compared with available water, sewer, and storm drain capacity. Where appropriate, determine appropriate capital improvement requirements, fiscal impacts, and funding sources prior to project approval.

LUTE EIR Mitigation Measure D.3-2b: Require major new developments to include a combination of onsite and off-site drainage improvements to ensure that such projects do not create downstream erosion or flood hazards, or adversely impact the City's ability to manage stormwater runoff.

LUTE EIR Mitigation Measure D.3-2c: Address hill area drainage needs and develop additional drainage policies in the updated Safety Element.

LUTE EIR Mitigation Measure D.3-2d: Prepare a comprehensive study of hill area drainage needs and identify policies, programs, and capital improvements to address these needs in the future.

LUTE EIR Mitigation Measure D.4-1a: Continue to implement programs that reduce the amount of solid waste generated in the City by encouraging recycling, composting, and other activities consistent with the City's Source Reduction and Recycling Element.

LUTE EIR Mitigation Measure D.4-1b: Support solid waste collection, recycling, and disposal rates that are sufficient to cover the cost of adequate, efficient service delivery.

LUTE EIR Mitigation Measure D.4-1c: Establish guidelines and incentives for the recycling of construction and demolition debris and the use of recycled concrete and other recycled products in the construction of new buildings, roads, and infrastructure.

Attachment E

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
ALEX BRISCOE, Director



ENVIRONMENTAL HEALTH DEPARTMENT
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

June 26, 2014

Athan Magganas
Bruder, LLC
2550 Appain Way, #201
Pinole, CA 94564
Sent via E-mail to: magganas@prodiqy.net

Ali Reza Khashabi
4220 Clayton Road
Clayton, CA 94520

Subject: Case Closure for Fuel Leak Case No. RO3066 and GeoTracker Global ID T10000002456, Gas Station/East Bay Smog Center & Auto Repair, 6501 Shattuck Avenue, Oakland, CA 94609

Dear Gentlemen:

This letter transmits the enclosed underground storage tank (UST) case closure letter in accordance with Chapter 6.75 (Article 4, Section 25296.10[g]). The State Water Resources Control Board adopted this letter on February 20, 1997. As of March 1, 1997, the Alameda County Environmental Health (ACEH) is required to use this case closure letter for all UST leak sites. We are also transmitting to you the enclosed case closure summary. These documents confirm the completion of the investigation and cleanup of the reported release at the subject site. The subject fuel leak case is closed. This case closure letter and the case closure summary can also be viewed on the State Water Resources Control Board's Geotracker website (<http://geotracker.waterboards.ca.gov>) and the Alameda County Environmental Health website (<http://www.acgov.org/aceh/index.htm>).

If you have any questions, please call Karel Detterman at (510) 567-6708. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Dilan Roe".

Dilan Roe, P.E.
LOP and SCP Program Manager

Enclosures: 1. Remedial Action Completion Certification
2. Case Closure Summary

cc with enclosures:

Ann Clevenger, Planner III, City of Oakland Planning and Building Department, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612 (sent via e-mail to: aclevenger@oaklandnet.com)

Mansour Sepehr, SOMA Environmental Engineering, Inc., 6620 Owens Drive, Pleasanton, CA 94588 (sent via e-mail to: msepehr@somaenv.com)

Dilan Roe, ACEH, (sent via e-mail to: dilan.roe@acgov.org)
Karel Detterman (sent via electronic mail to: karel.detterman@acgov.org)
eFile, GeoTracker

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
ALEX BRISCOE, Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH
OFFICE OF THE DIRECTOR
1131 HARBOR BAY PARKWAY
ALAMEDA, CA 94502
(510) 567-6777
FAX (510) 337-9135

REMEDIAL ACTION COMPLETION CERTIFICATION

June 26, 2014

Athan Magganas
Bruder, LLC
2550 Appain Way, #201
Pinole, CA 94564
Sent via E-mail to: magganas@prodigy.net

Ali Reza Khashabi
4220 Clayton Road
Clayton, CA 94520

Subject: Case Closure for Fuel Leak Case No. RO3066 and GeoTracker Global ID T10000002456, Gas Station/East Bay Smog Center & Auto Repair, 6501 Shattuck Avenue, Oakland, CA 94609

Dear Gentlemen:

This letter confirms the completion of a site investigation and remedial action for the underground storage tanks formerly located at the above-described location. Thank you for your cooperation throughout this investigation. Your willingness and promptness in responding to our inquiries concerning the former underground storage tank(s) are greatly appreciated.

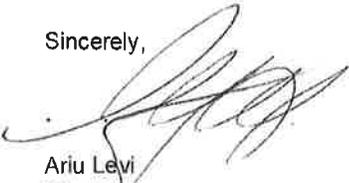
Based on information in the above-referenced file and with the provision that the information provided to this agency was accurate and representative of site conditions, this agency finds that the site investigation and corrective action carried out at your underground storage tank(s) site is in compliance with the requirements of subdivisions (a) and (b) of Section 25296.10 of the Health and Safety Code and with corrective action regulations adopted pursuant to Section 25299.3 of the Health and Safety Code and that no further action related to the petroleum release(s) at the site is required.

Please be aware that claims for reimbursement of corrective action costs submitted to the Underground Storage Tank Cleanup Fund more than 365 days after the date of this letter or issuance or activation of the Fund's Letter of Commitment, whichever occurs later, will not be reimbursed unless one of the following exceptions applies:

- Claims are submitted pursuant to Section 25299.57, subdivision (k) (reopened UST case); or
- Submission within the timeframe was beyond the claimant's reasonable control, ongoing work is required for closure that will result in the submission of claims beyond that time period, or that under the circumstances of the case, it would be unreasonable or inequitable to impose the 365-day time period.

This notice is issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code. Please contact our office if you have any questions regarding this matter.

Sincerely,


Ariu Levi
Director

Alameda County Environmental Health

**CASE CLOSURE SUMMARY
LEAKING UNDERGROUND FUEL STORAGE TANK - LOCAL OVERSIGHT PROGRAM**

I. AGENCY INFORMATION

Date: June 26, 2014

Agency Name: Alameda County Environmental Health	Address: 1131 Harbor Bay Parkway
City/State/Zip: Alameda, CA 94502-6577	Phone: (510) 567-6708
Responsible Staff Person: Karel Detterman	Title: Hazardous Materials Specialist

II. CASE INFORMATION

Site Facility Name: East Bay Smog Center and Auto Repair		
Site Facility Address: 6501 Shattuck Ave., Oakland, CA		
RB Case No.: ---	Previous Case STID No.: ---	LOP Case No.: RO0003066
GeoTracker ID: T10000002456		APN: 16-1428-11-2
Current Land Use: Closed auto repair business, Commercial		
Responsible Parties	Addresses	Phone Numbers
Bruder LLC	2550 Appian Way, Suite 201, Pinole, CA 94564	510-520-1482

This Case Closure Summary along with the Case Closure Transmittal letter and the Remedial Action Completion Certification provides documentation of the case closure. This closure approval is based upon the available information and with the provision that the information provided to this agency was accurate and representative of site conditions. Additional information on the case can be viewed in the online case file. The entire case file can be viewed over the Internet on the Alameda County Environmental Health (ACEH) website (<http://www.acgov.org/aceh/lop/ust.htm>) or the State of California Water Resources Control Board GeoTracker website (<http://geotracker.waterboards.ca.gov>). Not all historic documents for the fuel leak case may be available on GeoTracker. A more complete historic case file for this site is located on the ACEH website.

III. RELEASE AND SITE CHARACTERIZATION INFORMATION

Cause and Type of Release: Release from underground storage tank (UST) system.		
Number of monitoring wells installed: 3	Number of monitoring wells destroyed: 3	Number of monitoring wells remaining: 0
Highest Groundwater Depth Below Ground Surface: 2.94 feet bgs	Lowest Depth: 8.60 feet bgs	Flow Direction: Southwest
Most Sensitive Current Groundwater Use: Potential drinking water source		

Summary of Production Wells in Vicinity: No sensitive receptor survey has been performed for the site. However a sensitive receptor survey conducted for nearby Fuel Leak Case (RO0000078) located at 6407 Telegraph Ave, Oakland indicated one irrigation well was located at 3215 Adeline Street, Berkeley, a distance of approximately 1,300 feet downgradient from subject site. Based on the non-detect contaminant levels, this irrigation well is not expected to be a receptor for the site. No other water supply wells were identified within 2,000 feet of the site.	
Are drinking water wells affected? No	Aquifer Name: East Bay Plain
Is surface water affected? No	Nearest Surface Water Name: Claremont Creek is located approximately 950 feet upgradient and northeast of the site.

LTCP GROUNDWATER SPECIFIC CRITERIA

LTCP Groundwater Specific Scenario under which case was closed: Scenario 1

Site Data		LTCP Scenario 1 Criteria (ppb)	LTCP Scenario 2 Criteria (ppb)	LTCP Scenario 3 Criteria (ppb)	LTCP Scenario 4 Criteria (ppb)
Plume Length	<100 feet	<100 feet	<250 feet	<250 feet	<1,000 feet
Free Product	No free product	No free product	No free product	Removed to maximum extent practicable	No free product
Plume Stable or Decreasing	Stable	Stable or decreasing	Stable or decreasing	Stable or decreasing for minimum of 5 Years	Stable or decreasing
Distance to Nearest Water Supply Well	Approximately 1,300 feet downgradient	>250 feet	>1,000 feet	>1,000 feet	>1,000 feet
Distance to Nearest Surface Water and Direction	Claremont Creek 950 feet upgradient	>250 feet	>1,000 feet	>1,000 feet	>1,000 feet
Property Owner Willing to Accept a Land Use Restriction?	Not Applicable	Not applicable	Not applicable	Yes	Not applicable

GROUNDWATER CONCENTRATIONS

Constituent	Historic Site Maximum (ppb)	Current Site Maximum (ppb)	LTCP Scenario 1 Criteria (ppb)	LTCP Scenario 2 Criteria (ppb)	LTCP Scenario 3 Criteria (ppb)	LTCP Scenario 4 Criteria (ppb)
Benzene	59	<0.5	No criteria	3,000	No criteria	1,000
MTBE	1.9	<0.5	No criteria	1,000	No criteria	1,000
<i>List other chemicals of specific concern</i>						

Scenario 5: If the site does not meet scenarios 1 through 4, has a determination been made that under current and reasonably expected future scenarios, the contaminant plume poses a low threat to human health and safety and to the environment and water quality objectives will be achieved within a reasonable time frame?

LTCP VAPOR SPECIFIC CRITERIA

LTCP Vapor Specific Scenario under which case was closed: Scenario 3A

Active Fueling Station Active as of ----

Site Data		LTCP Scenario 1 Criteria	LTCP Scenario 2 Criteria	LTCP Scenario 3A Criteria	LTCP Scenario 3B Criteria	LTCP Scenario 3C Criteria	LTCP Scenario 4 Criteria
Unweathered NAPL	No NAPL	LNAPL in groundwater	LNAPL in soil	No NAPL	No NAPL	No NAPL	No criteria
Thickness of Bioattenuation Zone Beneath Foundation	15 feet	≥30 feet	≥30 feet	≥5 feet	≥10 feet	≥5 feet	≥5 feet
Total TPH in Bioattenuation Zone	67 ppm	<100 ppm	<100 ppm	<100 ppm	<100 ppm	<100 ppm	<100 ppm
Maximum Current Benzene Concentration in Groundwater	<0.5 ppb	No criteria	No criteria	<100 ppb	≥100 and <1,000 ppb	<1,000 ppb	No criteria
Oxygen Data within Bioattenuation Zone	No oxygen data	No criteria	No criteria	No oxygen data or <4%	No oxygen data or <4%	≥4% at lower end of zone	≥4% at lower end of zone
Depth of soil vapor measurement beneath foundation	----	No criteria	No criteria	No criteria	No criteria	No criteria	≥5 feet

SCENARIO 4 DIRECT MEASUREMENT OF SOIL VAPOR CONCENTRATIONS

Site Soil Vapor Data			No Bioattenuation Zone		Bioattenuation Zone	
Constituent	Historic Maximum (µg/m ³)	Current Maximum (µg/m ³)	Residential	Commercial	Residential	Commercial
Benzene	----	----	<85	<280	<85,000	<280,000
Ethylbenzene	----	----	<1,100	<3,600	<1,100,000	<3,600,000
Naphthalene	----	----	<93	<310	<93,000	<310,000
If the site does not meet scenarios 1 through 4, does a site-specific risk assessment for the vapor intrusion pathway demonstrate that human health is protected?			-----			
If the site does not meet scenarios 1 through 4, has a determination been made that petroleum vapors from soil or groundwater will have no significant risk of adversely affecting human health as a result of controlling exposure through the use of mitigation measures or through the use of institutional controls?			-----			

LTCP DIRECT CONTACT AND OUTDOOR AIR EXPOSURE CRITERIA

LTCP Direct Contact and Outdoor Air Exposure Specific Scenario under which case was closed: Maximum concentrations of petroleum hydrocarbons are less than or equal to those in Table 1 below

Are maximum concentrations less than those in Table 1 below?		Yes				
Constituent		Residential		Commercial/Industrial		Utility Worker
		0 to 5 feet bgs (ppm)	Volatilization to outdoor air (5 to 10 feet bgs) ppm	0 to 5 feet bgs (ppm)	Volatilization to outdoor air (5 to 10 feet bgs) ppm	0 to 10 feet bgs (ppm)
Site Maximum	Benzene	---	<0.15	---	<0.15	<0.15
LTCP Criteria	Benzene	≤1.9	≤2.8	≤8.2	≤12	≤14
Site Maximum	Ethylbenzene	---	0.18	---	0.18	0.18
LTCP Criteria	Ethylbenzene	<21	≤32	≤89	≤134	≤314
Site Maximum	Naphthalene	---	<0.0047	---	<0.0047	<0.0047
LTCP Criteria	Naphthalene	≤9.7	≤9.7	≤45	≤45	≤219
Site Maximum	PAHs	---	0.093	---	0.093	0.093
LTCP Criteria	PAHs	≤0.063	NA	≤0.68	NA	≤4.5
If maximum concentrations are greater than those in Table 1, are they less than levels from a site-specific risk assessment?				Not Applicable		
If maximum concentrations are greater than those in Table 1, has a determination been made that the concentrations of petroleum in soil will have no significant risk of adversely affecting human health as a result of controlling exposure through the use of mitigation measures or through the use of institutional controls?				Not Applicable		

IV. CLOSURE

<p>Does corrective action protect public health for current land use? Alameda County Environmental Health staff does not make specific determinations concerning public health risk. However, based upon the information available in our files to date, closure of this site appears to be consistent with the policies established by the State Water Resources Control Board Low-Threat Underground Storage Tank Closure Policy which became effective on August 17, 2012.</p>	
<p>Site Management Requirements:</p> <p>This fuel leak case has been evaluated for closure consistent with the State Water Resource Control Board Low-Threat Underground Storage Tank Closure Policy (LTCP). Based on this evaluation, no site management requirements appear to be necessary. However, excavation or construction activities in areas of residual contamination require planning and implementation of appropriate health and safety procedures by the responsible party prior to and during excavation and construction activities.</p> <p>This site is to be entered into the City of Oakland Permit Tracking System due to the residual contamination on site.</p>	
<p>Should corrective action be reviewed if land use changes? Yes</p>	
<p>Was a deed restriction or deed notification filed? No</p>	<p>Date Recorded: ----</p>

V. ADDITIONAL COMMENTS AND CONCLUSION

<p>Conclusion:</p> <p>Alameda County Environmental Health staff believe that the site meets the conditions for case closure under the State Water Resources Control Board Low-Threat Underground Storage Tank Closure Policy. Based upon the information available in our files to date, no further investigation or cleanup for the fuel leak case is necessary at this time.</p>

VI. LOCAL AGENCY REPRESENTATIVE DATA

<p>Prepared by: Karel Detterman, PG</p>	<p>Title: Hazardous Materials Specialist</p>
<p>Signature: <i>Karel Detterman</i></p>	<p>Date: 6/26/2014</p>
<p>Approved by: Dilan Roe, PE</p>	<p>Title: LOP and SCP Program Manager</p>
<p>Signature: <i>Dilan Roe</i></p>	<p>Date: 6/30/2014</p>

VII. REGIONAL BOARD AND PUBLIC NOTIFICATION

<p>Regional Board Staff Name: Cherie McCaulou</p>	<p>Title: Engineering Geologist</p>
<p>Regional Board Notification Date: 3/27/2014</p>	
<p>Public Notification Date: 3/14/2014</p>	

VIII. MONITORING WELL DESTRUCTION

Date Requested by ACEH: 03/12/2014		Date of Well Destruction Report: 06/03/2014	
All Monitoring Wells Destroyed: Yes	Number Destroyed: 3	Number Retained: 0	
Reason Wells Retained: ----			
Additional requirements for submittal of groundwater data from retained wells: ----			
ACEH Concurrence - Signature: <i>Karel Delle</i>		Date: <i>6/26/2014</i>	

Attachments:

1. Site Vicinity Map and Aerial Photo (2 pp)
2. Site Plan (1 p)
3. Groundwater Contour and Chemical Concentration Maps (2 pp)
4. Soil Analytical Data (4 pp)
5. Groundwater Analytical Data (3 pp)

ATTACHMENT 1



(Google Earth, 2013)



Imagery ©2011 GeoEye, I

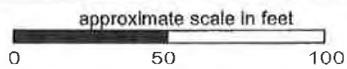
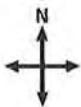


Figure 1: Site vicinity map.

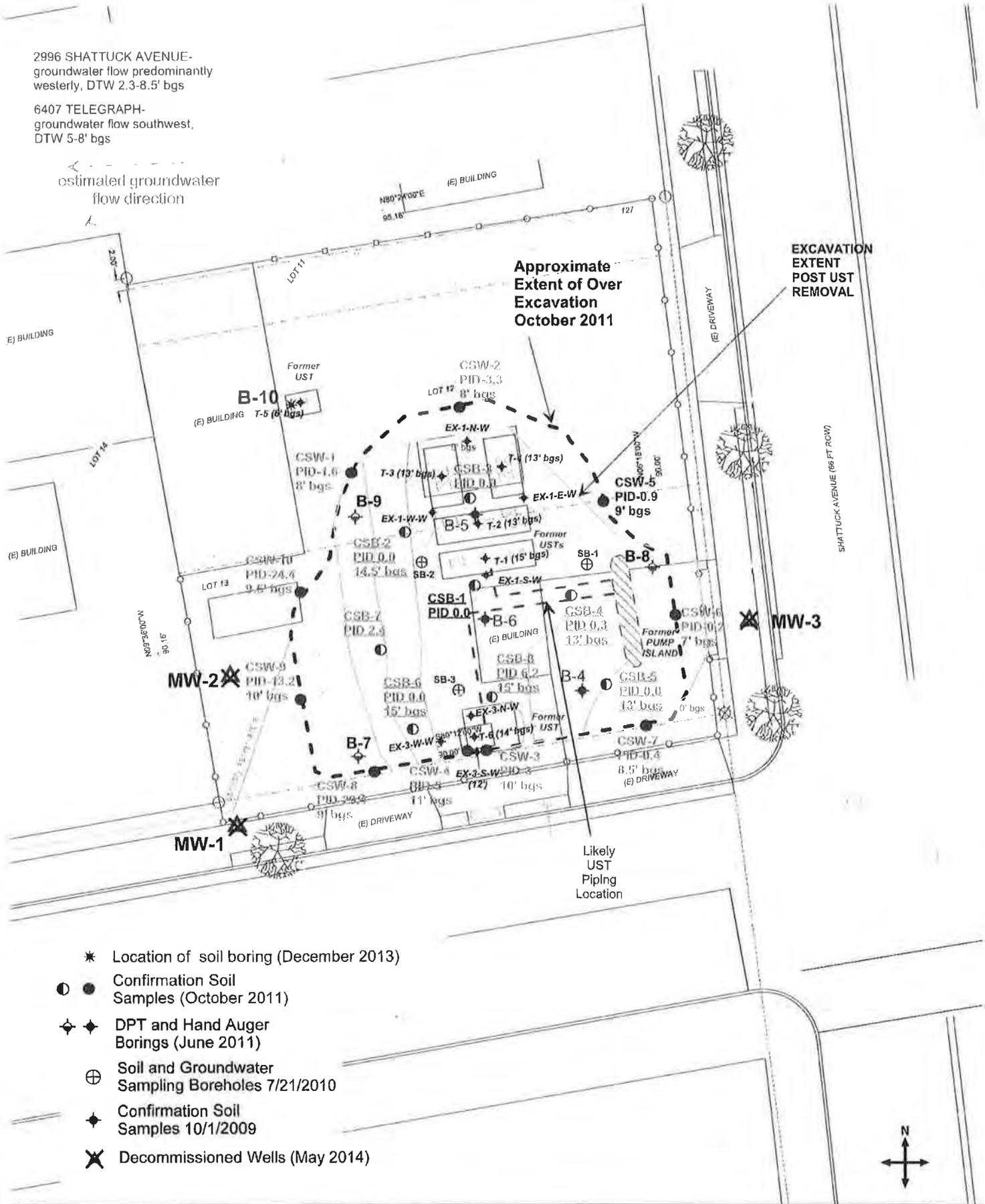


ATTACHMENT 2

2996 SHATTUCK AVENUE-
groundwater flow predominantly
westerly, DTW 2.3-8.5' bgs

6407 TELEGRAPH-
groundwater flow southwest,
DTW 5-8' bgs

← estimated groundwater
flow direction



- * Location of soil boring (December 2013)
- Confirmation Soil Samples (October 2011)
- ◆ DPT and Hand Auger Borings (June 2011)
- ⊕ Soil and Groundwater Sampling Boreholes 7/21/2010
- ◆ Confirmation Soil Samples 10/1/2009
- ✱ Decommissioned Wells (May 2014)

approximate scale in feet

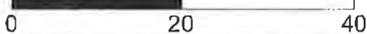


Figure 2: Site Plan

ATTACHMENT 3

2996 SHATTUCK AVENUE-
groundwater flow predominantly
westerly, DTW 2.3-8.5' bgs

6407 TELEGRAPH-
groundwater flow southwest,
DTW 5-8' bgs

estimated groundwater
flow direction

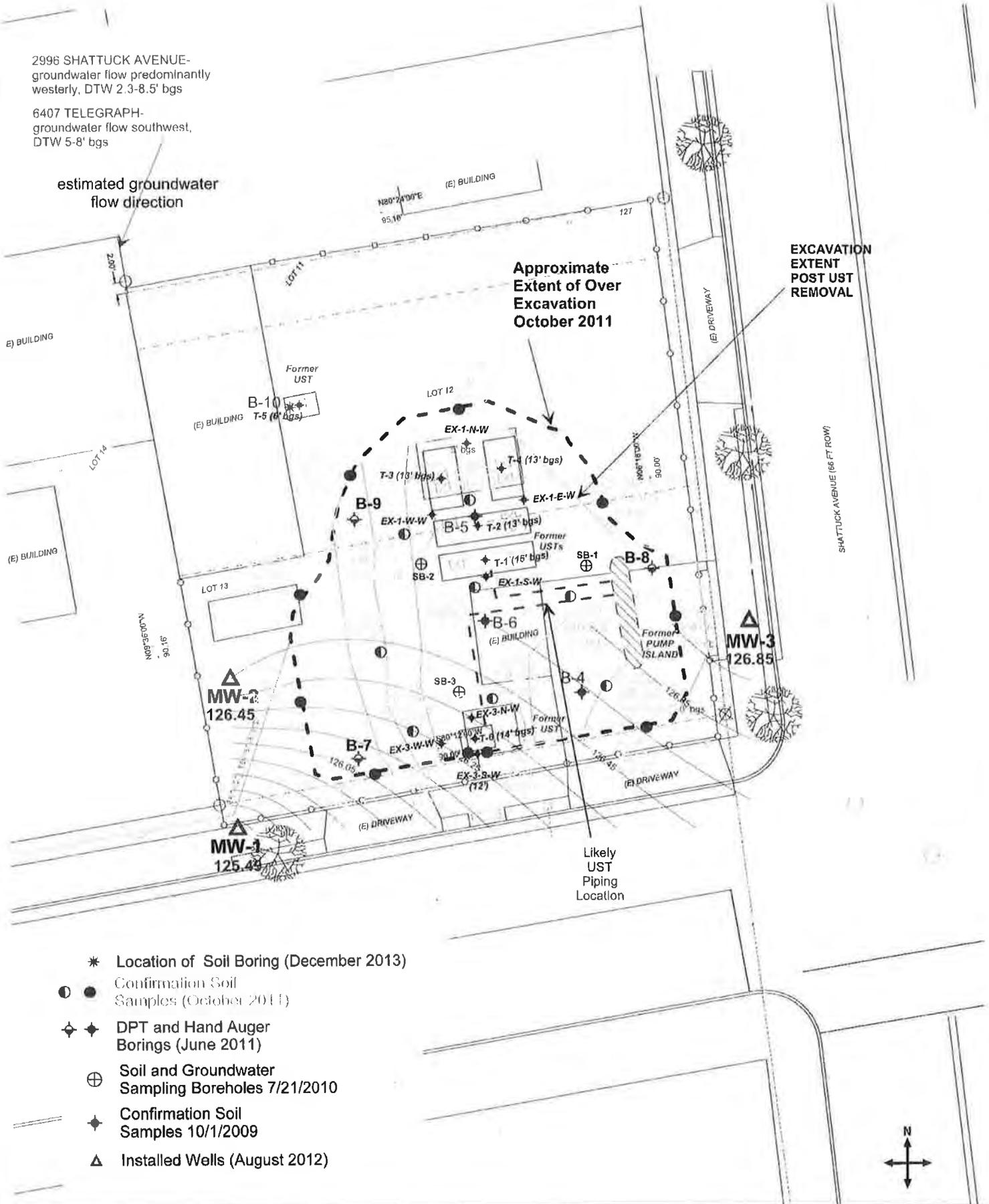
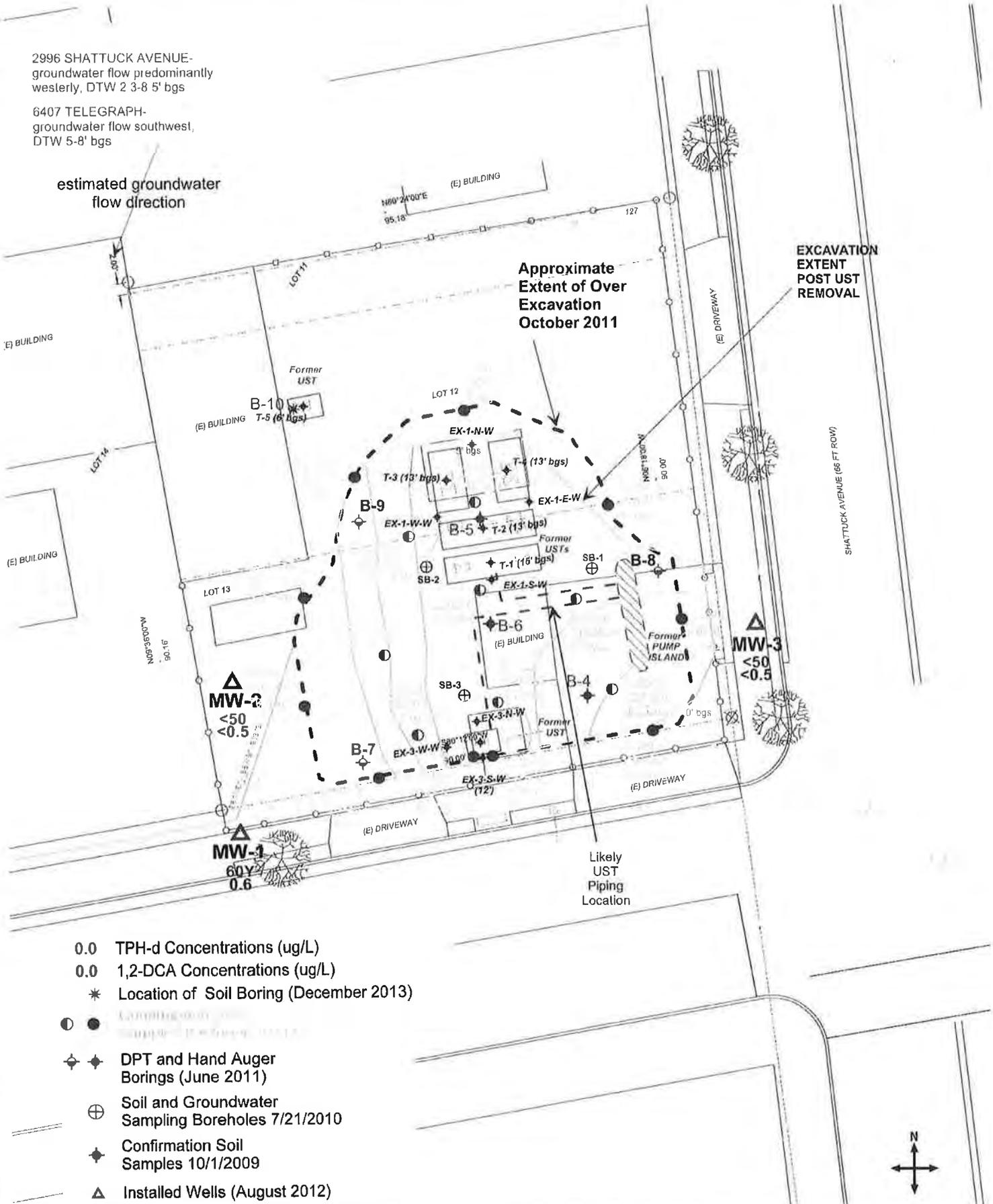


Figure 3: Groundwater elevation contour map in feet,
March 3, 2014

2996 SHATTUCK AVENUE-
groundwater flow predominantly
westerly, DTW 2-3-8 5' bgs

6407 TELEGRAPH-
groundwater flow southwest,
DTW 5-8' bgs

estimated groundwater
flow direction



- 0.0 TPH-d Concentrations (ug/L)
- 0.0 1,2-DCA Concentrations (ug/L)
- * Location of Soil Boring (December 2013)
- ● Location of Soil Boring (June 2011)
- ◆ ◆ DPT and Hand Auger Borings (June 2011)
- ⊕ Soil and Groundwater Sampling Boreholes 7/21/2010
- ◆ Confirmation Soil Samples 10/1/2009
- △ Installed Wells (August 2012)

Figure 4: Map showing TPH-d and 1,2-DCA concentrations in groundwater, March 3, 2014

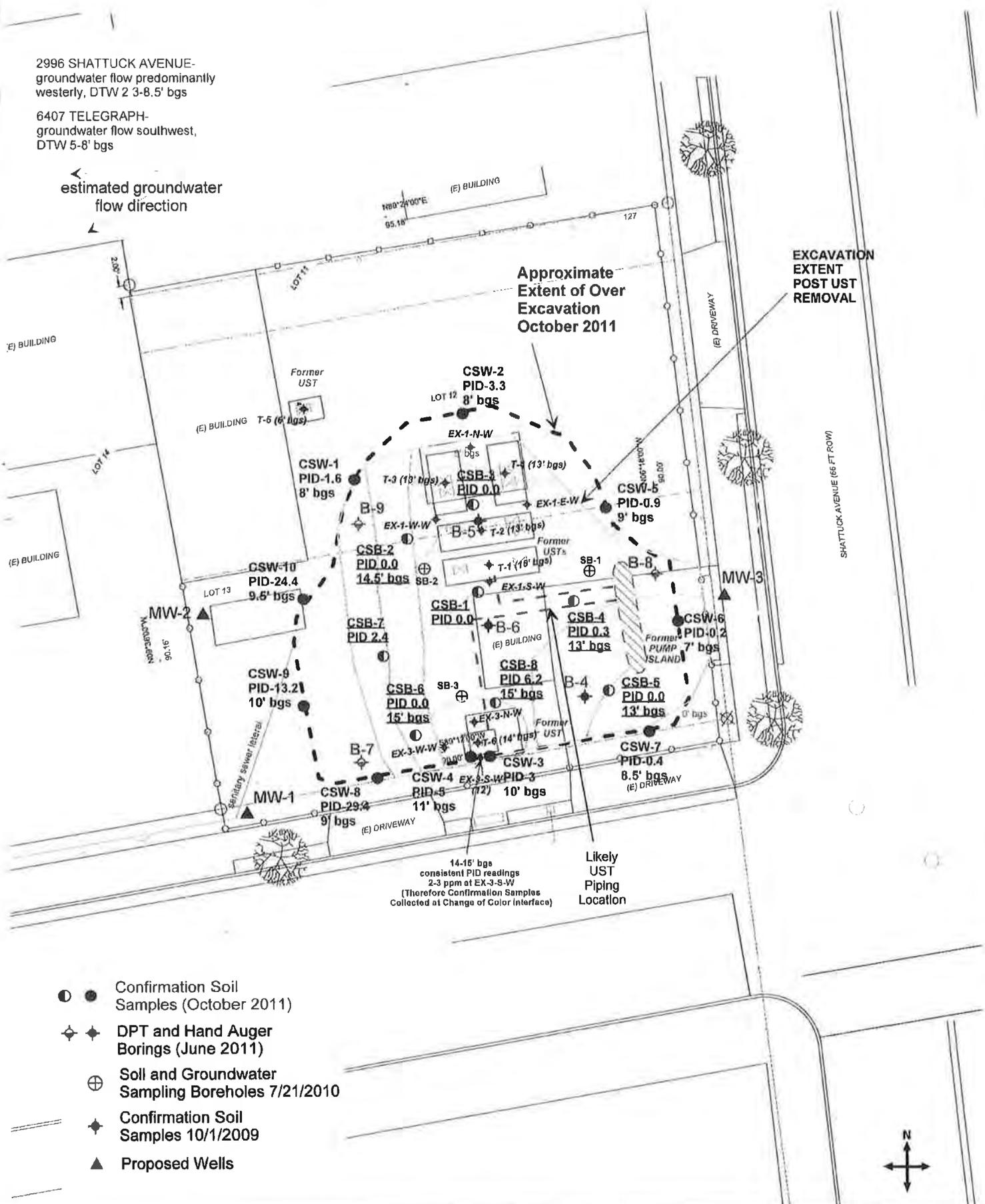


ATTACHMENT 4

2996 SHATTUCK AVENUE-
groundwater flow predominantly
westerly, DTW 2 3-8.5' bgs

6407 TELEGRAPH-
groundwater flow southwest,
DTW 5-8' bgs

← estimated groundwater
flow direction



- Confirmation Soil Samples (October 2011)
- ◆ DPT and Hand Auger Borings (June 2011)
- ⊕ Soil and Groundwater Sampling Boreholes 7/21/2010
- ◆ Confirmation Soil Samples 10/1/2009
- ▲ Proposed Wells

approximate scale in feet

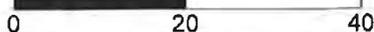


Figure 3: Site Map Showing Excavated Area and Confirmation Soil Sampling



Table 1
UST Confirmation Soil Analytical Data (10/1/2009)
6501 Shattuck Ave, Oakland, CA

Sample ID	Soil Sample Depth (feet bgs)	TPH-g (mg/kg)	TPH-d (mg/kg)	TPH-mo (mg/kg)	Benzene (mg/kg)	Toluene (mg/kg)	Ethyl-Benzene (mg/kg)	Total Xylenes (mg/kg)	MtBE 8260B (mg/kg)	Lead 6010 (mg/kg)	Zinc 6010 (mg/kg)	Minimum anticipated over-excavation depth (ft bgs)
T-1	15	8.2	2.6	NA	<0.5	<0.5	<0.5	0.013	<5	6.5	66	-
T-2	13	420	270	NA	0.16	<0.1	<0.1	0.72	<1	14	220	- per conf B-5 results
T-3	13	100	58	NA	<0.1	<0.1	0.24	1.4	<1	14	99	13.5
T-4	13	1.8	2.5	NA	<0.5	<0.5	0.02	0.09	<5	7	63	-
T-5	6	8	11	44	<0.5	<0.5	<0.5	0.02	<5	12	45	-
T-6	14	280	230	NA	0.45	1.9	2.7	15	<2.5	95	290	15
EX-1-E-W	13	93	76	NA	<0.1	0.18	<0.1	0.15	<1	8.7	21	13.5
EX-1-N-W	10	8.2	3.5	NA	<0.5	0.0099	<0.5	0.035	<5	9.9	31	-
EX-1-S-W	12	490	170	NA	0.54	0.12	3.6	1.6	<1	8.9	58	13
EX-1-W-W	13	1,700	1,800	NA	<0.25	<0.25	1.9	5.9	<2.5	92	580	14.5
EX-3-E-W	13	2,100	680	NA	2.7	3	15	60	<5	4,200	3,900	14.5
EX-3-N-W	13	180	48	NA	0.71	5.9	2.7	17	<1	320	480	14
EX-3-S-W	12	2,900	780	NA	5	27	36	200	<5	240	560	13
EX-3-W-W	12	95	41	NA	0.42	<0.1	0.11	0.28	<1	10	25	12.5
ESL for Drinking Water		100	100	100	0.004	2.9	0.5	2.3	0.025	30	300	NA
ESL for Drinking Water		500	110	100	0.12	5.0	1.2	11	5.4	325	300	NA

Notes:

ESL: California Regional Water Quality Control Board, Environmental Screening Levels, Interim Final 2013

< : below Laboratory Detection Limits

Y: Sample exhibits chromatographic pattern which does not resemble standard

NA: Not Analyzed

Table 2
Soil Analytical Results
6501 Shattuck Ave, Oakland, CA

Sample ID	Soil Sample Depth (feet bgs)	Depth to Water (feet bgs)	Date	TPH-g (mg/kg)	TPH-d (mg/kg)	TPH-mo (mg/kg)	Benzene (mg/kg)	Toluene (mg/kg)	Ethyl-Benzene (mg/kg)	Total Xylenes (mg/kg)	MtBE 8260B (mg/kg)
SB-1@2.5ft	9	10	7/21/2010	23Y	20	<5.0	<0.25	<0.25	<0.25	<0.25	<0.25
SB-2@3ft	9	10	7/21/2010	510Y	50	<5.0	<0.5	<0.5	0.65	<0.5	<0.5
SB-3@1.5ft	8.5	8.5	7/21/2010	3.2Y	24	48	<0.0048	<0.0048	<0.0048	<0.0048	<0.0048
B-4	9	13.22	6/10/2011	<1.0	<1.0	<5.0	<0.005	<0.005	<0.005	<0.005	<0.005
B-5	8	NA	6/10/2011	18 Y	59 Y	<5.0	<0.25	<0.25	<0.25	<0.25	<0.25
B-5	7	NA	6/10/2011	<1.0	<1.0	<5.0	<0.0048	<0.0048	<0.0048	<0.0048	<0.0048
B-7	10	12.45	6/10/2011	180	35 Y	<5.0	<0.25	<0.25	<0.25	<0.25	<0.25
B-7	12	12.45	6/10/2011	<0.98	NA	NA	NA	NA	NA	NA	NA
B-8	4.5	NA	6/10/2011	<1.1	3.2 Y	23	<0.0049	<0.0049	<0.0049	<0.0049	<0.0049
B-9	8	11.5	6/10/2011	140	58 Y	6.1	<0.25	<0.25	<0.25	<0.25	<0.25
B-9	10	11.5	6/10/2011	<1.0	NA	NA	NA	NA	NA	NA	NA
CSW-1	10	NA	10/13/2011	1.7 ^Y	4.3 ^Y	<5.0	<0.005	<0.005	<0.005	<0.005	<0.005
CSW-2@8ft	8	NA	10/17/2011	<0.017	<0.759	6.9	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSW-3@10'	10	NA	10/14/2011	38	7.8	<1.65	<0.15	<0.098	0.18	<0.19	<0.26
CSW-4@11'	11	NA	10/14/2011	<0.017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSW-5@9ft	9	NA	10/17/2011	<0.017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSW-6@7ft	7	NA	10/17/2011	<0.017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSW-7@8.5ft	8.5	NA	10/17/2011	<0.017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSW-8@9ft	9	NA	10/24/2011	0.56 ^X	2.9 ^X	10	<0.0038	<0.0025	<0.0022	<0.0046	<0.0065
CSW-9@10ft	10	NA	10/24/2011	<0.017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSW-10@9.5ft	9.5	NA	10/24/2011	3.4 ^X	8.2 ^X	7.5	<0.0075	<0.0049	<0.0043	<0.0093	<0.013
CSB-1	14	NA	10/13/2011	<1.0	<1.0	<5.0	<0.0049	<0.0049	<0.0049	<0.0049	<0.0049
CSB-2	14.5	NA	10/13/2011	<1.0	<1.0	<5.0	<0.0049	<0.0049	<0.0049	<0.0049	<0.0049
CSB-3	13	NA	10/13/2011	<1.1	<1.0	<5.0	<0.005	<0.005	<0.005	<0.005	<0.005
CSB-4	13	NA	10/17/2011	<0.0017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSB-5	13	NA	10/17/2011	<0.0017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSB-6	15	NA	10/24/2011	<0.0017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
CSB-7	14.5	NA	10/24/2011	5.4 ^X	24 ^X	25	<0.0075	<0.0049	<0.0043	<0.0093	<0.013
CSB-8	15	NA	10/24/2011	<0.0017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
Fill Black-1	NA	NA	10/14/2011	<0.0017	<0.759	23	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
Fill Black-2	NA	NA	10/14/2011	<0.0017	<0.759	7.6	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
Fill Brown-1	NA	NA	10/14/2011	<0.017	<0.759	42	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
Fill Brown-2	NA	NA	10/14/2011	<0.017	<0.759	28	<0.0015	<0.00098	<0.00086	<0.0019	<0.0026
Compfill-3	NA	NA	10/28/2011	<0.017	<0.759	<1.65	<0.0015	<0.00098	<0.00086	<0.0019	NA
B-10	7	17	12/20/2013	7.1 Y	NA	NA	<0.0049	<0.0049	<0.0049	<0.0049	<0.0049
B-10	9	17	12/20/2013	3.5 Y	NA	NA	<0.0048	<0.0048	<0.0048	<0.0048	<0.0048
B-10	10	17	12/20/2013	<1.0	NA	NA	<0.0049	<0.0049	<0.0049	<0.0049	<0.0049
B-10	15	17	12/20/2013	<1.0	NA	NA	<0.0047	<0.0047	<0.0047	<0.0047	<0.0047
B-10	21	17	12/20/2013	<0.98	NA	NA	<0.0048	<0.0048	<0.0048	<0.0048	<0.0048
EPA Drinking Water Residential				100	100	100	500	20	30	20	100
EPA Non-Drinking Water Commercial				500	100	500	10	5	5	5	5

Table 2
Soil Analytical Results
6501 Shattuck Ave, Oakland, CA

Sample ID	Soil Sample Depth (feet bgs)	Depth to Water (feet bgs)	Date	Phenanthrene (mg/kg)	Pyrene (mg/kg)	Chrysene (mg/kg)	Cadmium (mg/kg)	Chromium (mg/kg)	Lead (mg/kg)	Nickel (mg/kg)	Zinc (mg/kg)
SB-1@2.5ft	9	10	7/21/2010	NA	NA	NA	NA	NA	7.9	NA	NA
SB-2@3ft	9	10	7/21/2010	NA	NA	NA	NA	NA	5.7	NA	NA
SB-3@1.5ft	8.5	8.5	7/21/2010	NA	NA	NA	NA	NA	58	NA	NA
B-4	9	13.22	5/10/2011	NA	NA	NA	NA	NA	NA	NA	NA
B-5	8	NA	5/10/2011	NA	NA	NA	NA	NA	<0.25	NA	NA
B-6	7	NA	5/10/2011	NA	NA	NA	NA	NA	<0.0048	NA	NA
B-7	10	12.45	5/10/2011	NA	NA	NA	NA	NA	<0.25	NA	NA
B-7	12	12.45	5/10/2011	NA	NA	NA	NA	NA	NA	NA	NA
B-8	4.5	NA	5/10/2011	NA	NA	NA	NA	NA	<0.0049	NA	NA
B-9	8	11.5	5/10/2011	NA	NA	NA	NA	NA	<0.25	NA	NA
B-9	10	11.5	5/10/2011	NA	NA	NA	NA	NA	NA	NA	NA
B-10	7	17	12/20/2013	0.061	0.093	0.076	0.55	31	7.5	36	54
B-10	9	17	12/20/2013	<0.0051	0.0065	<0.0051	0.54	33	5.6	36	48
B-10	10	17	12/20/2013	<0.005	0.0083	<0.005	0.95	41	10	62	52
B-10	15	17	12/20/2013	<0.005	<0.005	<0.005	0.67	44	9	68	52
B-10	21	17	12/20/2013	<0.0049	<0.0049	<0.0049	0.48	30	7.9	37	47
ESL Drinking Water (Residential)					85	338		100	100	15	100
ESL Non-Drinking Water (Commercial)					85	13		100	100	15	100

Notes:

ESL: California Regional Water Quality Control Board, Environmental Screening Levels, Interim Final 2013

<: below Laboratory Detection Limits

Y: Sample exhibits chromatographic pattern which does not resemble standard

X: Does not match pattern of reference Gasoline standard. Reported value is the result of contribution from hydrocarbons heavier than requested fuel in range of C5-C12 quantified as gasoline

X: Not typical of Diesel standard pattern (possibly fuel lighter than diesel)

Note: Depth to groundwater is tentative, since some locations had slower water recovery rates, and does not represent the actual stabilized groundwater elevation across the site

NA: Not Analyzed

ATTACHMENT 5

Table 3
Grab Groundwater Analytical Results
6501 Shattuck Ave, Oakland, CA

Sample ID	Date	TPH-g (µg/L)	TPH-d (µg/L)	TPH-mo (µg/L)	Benzene (µg/L)	Toluene (µg/L)	Ethyl-Benzene (µg/L)	Total Xylenes (µg/L)	MtBE 8260B (µg/L)
SB-1	7/21/2010	1,500	930	<300	5.1	1.8	32	25	1.9
SB-2	7/21/2010	1,700	5,300	1,400	59	4.8	18	13.7	0.66
SB-3	7/21/2010	4,000	11,000	800	30	4.1	15	10.9	<0.5
B-4	6/10/2011	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5
B-5	6/10/2011	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5
B-6	6/16/2011	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5
B-7	6/10/2011	160 Y	61 Y	<300	1.1	0.9	1.2	0.9	<0.5
B-8	6/10/2011	<50	<63	<380	<0.5	<0.5	<0.5	<0.5	<0.5
B-9	6/10/2011	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5
ESL Drinking Water (Residential)		100	100	100	1	40	30	20	5
ESL Non-Drinking Water (Commercial)		210	210	210	46	130	43	100	1800

Sample ID	Date	Cadmium (µg/L)	Chromium (µg/L)	Lead (µg/L)	Nickel (µg/L)	Zinc (µg/L)
SB-1	7/21/2010	<5.0	<5.0	<5.0	<5.0	<20
SB-2	7/21/2010	<5.0	<5.0	<5.0	12	41
SB-3	7/21/2010	<5.0	<5.0	<5.0	19	350
ESL Drinking Water (Residential)		0.25	50	2.5	8.2	81
ESL Non-Drinking Water (Commercial)		0.25	180	2.5	8.2	81

Notes:

ESL: California Regional Water Quality Control Board, Environmental Screening Levels, Interim Final 2013

< : below Laboratory Detection Limits

Y: Sample exhibits chromatographic pattern which does not resemble standard

Table 4
Groundwater Analytical Results
6501 Shattuck Ave, Oakland, CA

Monitoring Well	Date	Top of Casing Elevation (Ft.)	Depth to Groundwater (Ft.)	Groundwater Elevation	TPH-g µg/L	TPH-d µg/L	TPH-mo µg/L	Benzene µg/L	Toluene µg/L	Ethylbenzene µg/L	Xylenes µg/L	MtBE µg/L	1,2-DCA µg/L	EDB µg/L
MW-1	9/11/2012	128.70	6.14	122.56	<50	<52	<310	<0.5	<0.5	<0.5	<0.5	<0.5	1.30	<0.5
	12/20/2012	128.70	2.94	125.76	<50	<51	<310	<0.5	<0.5	<0.5	<0.5	<0.5	0.90	<0.5
	3/25/2013	128.70	4.48	124.22	<50	<56	<330	<0.5	<0.5	<0.5	<0.5	<0.5	1.00	<0.5
	6/12/2013	128.70	5.35	123.35	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	1.00	<0.5
	9/5/2013	128.70	6.31	122.39	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	0.80	<0.5
	12/4/2013	128.70	5.79	122.91	<50	<52	<310	<0.5	<0.5	<0.5	<0.5	<0.5	0.80	<0.5
	3/3/2014	128.70	3.21	125.49	<50	60 Y	<300	<0.5	<0.5	<0.5	<0.5	<0.5	0.60	<0.5
MW-2	9/11/2012	130.32	7.81	122.51	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	12/20/2012	130.32	6.61	123.71	76 Y	<51	<310	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	3/25/2013	130.32	7.65	122.67	<50	<57	<340	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	6/12/2013	130.32	8.60	121.72	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	9/5/2013	130.32	7.62	122.70	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	12/4/2013	130.32	6.95	123.37	<50	<52	<310	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	3/3/2014	130.32	3.87	126.45	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
MW-3	9/11/2012	131.34	7.89	123.45	<50	<53	<320	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	12/20/2012	131.34	4.55	126.79	<50	<51	<310	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	3/25/2013	131.34	4.99	126.35	<50	<58	<350	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	6/12/2013	131.34	5.95	125.39	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	9/5/2013	131.34	6.70	124.64	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	12/4/2013	131.34	6.23	125.11	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5
	3/3/2014	131.34	4.49	126.85	<50	<50	<300	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5

Note:

< : Below Laboratory Reporting Limit (Method Detection Limit)

All other VOCs were below laboratory-reporting limits in groundwater samples

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
REBECCA GEBHART, Interim Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

September 12, 2016

Ms. Ann Clevenger (Sent via email to: aclevenger@oaklandnet.com)
Mr. Scott Miller (Sent via email to: smiller@oaklandnet.com)
City of Oakland, Bureau of Planning
250 Frank H. Ogawa, Suite 2114
Oakland, CA 94612

Subject: Voluntary Remedial Program; Case No. RO0003207 and Closed Fuel Leak Case No. RO0003066 and GeoTracker Global ID T10000002456, Gas Station/East Bay Smog Center & Auto Repair, 6501 Shattuck Avenue, Oakland, CA 94609

Dear Ms. Clevenger and Mr. Miller:

Alameda County Department of Environmental Health (ACDEH) provided regulatory oversight for the former fuel leak case located at 6501 Shattuck Avenue, Oakland, California and issued a Remedial Action Completion Certificate (RACC) in June 2014. Mr. Athan Magganas, the Responsible Party (RP) for the closed fuel leak case, indicated to ACDEH his intent to redevelop the property as mixed use commercial and residential. ACDEH staff met with Mr. Magganas, Mr. Moshe Dinar, Dinar and Associates, and Mr. Mansour Sepehr, SOMA Environmental Engineering, Inc., on July 12, 2016 to review the proposed development plans comprised of a nine page plan set entitled "6501 Shattuck Avenue", dated May 4, 2015, generated by Dinar and Associates. The proposed redevelopment project is located on one parcel (Assessor Parcel Number 16-1428-11-2) with the address of 6501 Shattuck Avenue. The parcel is currently occupied by a building formerly used with the East Bay Smog Center and the entire site surrounded by a chain link fence.

The submitted plans indicate that the proposed redevelopment will consist of a four-story mixed use building with commercial storefronts and a parking garage on the ground floor and residential use on the three upper floors. One elevator and one stair case that terminates at grade will provide access to the upper stories. Because the construction documents have not been completed for this specific site, on August 23, 2016 Dinar and Associates e-mailed a comparable typical elevator shaft section from another project. The typical elevator shaft section indicates that the elevator pit will be four feet deep with a sump measuring two-feet deep by two feet square, for a total depth six feet. The proposed development plans do not include a basement or any other below grade elements.

ACDEH staff inquired if surface excavation was expected to occur to facilitate the construction of the building foundation. Dinar and Associates' soils and structural engineers responded that they are not projecting any significant grading or soil removal because the site is approximately 30 inches below the projected level of the slab, which will allow ample space for any foundation system that the engineer may select.

Based on data in the case files and the findings described above, the level of cleanup at the site is suitable for residential and commercial use.

Our online case file is available for review at the following website: <http://www.acgov.org/aceh/index.htm>. If you have any questions, please do not hesitate to call me at (510) 567-6876 or send me an electronic mail message at karel.detterman@acgov.org

Ms. Ann Clevenger
Mr. Scott Miller
RO0003207
September 12, 2016, Page 2

Sincerely,



Digitally signed by Karel Detterman
DN: cn=Karel Detterman, o, ou,
email=karel.detterman@acgov.org, c=US
Date: 2016.09.12 12:51:50 -07'00'

Karel Detterman, PG
Hazardous Materials Specialist

Enclosures: Attachment 1 – Responsible Party (ies) Legal Requirements / Obligations
Electronic Report Upload (ftp) Instructions

cc: Athan Magganas, Bruder, LLC, 2550 Appain Way, #201 Pinole, CA 94564 (Sent via E-mail to:
magganas@prodigy.net)

Moshe Dinar, Dinar and Associates, P.O. Box 70601, Oakland, CA 94612 (Sent via E-mail to:
dinararch@sbcglobal.net)

Mansour Sepehr, SOMA Environmental Engineering, Inc., 6620 Owens Drive, Pleasanton, CA
94588 (sent via e-mail to: msepehr@somaenv.com)

Dilan Roe, ACDEH, (Sent via electronic mail to: dilan.roe@acgov.org)

Karel Detterman, ACDEH, (Sent via electronic mail to: karel.detterman@acgov.org)

Electronic File, GeoTracker

Attachment 1

Responsible Party(ies) Legal Requirements / Obligations

REPORT REQUESTS

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of reports in electronic form. The electronic copy replaces paper copies and is expected to be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program FTP site are provided on the attached "Electronic Report Upload Instructions." Submission of reports to the Alameda County FTP site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) GeoTracker website. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for all groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitoring wells, and other data to the GeoTracker database over the Internet. Beginning July 1, 2005, these same reporting requirements were added to Spills, Leaks, Investigations, and Cleanup (SLIC) sites. Beginning July 1, 2005, electronic submittal of a complete copy of all reports for all sites is required in GeoTracker (in PDF format). Please visit the SWRCB website for more information on these requirements (http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/).

PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

UNDERGROUND STORAGE TANK CLEANUP FUND

Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	REVISION DATE: May 15, 2014
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 2010
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: Electronic Report Upload (ftp) Instructions

The Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities.

REQUIREMENTS

- **Please do not submit reports as attachments to electronic mail.**
- Entire report including cover letter must be submitted to the ftp site as a **single portable document format (PDF) with no password protection.**
- It is **preferable** that reports be converted to PDF format from their original format, (e.g., Microsoft Word) rather than scanned.
- **Signature pages and perjury statements must be included and have either original or electronic signature.**
- **Do not password protect the document.** Once indexed and inserted into the correct electronic case file, the document will be secured in compliance with the County's current security standards and a password. **Documents with password protection will not be accepted.**
- Each page in the PDF document should be rotated in the direction that will make it easiest to read on a computer monitor.
- Reports must be named and saved using the following naming convention:

RO#_Report Name_Year-Month-Date (e.g., RO#5555_WorkPlan_2005-06-14)

Submission Instructions

- 1) Obtain User Name and Password
 - a) Contact the Alameda County Environmental Health Department to obtain a User Name and Password to upload files to the ftp site.
 - i) Send an e-mail to deh.loptoxic@acgov.org
 - b) In the subject line of your request, be sure to include **"ftp PASSWORD REQUEST"** and in the body of your request, include the **Contact Information, Site Addresses, and the Case Numbers (RO# available in Geotracker) you will be posting for.**
- 2) Upload Files to the ftp Site
 - a) Using Internet Explorer (IE4+), go to <ftp://alcoftp1.acgov.org>
 - (i) Note: Netscape, Safari, and Firefox browsers will not open the FTP site as they are NOT being supported at this time.
 - b) Click on Page located on the Command bar on upper right side of window, and then scroll down to Open FTP Site in Windows Explorer.
 - c) Enter your User Name and Password. (Note: Both are Case Sensitive.)
 - d) Open "My Computer" on your computer and navigate to the file(s) you wish to upload to the ftp site.
 - e) With both "My Computer" and the ftp site open in separate windows, drag and drop the file(s) from "My Computer" to the ftp window.
- 3) Send E-mail Notifications to the Environmental Cleanup Oversight Programs
 - a) Send email to deh.loptoxic@acgov.org notify us that you have placed a report on our ftp site.
 - b) Copy your Caseworker on the e-mail. Your Caseworker's e-mail address is the entire first name then a period and entire last name @acgov.org. (e.g., firstname.lastname@acgov.org)
 - c) The subject line of the e-mail must start with the RO# followed by **Report Upload**. (e.g., Subject: RO1234 Report Upload) If site is a new case without an RO#, use the street address instead.
 - d) If your document meets the above requirements and you follow the submission instructions, you will receive a notification by email indicating that your document was successfully uploaded to the ftp site.



November 24, 2015

Mr. Athan Magganas
Bruder, LLC
2550 Appian Way
Suite 201
Pinole, CA 94564

Subject: Case Closure Letter Issued for 6501 Shattuck, Avenue, Oakland, CA 94609

Dear Athan:

Thank you for giving opportunity to SOMA Environmental Engineering, Inc. (SOMA) to assist you in site characterization and cleanup processes for the subject property. After conclusion of SOMA's remediation activities, the closure letter that Alameda County Health Care Services (ACHCS) issued for the subject site on June 26, 2014 indicates that the site is meeting Low Threat Closure Policy (LTCP) criteria for both commercial as well as residential land use scenarios.

The attached document prepared by the ACHCS clearly shows that the contaminant levels remained in soil and groundwater after site remediation ,are significantly lower than the recommended LTCP criteria for soil and groundwater. As such, the site is eligible to be utilized for both residential and commercial purposes. As specified by the ACHCS, prior and during excavation and construction activities in the area of residual contamination it requires planning and implementation of appropriate health and safety procedures by the responsible party.

Sincerely,

A handwritten signature in black ink, appearing to read "Mansour Sepehr", with a long horizontal stroke extending to the left.

Mansour Sepehr, Ph.D., PE
Principal Hydrogeologist

cc: Moshe Dinar

Attachment F

To:	City of Oakland	From:	Elena Nuño Senior Air Quality Analyst 7502 N. Colonial, Suite 101, Fresno, CA 93711
File:	6501 Shattuck Avenue	Date:	August 29, 2018

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed Use Project

Stantec Consulting Services, Inc. (Stantec) has conducted an analysis to evaluate whether the proposed project would cause significant air quality or greenhouse gas impacts. This assessment was conducted within the context of the California Environmental Quality Act (CEQA, California Public Resources Code Sections 21000, et seq.). The methodology follows the Bay Area Air Quality Management District (BAAQMD) California Environmental Quality Act (CEQA) Air Quality Guidelines recommendations for quantification of emissions and evaluation of potential air quality and greenhouse as impacts.

PROJECT SUMMARY

The proposed project involves the development of a mixed-use project consisting of an 18-unit apartment complex with ground floor commercial space of 1,975 square feet and 18 parking stalls, The total floor area of the building is 17,480 square feet on 0.19 acres.

CRITERIA POLLUTANT EMISSIONS

The City of Oakland has adopted quantitative thresholds of significance for ozone precursors [reactive organic gases (ROG) and nitrogen oxides (NO_x)] and particulate matter with aerodynamic resistance diameters equal to or less than 10 microns (PM₁₀) and 2.5 microns (PM_{2.5}).

BAAQMD recommends the use of the California Emissions Estimator Model (CalEEMod) to estimate construction and operational emissions of pollutants for a proposed project. CalEEMod uses default data (e.g., emission factors, trip lengths, meteorology, source inventory, etc.) provided by the various California Air Districts to account for local requirements and conditions for a variety of land uses and also allows for the use of site-specific information where available. Detailed information on the CalEEMod inputs and the CalEEMod reports are provided in Appendix A. The primary input data used to estimate emissions associated with the project's land-use type is summarized in Table 1.

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
 6501 Shattuck Avenue Mixed Use Project

Table 1: Summary of Land-Use Input Parameters for CalEEMod

Project Land Use Type	CalEEMod Land Use Type	CalEEMod Land Use Subtype	Proposed Project Size
Apartments	Residential	Apartments Mid-Rise	18 dwelling units (18,000 square feet)
Parking Garage	Parking	Enclosed Parking with Elevator	18 spaces (7,200 square feet)
Sit-down Restaurant	Recreational	High-Turnover (Sit Down Restaurant)	1,980 square feet
Notes: The total lot acreage = 0.19 A maximum project scenario; includes 18 dwelling units			

CONSTRUCTION-PHASE CRITERIA POLLUTANT EMISSIONS

Construction is anticipated to begin in January 2019 and be completed by November 2019. If construction were delayed to later years, the emissions would be expected to decrease as new regulations requiring lower polluting construction equipment take effect that would require the turnover of higher polluting equipment.

Construction activities associated with development activities contemplated by the project would include grading, building construction, paving, and application of architectural coatings. Generally, the most substantial air pollutant emissions would be fugitive dust (PM 2.5 and PM10) generated from grading. If uncontrolled, these emissions could lead to both health and nuisance impacts. Construction activities would also temporarily create emissions of equipment exhaust and other air contaminants.

BAAQMD bases the determination of significance for fugitive dust on a consideration of the control measures to be implemented. If all appropriate emissions control measures recommended by BAAQMD are implemented for a project, then fugitive dust emissions during construction are not considered significant. Therefore, without application of best management practices, this impact is potentially significant. Incorporation of the City's Standard Conditions of Approval (SCA) 21 Dust Controls – Construction Related and SCA 22 Criteria Air Pollutant Controls – Construction Related would reduce this impact to less than significant.

Off-road construction equipment is a large source of oxides of nitrogen (NO_x), reactive organic gases (ROG) and diesel particulate matter in the Bay Area. NO_x and ROG are ozone precursor pollutants that contribute to regional ozone formation. Diesel particulate matter contributes to elevated PM₁₀ and PM_{2.5} concentrations and is a TAC.

The construction analysis includes inputs based on the following project activities:

- Minimal site preparation (i.e., vegetation removal) because the project site has marginal vegetation comprised of weedy habitat.

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed Use Project

- Approximately 2,000 square feet of demolition debris from excavation of the existing building and 50 cubic yards of soil export was assumed to calculate emissions from off-site hauling trips.

Table 2 summarizes the construction-generated emissions by construction phase in annual tons. The project sponsor has estimated that construction will last approximately 11 months. Based on the total emissions estimated in CalEEMod, the average daily emissions during construction were estimated over that time period and compared to the City's thresholds of significance in Table 2. As shown in Table 2 the project would not exceed the City of Oakland thresholds of significance. The modeled data show that the estimated unmitigated emissions were below the applicable thresholds and, therefore, would have a less-than-significant impact on air quality standards.

Table 2: Construction Criteria Air Pollutant Emissions (Tons)

Phase	ROG	NO _x	CO	SO ₂	Fugitive PM ₁₀ (Dust)	Exhaust PM ₁₀	Total PM ₁₀	Fugitive PM _{2.5} (Dust)	Exhaust PM _{2.5}	Total PM _{2.5}
Demolition										
Fugitive Dust	0.000	0.000	0.000	0.000	0.001	0.000	0.001	0.000	0.000	0.000
Off-road Equipment	0.002	0.014	0.012	0.000	0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Offsite	0.000	0.001	0.001	0.001	0.000	0.000	0.000	0.000	0.000	0.000
Site Preparation										
Fugitive Dust	0.000	0.000	0.00	0.00	0.001	0.000	0.001	0.000	0.000	0.000
Off-road Equipment	0.000	0.004	0.002	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Site Grading										
Fugitive Dust	0.000	0.000	0.000	0.000	0.001	0.000	0.001	0.000	0.000	0.000
Off-road Equipment	0.000	0.004	0.004	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Offsite	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Building Construction										
Off-road Equipment	0.057	0.579	0.448	0.001	0.000	0.036	0.036	0.000	0.033	0.033
Offsite	0.009	0.048	0.064	0.000	0.017	0.000	0.017	0.005	0.000	0.005

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
 6501 Shattuck Avenue Mixed Use Project

Table 2 Construction Criteria Air Pollutant Emissions (Tons) - Continued

Phase	ROG	NO _x	CO	SO ₂	Fugitive PM ₁₀ (Dust)	Exhaust PM ₁₀	Total PM ₁₀	Fugitive PM _{2.5} (Dust)	Exhaust PM _{2.5}	Total PM _{2.5}
Paving										
Off-road Equipment	0.001	0.011	0.010	0.000	0.000	0.001	0.001	0.000	0.001	0.001
Paving	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Offsite	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Architectural Coating										
Painting	0.139	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Off-road Equipment	0.001	0.005	0.005	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Offsite	0.0000	0.0000	0.0002	0.0000	0.0001	0.0000	0.000	0.0000	0.0000	0.000
Total Tons	0.21	0.67	0.55	0.00	0.02	0.04	0.06	0.01	0.04	0.04
Total Pounds	417.02	1,333.44	1,091.14	3.14	38.92	77.88	116.80	10.56	71.80	82.36
Average Daily Emissions*	1.76	5.63	4.60	0.01	0.16	0.33	0.49	0.04	0.30	0.35
City of Oakland Threshold	54	54	N/A	N/A	-	-	82	-	-	54
Exceed Threshold?	No	No	N/A	N/A	-	-	No	-	-	54
Significant Impact?	No	No	N/A	N/A	-	-	No	-	-	54
Note: * Based on 237 estimated work days in 2018. Offsite refers to hauling trips, vendor trips, and construction worker trips										

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
 6501 Shattuck Avenue Mixed

Operational Emissions

Long-term operation of the project would generate an increase in traffic volumes on the local roadways within the project vicinity and would increase localized emissions. Note that operational emissions have not been estimated for potential stationary source equipment such as generators since none have currently been proposed. Additionally, any stationary source equipment would be subject to BAAQMD permitting requirements.

The 2016 California Building Energy Efficiency Standards (Title 24, Part 6) adopted by the City of Oakland use 25 percent less energy for lighting, heating, cooling, ventilation, and water heating compared to the 2008 Standards. CalEEMod incorporates the most recent Title 24 standards into the modeling. The City of Oakland has also adopted a Green Building Ordinance for private development projects. In accordance with the Green Building Ordinance, the proposed project must implement mandatory measures from the statewide CALGreen Code and complete a Green Building Compliance Checklist (e.g., LEED or GreenPoint Rater). While implementation of the CALGreen Code could potentially result in additional reductions in energy use, these potential reductions are not known at this time and therefore were not included in the analysis to estimate unmitigated emissions of criteria pollutants for the proposed project.

The annual operational emissions for the project are shown in Table 3. Table 4 shows the daily operational emissions. As shown in the tables, the project would not exceed the City of Oakland's annual or daily significance thresholds.

Table 3: Annual Operational Emissions (2020)

	Annual Emissions (tons)			
	ROG	NO _x	PM ₁₀	PM _{2.5}
Project Operations	0.16	0.36	0.12	0.04
City of Oakland Threshold of Significance	10	10	15	10
Exceed Significance Threshold?	No	No	No	No

Table 4: Daily Operational Emissions (2020)

	Overall Operational lbs./day (Maximum Daily Emissions – Criteria Pollutants)			
	ROG	NO _x	PM ₁₀	PM _{2.5}
Project Operations	0.98	2.32	0.55	0.19
City of Oakland Thresholds of Significance	54	54	82	54
Exceed Significance Threshold?	No	No	No	No

Notes:

ROG emissions reported from summer results because they are higher; NO_x emissions reported from winter results because they are higher; PM emissions are the same for summer and winter

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

Conclusion

Project construction emissions would not exceed the City of Oakland's thresholds of significance for regional construction emissions. Operational emissions would not exceed the City of Oakland's thresholds of significance for regional operational emissions. SCAs 21, and 22 would ensure that all appropriate emissions controls for fugitive dust are implemented during construction, and thus would further reduce fugitive dust impacts to a less than significant level. This impact would be less than significant.

TOXIC AIR CONTAMINANTS

HEALTH RISK ASSESSMENT ANALYSIS

A sensitive receptor is defined as the following "Facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples include schools, hospitals, and residential areas" (BAAQMD 2017).

Two scenarios have the potential for exposing sensitive receptors to TACs. The first is when a project includes a new or modified source of TACs and would be located near an existing or proposed sensitive receptor. The second scenario involves a residential or other sensitive receptor development locating near an existing or planned source of TACs. Because the project would house sensitive receptors, the project itself is also a sensitive receptor.

The BAAQMD guidance identifies the area within 1,000 feet of the project site as the zone of influence for toxic air contaminants. The project's zone of influence was reviewed to identify locations of existing sensitive receptors. The nearest existing sensitive receptors are residences located directly adjacent to the project's western boundary. Therefore, this analysis examines potential exposure of off-site receptors from construction and operation of the project site as well as potential exposure of on-site receptors from surrounding uses. Based on the City's thresholds, significant impacts to sensitive receptors from TAC emissions would result under project conditions resulting in an increase in cancer risk level greater than 10 in one million, an acute or chronic non-cancer hazard index (HI) greater than 1.0, or an ambient PM_{2.5} concentration greater than an annual average of 0.3 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Under cumulative conditions, significant impacts to sensitive receptors include a cancer risk level greater than 100 in a million, an acute or chronic HI greater than 10.0, or an ambient PM_{2.5} concentration greater than an annual average of 0.8 $\mu\text{g}/\text{m}^3$.

Construction

The TAC emissions generated during construction of the project, are primarily emissions of diesel particulate matter (DPM) from the exhaust of heavy duty equipment engines operating on the construction site. The analysis of the proposed project's health risk impacts is performed using the guidance and methodologies recommended by the Office of Environmental Health Hazard Assessment's (OEHHA).

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

In accordance with the OEHHA guidance, emissions of PM₁₀ were used as surrogate for the DPM in calculating health risks associated with project construction emissions. The annual average concentrations of DPM and PM_{2.5} concentrations were estimated within 1,000 feet of the project site using the EPA's AERMOD (American Meteorological Society/ EPA Regulatory dispersion model). Because the BAAQMD does not provide guidance on how to model the dispersion of DPM emissions from a construction site, the dispersion modeling was performed in accordance with guidance from the Sacramento Metropolitan Air Quality Management District (SMAQMD, 2015). Following the SMAQMD guidelines and consistent with the methodology used for HRA of projects within the Bay Area and the City of Oakland, the emissions sources were modeled as volume sources covering the construction site. The release height for each volume source was assumed to be 5 meters (16.4 feet), which represents the height of the exhaust pipe of the heavy duty off-road vehicles/ construction equipment. Construction activities assumed to occur during weekdays (Monday through Friday) on an 8 hour per day schedule, from 8 AM through 4 PM.

The receptors were spaced 10 meters apart out to a distance of 120-meter from project site and then 20 meters apart to the rest of the 1000 feet (320 meters) zone of influence. The meteorological input data for model included 5 years of data that was recorded in the Oakland STP Station. The AERMOD-ready data files were requested from and provided by the BAAQMD¹. The details of procedure and assumptions used for performing dispersion modeling and HRA analysis are provided in the Attachment to this technical memorandum. The other parameters used for input in AERMOD included: terrain data to calculate the digital elevation for sources and receptors; urban modeling using an area population of 420,000 (estimated Oakland population for 2017)²; and a default roughness length of 1 meter for urban area option.

The HRA was conducted using the results from the dispersion modeling of project construction emissions. In accordance with guidelines from BAAQMD and OEHHA, analyses were conducted to estimate the incremental cancer risk and chronic hazard index (HI) at the sensitive receptors from project construction site emissions of DPM. The acute HI for DPM was not calculated because an acute reference exposure level has not been approved by OEHHA and CARB, and the BAAQMD does not recommend analysis of acute non-cancer health hazards from construction activities. The annual average concentration of DPM (exhaust PM₁₀) at the maximally exposed individual resident (MEIR) was used to conservatively assess potential health risks to nearby sensitive receptors.

The cancer risk from exposure to project construction emissions was estimated based on the most conservative assumption of exposure at the MEIR, that is beginning from the third trimester of pregnancy until about the age of one. The equation and detail of input parameters and the results are provided in the Attachment.

The results of analysis and estimated cancer risk and HI, as well as the increase in concentration of PM_{2.5} at the MEIR from exhaust emissions of PM_{2.5} from project construction are presented in Table 5 and compared with corresponding thresholds of significance. As Table 5 shows, the estimated excess cancer risk and chronic HI for DPM and annual average PM_{2.5} concentration from unmitigated

¹ Bay Area Air Quality Management District (BAAQMD); Planning and Climate Protection Division- Research and Modeling Section, received data on July 30, 2018.

² Bay Area Census Web site: <http://www.bayareacensus.ca.gov/cities/Oakland.htm> ; Accessed August 10, 2018

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
 6501 Shattuck Avenue Mixed

construction emissions were below the City's thresholds. Therefore, the project's construction emissions of DPM and PM_{2.5} would have a less-than-significant impact on nearby sensitive receptors.

Table 5: Summary of Health Risks to MEIR during Project Construction

Emissions Description	DPM		Exhaust PM _{2.5}
	Cancer Risk (per million)	Chronic Hazard Index	Annual Average Concentration (µg/m ³)
At MEIR from Construction Activities	7.36	0.02	0.11
City of Oakland's Significance Threshold	10	1.0	0.3
Notes: µg/m ³ = micrograms per cubic meter Source: See Attachment			

Operation-Phase TAC Emissions

No stationary sources of TAC emissions (e.g., backup generator) are proposed for the project. As such, the potential or impacts related to operational TAC would be less than significant.

Cumulative TAC Emissions

To evaluate the cumulative health risks to nearby sensitive receptors from the project's TAC emissions during construction, the BAAQMD recommends using their online screening tools to evaluate existing TAC emissions from stationary and mobile sources within 1,000 feet of the project site. The screening tools provide conservative estimates of how much existing TAC sources would contribute to cancer risk, HI, and/or fine particulate matter (PM_{2.5}) concentrations in a community. The individual health risks associated with each source are summed to find the cumulative impact at the location of the MEIR.

Based on the BAAQMD's Stationary Source Screening Analysis Tool, one existing stationary source of TAC emissions was identified within 1,000 feet of the MEIR (Table 5). Preliminary health risk screening values at the MEIR from the stationary sources were determined using the BAAQMD's Stationary Source Screening Analysis Tool. As the area is largely residential no diesel engines were located within 1,000 feet of the project site.

The Shattuck Auto Collision Center is the only stationary source of TACs located within 1,000 feet of the project site. The BAAQMD Stationary Source Screening Analysis tool was used to estimate risks and hazards for this source. (See Figure 1)

The BAAQMD's Gas Station Distance Multiplier Tool was used to refine the screening values associated with the gas stations to represent the attenuated health risks that can be expected with increasing distance from the source of emissions.

The BAAQMD recommends estimating health risk screening values for major roadways with an average annual daily traffic (AADT) count volume greater than 10,000 vehicles per day. Only one major roadway was identified within the vicinity (Shattuck Ave).

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
 6501 Shattuck Avenue Mixed

- The project site is bordered on the east by Shattuck Avenue and on the south by 65th Street. 65th Street is a residential street with traffic volumes anticipated to be less than 5,000 vehicles per day, therefore, it is not included in the screening which is focused on roadways with traffic volumes greater than 10,000 vehicles per day. Traffic volumes for Shattuck were calculated from historical traffic counts prepared within the City of Oakland by Kittleson and Associates for Shattuck Avenue between 62nd and 63rd Street in 2013 and applying a conservative 1-percent growth rate to obtain the 2019 traffic volume of 15,023 annual average daily traffic. The BAAQMD has prepared a risk assessment for roadways based on the level of anticipated traffic and distance to the nearest receptor. A 25-foot distance was used to determine the risks.

Table 6: Summary of cumulative Health Risks to MEIR

Source	Source Type	Distance from MEIR (Feet)	Cancer Risk (Per Million)	Chronic HI	PM2.5 Concentration (ug/m3)
Project Construction Emissions	Construction Equipment Exhaust	25	7.36	0.02	0.11
<i>Existing Stationary Sources</i>					
3207 Shattuck Auto Center (ID 1065)	Gas Station	Approx 200'	.52	.10	.0007
<i>Mobile Sources</i>					
Shattuck Ave	Major Roadway	0	9.05	0	.162
Cumulative Health Risks			16.93	0.12	0.279
City of Oakland's Cumulative Thresholds			100	10	.8
Threshold Exceeded			No	No	No

Estimates of the cumulative health risks from TAC emissions posed by the project, existing sources, and reasonably foreseeable future sources to the MEIR are summarized and compared to the City's cumulative thresholds in Table 5. The estimated excess cancer risk and chronic HI from TAC emissions and annual average PM2.5 concentration were below the City's cumulative threshold. Therefore,

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
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the project's cumulative impact on nearby sensitive receptors from TAC emissions during construction would be less than significant.

Project as a Receptor

The project is locating new sensitive receptors (residents) in an area where they could be subject to existing and reasonably foreseeable sources of TACs. The approach for assessing the cumulative health risks to future sensitive receptors on the project site was the same as the methods described above to determine potential health risks to existing sensitive receptors. Sources of TAC emissions identified within 1,000 feet of the project site included one existing stationary sources and one major roadways. As shown in Table 6, the screening analysis, which is based on conservative assumptions, indicates that the cumulative excess cancer risk, chronic HI, and PM_{2.5} concentrations at the proposed project from existing and reasonably foreseeable future sources of TACs would be less than the City's cumulative thresholds. Therefore, the proposed project would not be required to implement health risk reduction measures and the potential health impacts to new project receptors would be less than significant.

Table 7: provides a summary of the cumulative screening health risk assessment.

Table 7: Screening Health Risk Assessment Cumulative Results

Source	Lifetime Cancer Risk (in a million)	Chronic Hazard Index	Acute Hazard Index	PM _{2.5} Concentration (µg/m ²)
Shattuck Avenue	9.05	0.00	0.00	0.162
Shattuck Avenue Collision Center	0.52	0.004	0.00	0.004
Total	9.57	0.004	0.00	0.166
City of Oakland Project-level Threshold ¹	10	1.0	1.0	0.30
Exceed City of Oakland Project-level Threshold?	No	No	No	No
City of Oakland Cumulative Threshold	100	10	10	0.80
Exceed Either Project-Level or Cumulative Threshold?	No	No	No	No

Conclusion

Based on a comparison to the carcinogenic and non-carcinogenic thresholds established by OEHHA and the City of Oakland, hazardous air emissions generated from the stationary and mobile sources within 1,000 feet of the project site are not anticipated to pose an actual or potential endangerment

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
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to residents occupying the project site and no mitigation measures are required. Impacts from TAC sources would be less than significant.

OTHER AIR QUALITY IMPACTS OF POTENTIAL CONCERN

OPERATIONAL CO HOTSPOT

Localized high levels of CO (CO hotspot) are associated with traffic congestion and idling or slow-moving vehicles. The BAAQMD recommends a screening analysis to determine if a project has the potential to contribute to a CO hotspot. The screening criteria identify when site-specific CO dispersion modeling is necessary. The project would result in a less than significant impact to air quality for local CO if the following screening criteria are met:

- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, regional transportation plan, and local congestion management agency plans; or
- The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour; or
- The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

A review of the 2015 Congestion Management Plan for Alameda County indicates that the project is consistent with the applicable congestion management plan. According to the Traffic Impact Study prepared for the project by Stantec Consulting Services, the project would generate approximately 20 net new trips during the a.m. peak hour and 22 net new trips during the p.m. peak hour and would not substantially increase traffic volumes on nearby roadways above 44,000 vehicles per hour. Furthermore, the adjacent roadways are not located in an area where vertical and/or horizontal mixing, or the free movement of the air mass, is not substantially limited by physical barriers such as bridge overpasses or urban or natural canyon walls. Therefore, the project would not significantly contribute to an existing or projected CO hotspot. Impacts are less than significant.

ODORS

Typical odor sources are generally associated with municipal, industrial, or agricultural land uses, such as wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The occurrence and severity of odor impacts depend on the nature, frequency, and intensity of the source, the wind speed and direction, and the sensitivity of receptors. As a mixed-use development, the project would not be expected to generate significant odors. Land uses surrounding the project site include mixed residential and commercial land uses, which would also not be expected to generate significant odors. Therefore, project impacts related to odors would be less than significant.

GREENHOUSE GASES

Construction-Phase Greenhouse Gas Emissions

The project would emit greenhouse gas emissions during construction from the off-road equipment, worker vehicles, and any hauling that may occur. The BAAQMD does not presently provide a construction-related greenhouse gas generation threshold, but recommends that construction-generated greenhouse gases be quantified and disclosed and provide a significance determination for construction-generated greenhouse gas emissions. Therefore, the project operational emission threshold of 1,100 MTCO₂e is used in this analysis to determine significance of project construction emissions. Greenhouse gas emissions from project construction equipment and worker vehicles are shown in Table 8.

Table 8: Construction Greenhouse Gas Emissions

Year	Emissions (MTCO ₂ e)
2019	88
Amortized emissions (40 year life expectancy)	2

The project's construction emissions in addition to the operational emissions are less than the 1,100 MTCO₂e screening threshold established by the BAAQMD. Therefore, construction emissions would not conflict with the AB 32 Scoping Plan and would be less than significant.

Operational-Phase Greenhouse Gas Emissions

Long-term, operational GHG emissions would result from project generated vehicular traffic, onsite combustion of natural gas, operation of any landscaping equipment, offsite generation of electrical power over the life of the project, the energy required to convey water to and wastewater from the project site, and the emissions associated with the hauling and disposal of solid waste from the project site. Operational emissions for the project are shown in Table 9. As noted previously, the results include the benefits from project design and location using the CalEEMod mitigation component (increased density, location to transit, pedestrian infrastructure). These design measures and regulations are considered part of the project baseline; however, the results are presented in the CalEEMod mitigated model output and are not considered mitigation required for CEQA compliance.

Table 9: Operational Greenhouse Gas Emissions (2020)

Emission Source	Emissions (MTCO ₂ e)
Area Sources	2
Energy	78

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
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Mobile (Motor Vehicles)	110
Waste	16
Water	6
Total Operational Emissions ¹	212
Amortized Construction Emissions ²	2
Total GHG Emissions	214
Service Population ³	51
City of Oakland Significance Threshold 1	1,100
City of Oakland Significance Threshold 2	4.6 MTCO ₂ e/SP/yr
Project Emission Generation	4.2 MTCO ₂ e/SP/yr
Exceed City of Oakland Significance Threshold 2	No
Significant Impact?	No
Notes: SP = Service Population Yr = year 1. Includes CalEEMod "mitigation" for increased density, locational features, and compliance with regulatory measure. 2. . Construction emissions annualized over an anticipated 40-year project lifespan. 3. Based on CalEEMod default estimate based on Alameda County specific data for individuals per household	

The City of Oakland set the thresholds of 1,100 MTCO₂e and 4.6 MTCO₂e/sp as the significance threshold for determining whether projects would have significant GHG emissions. As shown above, the project would not exceed the efficiency threshold of 4.6 MTCO₂e/sp nor the 1,100 MTCO₂e significance threshold established by the City of Oakland. Projects that are below the significance thresholds would not have the potential to cause a significant GHG impact. Accordingly, the project impacts to GHGs would be less than significant.

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

REFERENCES

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Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

APPENDIX A: METHODOLOGY AND ASSUMPTIONS

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
 6501 Shattuck Avenue Mixed

MODELING PARAMETERS AND ASSUMPTIONS

MODEL SELECTION

The California Emissions Estimator Model (CalEEMod) was used to estimate construction and operational impacts of the project.

ASSUMPTIONS

Construction Modeling Assumptions

The proposed project was assumed to start construction in January 2019. The proposed constructed schedule duration was estimated to be approximately 11 months. Table 10 provides the anticipated construction schedule.

Table 10: Construction Schedule

Construction Phase	Anticipated Phase Start Date	Anticipated Phase End Date	Total Number of Days
Demolition	1/2/2019	1/8/2019	5
Site Preparation	1/9/2019	1/9/2019	1
Site Grading	1/10/2019	1/11/2019	2
Building Construction	1/14/2019	11/15/2019	220
Paving	11/20/2019	11/25/2019	4
Architectural Coating	11/26/2019	12/2/2019	5

Construction emissions can vary substantially from day to day, depending on the level of activity, the type of operation, and prevailing weather conditions. Construction emissions result from on-site and off-site activities. On-site emissions principally consist of exhaust emissions from the activity levels of heavy-duty construction equipment, motor vehicle operation, and fugitive dust (mainly PM₁₀) from disturbed soil. Additionally, paving operations and application of architectural coatings would release ROG emissions. Off-site emissions are caused by motor vehicle exhaust from delivery vehicles, worker traffic, and road dust (PM₁₀ and PM_{2.5}).

The construction equipment list is shown in Table 11. The air emission estimates for construction equipment is based on the horsepower and load factors of the equipment. In general, the horsepower is the power of an engine—the greater the horsepower, the greater the power. The load factor is the average power of a given piece of equipment while in operation compared with its maximum rated horsepower. A load factor of 1.0 indicates that a piece of equipment continually operates at its maximum operating capacity.

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
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Table 11: Off-Road Construction Equipment Assumptions

Construction Phase	Equipment	Unit Amount	Hours per Day	Horsepower	Load Factor
Demolition	Concrete/Industrial Saw	1	4	81	0.73
	Rubber Tired Dozers	1	1	247	0.40
	Tractors/Loaders/Backhoes	2	4	97	0.37
Site Preparation	Graders	1	8	187	0.41
	Tractors/Loaders/Backhoes	1	8	97	0.37
Grading	Concrete/Industrial Saw	1	4	81	0.73
	Tractors/Loaders/Backhoes	2	4	97	0.37
Building Construction	Cranes	1	2	231	0.29
	Forklifts	2	4	89	0.20
	Tractors/Loaders/Backhoes	2	4	97	0.37
Paving	Cement and Mortar Mixers	2	6	9	0.56
	Pavers	1	6	125	0.42
	Rollers	1	6	80	0.38
	Tractors/Loaders/Backhoes	1	3	97	0.37
Architectural Coating	Air Compressors	1	6	78	0.48

Construction on-road vehicle assumptions are provided in Table 12.

Table 12: On-Road Construction Vehicle Assumptions

Construction Phase	# of Worker Trips Per Day	# Vendor Trips Per Day	Total # of Haul Trips
Demolition	5	0	9
Site Preparation	5		6
Grading	10	0	
Building Construction	17	3	
Paving	8	0	
Architectural Coating	3	0	

Worker vehicles are assumed to be comprised of Light-Duty Automobiles and Light-Duty Trucks. Vendor vehicles are assumed to be comprised of Heavy-Heavy Duty Trucks and Medium-Heavy Duty Trucks. Haul vehicles are assumed to be Heavy-Heavy Duty Trucks.

CalEEMod default trip lengths were assumed for all vehicle classes as shown below:

- Workers – 10.8 miles
- Vendors – 7.3 miles
- Hauling – 20 miles

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
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Operational Modeling Assumptions

Operational emissions are those emissions that occur during operation of the project. The major sources are summarized below.

Motor Vehicles

Motor vehicle emissions refer to exhaust and road dust emissions from the automobiles that would travel to and from the project site.

The trip generation is presented in Table 4a and 4b. The trip generation rates in Table 4a were derived from the Traffic Memo prepared for the project. Using the Table 13a, trip generation rates were derived by land use type to calculate daily trips, by land use type, as required for input into the modeling program (Table 13b). The CalEEMod default trip lengths for Alameda County were used in the analysis. The default trips lengths are as follows:

- Home to Work – 10.8 miles
- Home to Shop – 4.8 miles
- Home to Other – 5.7 miles
- Commercial to Commercial – 7.3 miles
- Commercial to Work – 9.6 miles
- Commercial to Non-Work – 7.3 miles

Table 13a: Trip Generation Rates

Land Use (ITE Code)	Size	A.M. Peak Hour				P.M. Peak Hour				Daily (Week Day)		Saturday		Sunday	
		Rate	In	Out	Total	Rate	In	Out	Total	Rate	Trips	Rate	Trips	Rate	Trips
Apartments (220)	18 DU	0.50	2	7	9	0.67	8	4	12	6.65	120	6.39	115	5.86	105
Sit Down Restaurant (932)	1975 GSF	10.81	12	10	22	9.85	13	7	20	127.15	252	158.37	313	131.84	261
Subtotal			14	17	31		21	11	32		372		428		367
Non-Auto Reduction ¹	46.9%		7	8	15		10	6	16		175		201		173
Project Totals			7	9	16		11	5	16		197		227		194

Source: ITE Trip Generation, 9th Edition, 2012; City of Oakland Transportation Impact Study Guidelines, 2017.

Notes:

1. DU = Dwelling Units, KSF = 1,000 square feet.

2. ITE Trip Generation (9th Edition) land use category 220 (Apartment):

Daily: $T = 6.65 * (X)$

AM Peak Hour: $T = 0.51 * (X)$ (20% in, 80% out) PM Peak Hour: $T = 0.62 * (X)$ (65% in, 35% out)

3. ITE Trip Generation (9th Edition) land use category 932 (High-Turnover (Sit-Down) Restaurant): Daily: $T =$

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127.15*(X)
 AM Peak Hour: T = 10.81*(X) (55% in, 45% out)
 PM Peak Hour: T = 9.85*(X) (60% in, 40% out)
 4. Reduction of 46.9% assumed based on City of Oakland Transportation Impact Study Guidelines data for development in an urban environment with a distance less than 0.5 mile of a BART Station.
 Source: Stantec Consulting Services, Inc. Traffic Memo, 2017

Table 13b: Trip Generation Rates

Land Use ITE Code	Size	Unit	Daily (Weekday)		Saturday		Sunday	
			Rate	Trips	Rate	Trips	Rate	Trips
Apartments (220)	18	DU	3.53*	64	3.39*	61	3.11*	56
Sit Down Restaurant (932)	1.95	KSF	67.52*	133	84.10*	166	70.0*	138
Total				197		227		197

Notes:

1. DU = Dwelling Units, KSF = 1,000 square feet.
 2. ITE Trip Generation (9th Edition) land use category 220 (Apartment):
 Daily: T = 6.65*(X)
 AM Peak Hour: T = 0.51*(X) (20% in, 80% out) PM Peak Hour: T = 0.62*(X) (65% in, 35% out)
 3. ITE Trip Generation (9th Edition) land use category 932 (High-Turnover (Sit-Down) Restaurant): Daily: T = 127.15*(X)
 4. Reduction of 46.9% assumed based on City of Oakland Transportation Impact Study Guidelines data for development in an urban environment with a distance less than 0.5 mile of a BART Station.
 5. Calculations:
 $6.65 * 0.469 = 3.11885$ (46.9 percent reduction) ; Trip Rate = $6.65 - 3.11885 = 3.53$
 $127.15 * 0.469 = 59.63335$ (46.9 percent reduction); Trip Rate = $127.15 - 59.63335 = 67.52$
- Source: Stantec Consulting Services, Inc. Traffic Memo, 2017

Pass-by trips are made as intermediate stops on the way from an origin to a primary trip destination without a route diversion. Pass-by trips are attracted from traffic passing the site on an adjacent street or roadway that offers direct access to the generator. Pass-by trips are not diverted from another roadway. The CalEEMod default pass-by trip rates were used in the analysis.

The vehicle fleet mix is defined as the mix of motor vehicle classes active during the operation of the project. Emission factors are assigned to the expected vehicle mix as a function of vehicle class, speed, and fuel use (gasoline- and diesel-powered vehicles). The CalEEMod default vehicle fleet mix was used for the project.



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APPENDIX B: CALEEMOD OUTPUT FILES

6501 Shattuck Mixed Use - Alameda County, Annual

6501 Shattuck Mixed Use
Alameda County, Annual

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Enclosed Parking with Elevator	18.00	Space	0.00	7,200.00	0
High Turnover (Sit Down Restaurant)	1.98	1000sqft	0.00	1,980.00	0
Apartments Mid Rise	18.00	Dwelling Unit	0.19	18,000.00	51

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	63
Climate Zone	5			Operational Year	2020
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MW hr)	641.35	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

- Project Characteristics -
- Land Use - Project Description
- Construction Phase - Estimated schedule
- Off-road Equipment - estimated equip use
- Off-road Equipment -
- Off-road Equipment - estimated equip use
- Off-road Equipment - estimated equip use

Off-road Equipment - estimated equip use

Off-road Equipment -

Grading -

Demolition -

Trips and VMT - est. trips

Vehicle Trips - Traffic Study

Woodstoves - no woodburning devices

Construction Off-road Equipment Mitigation -

Mobile Land Use Mitigation -

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	100.00	220.00
tblConstructionPhase	NumDays	10.00	5.00
tblConstructionPhase	NumDays	5.00	4.00
tblConstructionPhase	PhaseEndDate	6/21/2019	12/2/2019
tblConstructionPhase	PhaseEndDate	6/7/2019	11/15/2019
tblConstructionPhase	PhaseEndDate	1/15/2019	1/8/2019
tblConstructionPhase	PhaseEndDate	1/18/2019	1/11/2019
tblConstructionPhase	PhaseEndDate	6/14/2019	11/25/2019
tblConstructionPhase	PhaseEndDate	1/16/2019	1/9/2019
tblConstructionPhase	PhaseStartDate	6/15/2019	11/26/2019
tblConstructionPhase	PhaseStartDate	1/19/2019	1/14/2019
tblConstructionPhase	PhaseStartDate	1/17/2019	1/10/2019
tblConstructionPhase	PhaseStartDate	6/8/2019	11/20/2019
tblConstructionPhase	PhaseStartDate	1/16/2019	1/9/2019
tblFireplaces	NumberGas	2.70	18.00
tblFireplaces	NumberNoFireplace	0.72	0.00
tblFireplaces	NumberWood	3.06	0.00
tblGrading	MaterialExported	0.00	50.00
tblLandUse	LotAcreage	0.16	0.00
tblLandUse	LotAcreage	0.05	0.00

tblLandUse	LotAcreage	0.47	0.19
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	4.00	2.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	4.00	2.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	7.00	6.00
tblOffRoadEquipment	UsageHours	7.00	6.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	7.00	3.00
tblTripsAndVMT	HaulingTripNumber	0.00	6.00
tblTripsAndVMT	HaulingTripNumber	6.00	0.00
tblTripsAndVMT	WorkerTripNumber	10.00	5.00
tblTripsAndVMT	WorkerTripNumber	8.00	10.00
tblTripsAndVMT	WorkerTripNumber	13.00	8.00
tblVehicleTrips	ST_TR	6.39	3.39
tblVehicleTrips	ST_TR	158.37	84.10
tblVehicleTrips	SU_TR	5.86	3.11
tblVehicleTrips	SU_TR	131.84	70.00
tblVehicleTrips	WD_TR	6.65	3.53
tblVehicleTrips	WD_TR	127.15	67.52
tblWoodstoves	NumberCatalytic	0.36	0.00
tblWoodstoves	NumberNoncatalytic	0.36	0.00

2.0 Emissions Summary

2.1 Overall Construction

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2019	0.2085	0.6677	0.5458	9.7000e-004	0.0187	0.0390	0.0577	4.8800e-003	0.0359	0.0408	0.0000	87.8925	87.8925	0.0210	0.0000	88.4175
Maximum	0.2085	0.6677	0.5458	9.7000e-004	0.0187	0.0390	0.0577	4.8800e-003	0.0359	0.0408	0.0000	87.8925	87.8925	0.0210	0.0000	88.4175

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2019	0.2085	0.6677	0.5458	9.7000e-004	0.0180	0.0390	0.0570	4.7800e-003	0.0359	0.0407	0.0000	87.8924	87.8924	0.0210	0.0000	88.4175
Maximum	0.2085	0.6677	0.5458	9.7000e-004	0.0180	0.0390	0.0570	4.7800e-003	0.0359	0.0407	0.0000	87.8924	87.8924	0.0210	0.0000	88.4175

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	3.69	0.00	1.20	2.05	0.00	0.25	0.00	0.00	0.00	0.00	0.00	0.00

Quarter	Start Date	End Date	Maximum Unmitigated ROG + NOX (tons/quarter)	Maximum Mitigated ROG + NOX (tons/quarter)
1	1-2-2019	4-1-2019	0.2004	0.2004
2	4-2-2019	7-1-2019	0.2044	0.2044
3	7-2-2019	9-30-2019	0.2044	0.2044
		Highest	0.2044	0.2044

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.0967	3.4900e-003	0.1351	2.0000e-005		8.9000e-004	8.9000e-004		8.9000e-004	8.9000e-004	0.0000	2.4658	2.4658	2.6000e-004	4.0000e-005	2.4845
Energy	2.6400e-003	0.0235	0.0168	1.4000e-004		1.8200e-003	1.8200e-003		1.8200e-003	1.8200e-003	0.0000	77.2033	77.2033	2.8100e-003	9.6000e-004	77.5587
Mobile	0.0556	0.3351	0.5267	1.6200e-003	0.1140	1.9600e-003	0.1160	0.0307	1.8500e-003	0.0325	0.0000	149.5741	149.5741	8.0000e-003	0.0000	149.7742
Waste						0.0000	0.0000		0.0000	0.0000	6.4632	0.0000	6.4632	0.3820	0.0000	16.0124
Water						0.0000	0.0000		0.0000	0.0000	0.5627	3.5840	4.1467	0.0580	1.4000e-003	6.0124
Total	0.1549	0.3621	0.6785	1.7800e-003	0.1140	4.6700e-003	0.1187	0.0307	4.5600e-003	0.0352	7.0260	232.8272	239.8531	0.4510	2.4000e-003	251.8421

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.0967	3.4900e-003	0.1351	2.0000e-005		8.9000e-004	8.9000e-004		8.9000e-004	8.9000e-004	0.0000	2.4658	2.4658	2.6000e-004	4.0000e-005	2.4845
Energy	2.6400e-003	0.0235	0.0168	1.4000e-004		1.8200e-003	1.8200e-003		1.8200e-003	1.8200e-003	0.0000	77.2033	77.2033	2.8100e-003	9.6000e-004	77.5587
Mobile	0.0509	0.2914	0.4253	1.1900e-003	0.0785	1.4300e-003	0.0800	0.0211	1.3500e-003	0.0225	0.0000	109.6527	109.6527	6.8500e-003	0.0000	109.8241
Waste						0.0000	0.0000		0.0000	0.0000	6.4632	0.0000	6.4632	0.3820	0.0000	16.0124
Water						0.0000	0.0000		0.0000	0.0000	0.5627	3.5840	4.1467	0.0580	1.4000e-003	6.0124
Total	0.1502	0.3184	0.5772	1.3500e-003	0.0785	4.1400e-003	0.0827	0.0211	4.0600e-003	0.0252	7.0260	192.9058	199.9318	0.4499	2.4000e-003	211.8920

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	3.03	12.08	14.93	24.16	31.12	11.35	30.35	31.13	10.96	28.51	0.00	17.15	16.64	0.25	0.00	15.86

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	1/2/2019	1/8/2019	5	5	
2	Site Preparation	Site Preparation	1/9/2019	1/9/2019	5	1	
3	Grading	Grading	1/10/2019	1/11/2019	5	2	
4	Building Construction	Building Construction	1/14/2019	11/15/2019	5	220	
5	Paving	Paving	11/20/2019	11/25/2019	5	4	
6	Architectural Coating	Architectural Coating	11/26/2019	12/2/2019	5	5	

Acres of Grading (Site Preparation Phase): 0.5

Acres of Grading (Grading Phase): 0

Acres of Paving: 0

Residential Indoor: 36,450; Residential Outdoor: 12,150; Non-Residential Indoor: 2,970; Non-Residential Outdoor: 990; Striped Parking

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Architectural Coating	Air Compressors	1	6.00	78	0.48
Paving	Cement and Mortar Mixers	2	6.00	9	0.56
Demolition	Concrete/Industrial Saws	1	4.00	81	0.73
Grading	Concrete/Industrial Saws	1	4.00	81	0.73
Building Construction	Cranes	1	2.00	231	0.29
Building Construction	Forklifts	2	4.00	89	0.20
Site Preparation	Graders	1	8.00	187	0.41
Paving	Pavers	1	6.00	130	0.42
Paving	Rollers	1	6.00	80	0.38
Demolition	Rubber Tired Dozers	1	1.00	247	0.40
Grading	Rubber Tired Dozers	0	1.00	247	0.40
Building Construction	Tractors/Loaders/Backhoes	2	4.00	97	0.37

Demolition	Tractors/Loaders/Backhoes	2	4.00	97	0.37
Grading	Tractors/Loaders/Backhoes	2	4.00	97	0.37
Paving	Tractors/Loaders/Backhoes	1	3.00	97	0.37
Site Preparation	Tractors/Loaders/Backhoes	1	8.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	4	5.00	0.00	9.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	2	5.00	0.00	6.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Grading	3	10.00	0.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	5	17.00	3.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Paving	5	8.00	0.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	3.00	0.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

Water Exposed Area

3.2 Demolition - 2019

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					9.8000e-004	0.0000	9.8000e-004	1.5000e-004	0.0000	1.5000e-004	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	1.5100e-003	0.0141	0.0117	2.0000e-005		8.6000e-004	8.6000e-004		8.1000e-004	8.1000e-004	0.0000	1.6092	1.6092	3.4000e-004	0.0000	1.6178
Total	1.5100e-003	0.0141	0.0117	2.0000e-005	9.8000e-004	8.6000e-004	1.8400e-003	1.5000e-004	8.1000e-004	9.6000e-004	0.0000	1.6092	1.6092	3.4000e-004	0.0000	1.6178

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	4.0000e-005	1.4000e-003	2.4000e-004	0.0000	8.0000e-005	1.0000e-005	8.0000e-005	2.0000e-005	0.0000	3.0000e-005	0.0000	0.3482	0.3482	2.0000e-005	0.0000	0.3487
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	5.0000e-005	4.0000e-005	3.6000e-004	0.0000	1.0000e-004	0.0000	1.0000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0907	0.0907	0.0000	0.0000	0.0907
Total	9.0000e-005	1.4400e-003	6.0000e-004	0.0000	1.8000e-004	1.0000e-005	1.8000e-004	5.0000e-005	0.0000	6.0000e-005	0.0000	0.4389	0.4389	2.0000e-005	0.0000	0.4394

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					4.4000e-004	0.0000	4.4000e-004	7.0000e-005	0.0000	7.0000e-005	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	1.5100e-003	0.0141	0.0117	2.0000e-005		8.6000e-004	8.6000e-004		8.1000e-004	8.1000e-004	0.0000	1.6092	1.6092	3.4000e-004	0.0000	1.6178
Total	1.5100e-003	0.0141	0.0117	2.0000e-005	4.4000e-004	8.6000e-004	1.3000e-003	7.0000e-005	8.1000e-004	8.8000e-004	0.0000	1.6092	1.6092	3.4000e-004	0.0000	1.6178

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	4.0000e-005	1.4000e-003	2.4000e-004	0.0000	8.0000e-005	1.0000e-005	8.0000e-005	2.0000e-005	0.0000	3.0000e-005	0.0000	0.3482	0.3482	2.0000e-005	0.0000	0.3487
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	5.0000e-005	4.0000e-005	3.6000e-004	0.0000	1.0000e-004	0.0000	1.0000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0907	0.0907	0.0000	0.0000	0.0907
Total	9.0000e-005	1.4400e-003	6.0000e-004	0.0000	1.8000e-004	1.0000e-005	1.8000e-004	5.0000e-005	0.0000	6.0000e-005	0.0000	0.4389	0.4389	2.0000e-005	0.0000	0.4394

3.3 Site Preparation - 2019

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					2.7000e-004	0.0000	2.7000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.6000e-004	4.4600e-003	2.0700e-003	0.0000		1.8000e-004	1.8000e-004		1.7000e-004	1.7000e-004	0.0000	0.4378	0.4378	1.4000e-004	0.0000	0.4413
Total	3.6000e-004	4.4600e-003	2.0700e-003	0.0000	2.7000e-004	1.8000e-004	4.5000e-004	3.0000e-005	1.7000e-004	2.0000e-004	0.0000	0.4378	0.4378	1.4000e-004	0.0000	0.4413

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	3.0000e-005	9.3000e-004	1.6000e-004	0.0000	5.0000e-005	0.0000	5.0000e-005	1.0000e-005	0.0000	2.0000e-005	0.0000	0.2322	0.2322	1.0000e-005	0.0000	0.2325
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.0000e-005	1.0000e-005	7.0000e-005	0.0000	2.0000e-005	0.0000	2.0000e-005	1.0000e-005	0.0000	1.0000e-005	0.0000	0.0181	0.0181	0.0000	0.0000	0.0182
Total	4.0000e-005	9.4000e-004	2.3000e-004	0.0000	7.0000e-005	0.0000	7.0000e-005	2.0000e-005	0.0000	3.0000e-005	0.0000	0.2503	0.2503	1.0000e-005	0.0000	0.2506

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					1.2000e-004	0.0000	1.2000e-004	1.0000e-005	0.0000	1.0000e-005	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.6000e-004	4.4600e-003	2.0700e-003	0.0000		1.8000e-004	1.8000e-004		1.7000e-004	1.7000e-004	0.0000	0.4378	0.4378	1.4000e-004	0.0000	0.4413
Total	3.6000e-004	4.4600e-003	2.0700e-003	0.0000	1.2000e-004	1.8000e-004	3.0000e-004	1.0000e-005	1.7000e-004	1.8000e-004	0.0000	0.4378	0.4378	1.4000e-004	0.0000	0.4413

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	3.0000e-005	9.3000e-004	1.6000e-004	0.0000	5.0000e-005	0.0000	5.0000e-005	1.0000e-005	0.0000	2.0000e-005	0.0000	0.2322	0.2322	1.0000e-005	0.0000	0.2325
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.0000e-005	1.0000e-005	7.0000e-005	0.0000	2.0000e-005	0.0000	2.0000e-005	1.0000e-005	0.0000	1.0000e-005	0.0000	0.0181	0.0181	0.0000	0.0000	0.0182
Total	4.0000e-005	9.4000e-004	2.3000e-004	0.0000	7.0000e-005	0.0000	7.0000e-005	2.0000e-005	0.0000	3.0000e-005	0.0000	0.2503	0.2503	1.0000e-005	0.0000	0.2506

3.4 Grading - 2019

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	4.6000e-004	4.1300e-003	4.1500e-003	1.0000e-005		2.7000e-004	2.7000e-004		2.6000e-004	2.6000e-004	0.0000	0.5478	0.5478	1.1000e-004	0.0000	0.5505
Total	4.6000e-004	4.1300e-003	4.1500e-003	1.0000e-005	0.0000	2.7000e-004	2.7000e-004	0.0000	2.6000e-004	2.6000e-004	0.0000	0.5478	0.5478	1.1000e-004	0.0000	0.5505

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	4.0000e-005	3.0000e-005	2.9000e-004	0.0000	8.0000e-005	0.0000	8.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0726
Total	4.0000e-005	3.0000e-005	2.9000e-004	0.0000	8.0000e-005	0.0000	8.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0726

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	4.6000e-004	4.1300e-003	4.1500e-003	1.0000e-005		2.7000e-004	2.7000e-004		2.6000e-004	2.6000e-004	0.0000	0.5478	0.5478	1.1000e-004	0.0000	0.5505
Total	4.6000e-004	4.1300e-003	4.1500e-003	1.0000e-005	0.0000	2.7000e-004	2.7000e-004	0.0000	2.6000e-004	2.6000e-004	0.0000	0.5478	0.5478	1.1000e-004	0.0000	0.5505

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	4.0000e-005	3.0000e-005	2.9000e-004	0.0000	8.0000e-005	0.0000	8.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0726
Total	4.0000e-005	3.0000e-005	2.9000e-004	0.0000	8.0000e-005	0.0000	8.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0726

3.5 Building Construction - 2019

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0571	0.5794	0.4477	6.7000e-004		0.0363	0.0363		0.0334	0.0334	0.0000	60.0403	60.0403	0.0190	0.0000	60.5152
Total	0.0571	0.5794	0.4477	6.7000e-004		0.0363	0.0363		0.0334	0.0334	0.0000	60.0403	60.0403	0.0190	0.0000	60.5152

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	1.4900e-003	0.0422	9.3400e-003	9.0000e-005	2.1700e-003	2.7000e-004	2.4400e-003	6.3000e-004	2.6000e-004	8.8000e-004	0.0000	8.7904	8.7904	5.4000e-004	0.0000	8.8039
Worker	7.0800e-003	5.4000e-003	0.0545	1.5000e-004	0.0148	1.1000e-004	0.0149	3.9300e-003	1.0000e-004	4.0300e-003	0.0000	13.5630	13.5630	3.9000e-004	0.0000	13.5726
Total	8.5700e-003	0.0476	0.0639	2.4000e-004	0.0170	3.8000e-004	0.0173	4.5600e-003	3.6000e-004	4.9100e-003	0.0000	22.3533	22.3533	9.3000e-004	0.0000	22.3765

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0571	0.5794	0.4477	6.7000e-004		0.0363	0.0363		0.0334	0.0334	0.0000	60.0403	60.0403	0.0190	0.0000	60.5152
Total	0.0571	0.5794	0.4477	6.7000e-004		0.0363	0.0363		0.0334	0.0334	0.0000	60.0403	60.0403	0.0190	0.0000	60.5152

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	1.4900e-003	0.0422	9.3400e-003	9.0000e-005	2.1700e-003	2.7000e-004	2.4400e-003	6.3000e-004	2.6000e-004	8.8000e-004	0.0000	8.7904	8.7904	5.4000e-004	0.0000	8.8039
Worker	7.0800e-003	5.4000e-003	0.0545	1.5000e-004	0.0148	1.1000e-004	0.0149	3.9300e-003	1.0000e-004	4.0300e-003	0.0000	13.5630	13.5630	3.9000e-004	0.0000	13.5726
Total	8.5700e-003	0.0476	0.0639	2.4000e-004	0.0170	3.8000e-004	0.0173	4.5600e-003	3.6000e-004	4.9100e-003	0.0000	22.3533	22.3533	9.3000e-004	0.0000	22.3765

3.6 Paving - 2019

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	1.1200e-003	0.0109	9.8700e-003	2.0000e-005		6.1000e-004	6.1000e-004		5.7000e-004	5.7000e-004	0.0000	1.3335	1.3335	3.9000e-004	0.0000	1.3434
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	1.1200e-003	0.0109	9.8700e-003	2.0000e-005		6.1000e-004	6.1000e-004		5.7000e-004	5.7000e-004	0.0000	1.3335	1.3335	3.9000e-004	0.0000	1.3434

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	6.0000e-005	5.0000e-005	4.7000e-004	0.0000	1.3000e-004	0.0000	1.3000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.1161	0.1161	0.0000	0.0000	0.1161
Total	6.0000e-005	5.0000e-005	4.7000e-004	0.0000	1.3000e-004	0.0000	1.3000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.1161	0.1161	0.0000	0.0000	0.1161

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	1.1200e-003	0.0109	9.8700e-003	2.0000e-005		6.1000e-004	6.1000e-004		5.7000e-004	5.7000e-004	0.0000	1.3335	1.3335	3.9000e-004	0.0000	1.3434
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	1.1200e-003	0.0109	9.8700e-003	2.0000e-005		6.1000e-004	6.1000e-004		5.7000e-004	5.7000e-004	0.0000	1.3335	1.3335	3.9000e-004	0.0000	1.3434

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	6.0000e-005	5.0000e-005	4.7000e-004	0.0000	1.3000e-004	0.0000	1.3000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.1161	0.1161	0.0000	0.0000	0.1161
Total	6.0000e-005	5.0000e-005	4.7000e-004	0.0000	1.3000e-004	0.0000	1.3000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.1161	0.1161	0.0000	0.0000	0.1161

3.7 Architectural Coating - 2019

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	0.1385					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	6.7000e-004	4.5900e-003	4.6000e-003	1.0000e-005		3.2000e-004	3.2000e-004		3.2000e-004	3.2000e-004	0.0000	0.6383	0.6383	5.0000e-005	0.0000	0.6397
Total	0.1392	4.5900e-003	4.6000e-003	1.0000e-005		3.2000e-004	3.2000e-004		3.2000e-004	3.2000e-004	0.0000	0.6383	0.6383	5.0000e-005	0.0000	0.6397

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.0000e-005	2.0000e-005	2.2000e-004	0.0000	6.0000e-005	0.0000	6.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0544	0.0544	0.0000	0.0000	0.0544
Total	3.0000e-005	2.0000e-005	2.2000e-004	0.0000	6.0000e-005	0.0000	6.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0544	0.0544	0.0000	0.0000	0.0544

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	0.1385					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	6.7000e-004	4.5900e-003	4.6000e-003	1.0000e-005		3.2000e-004	3.2000e-004		3.2000e-004	3.2000e-004	0.0000	0.6383	0.6383	5.0000e-005	0.0000	0.6397
Total	0.1392	4.5900e-003	4.6000e-003	1.0000e-005		3.2000e-004	3.2000e-004		3.2000e-004	3.2000e-004	0.0000	0.6383	0.6383	5.0000e-005	0.0000	0.6397

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.0000e-005	2.0000e-005	2.2000e-004	0.0000	6.0000e-005	0.0000	6.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0544	0.0544	0.0000	0.0000	0.0544
Total	3.0000e-005	2.0000e-005	2.2000e-004	0.0000	6.0000e-005	0.0000	6.0000e-005	2.0000e-005	0.0000	2.0000e-005	0.0000	0.0544	0.0544	0.0000	0.0000	0.0544

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Increase Diversity

Improve Destination Accessibility

Improve Pedestrian Network

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	0.0509	0.2914	0.4253	1.1900e-003	0.0785	1.4300e-003	0.0800	0.0211	1.3500e-003	0.0225	0.0000	109.6527	109.6527	6.8500e-003	0.0000	109.8241
Unmitigated	0.0556	0.3351	0.5267	1.6200e-003	0.1140	1.9600e-003	0.1160	0.0307	1.8500e-003	0.0325	0.0000	149.5741	149.5741	8.0000e-003	0.0000	149.7742

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Mid Rise	63.54	61.02	55.98	143,427	98,782
Enclosed Parking with Elevator	0.00	0.00	0.00		
High Turnover (Sit Down Restaurant)	133.69	166.52	138.60	161,371	111,141
Total	197.23	227.54	194.58	304,797	209,923

4.3 Trip Type Information

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Mid Rise	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Enclosed Parking with Elevator	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
High Turnover (Sit Down	9.50	7.30	7.30	8.50	72.50	19.00	37	20	43

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Mid Rise	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759
Enclosed Parking with Elevator	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759
High Turnover (Sit Down Restaurant)	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

Category	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
	tons/yr										MT/yr					
Electricity Mitigated						0.0000	0.0000		0.0000	0.0000	0.0000	51.0748	51.0748	2.3100e-003	4.8000e-004	51.2749
Electricity Unmitigated						0.0000	0.0000		0.0000	0.0000	0.0000	51.0748	51.0748	2.3100e-003	4.8000e-004	51.2749
NaturalGas Mitigated	2.6400e-003	0.0235	0.0168	1.4000e-004	1.8200e-003	1.8200e-003		1.8200e-003	1.8200e-003	1.8200e-003	0.0000	26.1285	26.1285	5.0000e-004	4.8000e-004	26.2838
NaturalGas Unmitigated	2.6400e-003	0.0235	0.0168	1.4000e-004	1.8200e-003	1.8200e-003		1.8200e-003	1.8200e-003	1.8200e-003	0.0000	26.1285	26.1285	5.0000e-004	4.8000e-004	26.2838

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Apartments Mid Rise	157148	8.5000e-004	7.2400e-003	3.0800e-003	5.0000e-005		5.9000e-004	5.9000e-004		5.9000e-004	5.9000e-004	0.0000	8.3860	8.3860	1.6000e-004	1.5000e-004	8.4358
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	332482	1.7900e-003	0.0163	0.0137	1.0000e-004		1.2400e-003	1.2400e-003		1.2400e-003	1.2400e-003	0.0000	17.7425	17.7425	3.4000e-004	3.3000e-004	17.8479
Total		2.6400e-003	0.0235	0.0168	1.5000e-004		1.8300e-003	1.8300e-003		1.8300e-003	1.8300e-003	0.0000	26.1285	26.1285	5.0000e-004	4.8000e-004	26.2838

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Apartments Mid Rise	157148	8.5000e-004	7.2400e-003	3.0800e-003	5.0000e-005		5.9000e-004	5.9000e-004		5.9000e-004	5.9000e-004	0.0000	8.3860	8.3860	1.6000e-004	1.5000e-004	8.4358
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	332482	1.7900e-003	0.0163	0.0137	1.0000e-004		1.2400e-003	1.2400e-003		1.2400e-003	1.2400e-003	0.0000	17.7425	17.7425	3.4000e-004	3.3000e-004	17.8479
Total		2.6400e-003	0.0235	0.0168	1.5000e-004		1.8300e-003	1.8300e-003		1.8300e-003	1.8300e-003	0.0000	26.1285	26.1285	5.0000e-004	4.8000e-004	26.2838

5.3 Energy by Land Use - Electricity

Unmitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Apartments Mid Rise	75995.8	22.1081	1.0000e-003	2.1000e-004	22.1947
Enclosed Parking with Elevator	42192	12.2741	5.6000e-004	1.1000e-004	12.3222
High Turnover (Sit Down Restaurant)	57380.4	16.6926	7.5000e-004	1.6000e-004	16.7580
Total		51.0748	2.3100e-003	4.8000e-004	51.2749

Mitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Apartments Mid Rise	75995.8	22.1081	1.0000e-003	2.1000e-004	22.1947
Enclosed Parking with Elevator	42192	12.2741	5.6000e-004	1.1000e-004	12.3222
High Turnover (Sit Down Restaurant)	57380.4	16.6926	7.5000e-004	1.6000e-004	16.7580
Total		51.0748	2.3100e-003	4.8000e-004	51.2749

6.0 Area Detail

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	0.0967	3.4900e-003	0.1351	2.0000e-005		8.9000e-004	8.9000e-004		8.9000e-004	8.9000e-004	0.0000	2.4658	2.4658	2.6000e-004	4.0000e-005	2.4845
Unmitigated	0.0967	3.4900e-003	0.1351	2.0000e-005		8.9000e-004	8.9000e-004		8.9000e-004	8.9000e-004	0.0000	2.4658	2.4658	2.6000e-004	4.0000e-005	2.4845

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.0139					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	0.0785					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	2.3000e-004	1.9400e-003	8.3000e-004	1.0000e-005		1.6000e-004	1.6000e-004		1.6000e-004	1.6000e-004	0.0000	2.2471	2.2471	4.0000e-005	4.0000e-005	2.2605
Landscaping	4.1000e-003	1.5500e-003	0.1343	1.0000e-005		7.4000e-004	7.4000e-004		7.4000e-004	7.4000e-004	0.0000	0.2187	0.2187	2.1000e-004	0.0000	0.2240
Total	0.0967	3.4900e-003	0.1351	2.0000e-005		9.0000e-004	9.0000e-004		9.0000e-004	9.0000e-004	0.0000	2.4658	2.4658	2.5000e-004	4.0000e-005	2.4845

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.0139					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	0.0785					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	2.3000e-004	1.9400e-003	8.3000e-004	1.0000e-005		1.6000e-004	1.6000e-004		1.6000e-004	1.6000e-004	0.0000	2.2471	2.2471	4.0000e-005	4.0000e-005	2.2605
Landscaping	4.1000e-003	1.5500e-003	0.1343	1.0000e-005		7.4000e-004	7.4000e-004		7.4000e-004	7.4000e-004	0.0000	0.2187	0.2187	2.1000e-004	0.0000	0.2240
Total	0.0967	3.4900e-003	0.1351	2.0000e-005		9.0000e-004	9.0000e-004		9.0000e-004	9.0000e-004	0.0000	2.4658	2.4658	2.5000e-004	4.0000e-005	2.4845

7.0 Water Detail

7.1 Mitigation Measures Water

	Total CO2	CH4	N2O	CO2e
Category	MT/yr			
Mitigated	4.1467	0.0580	1.4000e-003	6.0124
Unmitigated	4.1467	0.0580	1.4000e-003	6.0124

7.2 Water by Land Use

Unmitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Apartments Mid Rise	1.17277 / 0.739357	2.9710	0.0383	9.3000e-004	4.2054
Enclosed Parking with Elevator	0 / 0	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	0.600997 / 0.0383615	1.1758	0.0196	4.7000e-004	1.8070
Total		4.1467	0.0580	1.4000e-003	6.0124

Mitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Apartments Mid Rise	1.17277 / 0.739357	2.9710	0.0383	9.3000e-004	4.2054
Enclosed Parking with Elevator	0 / 0	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	0.600997 / 0.0383615	1.1758	0.0196	4.7000e-004	1.8070
Total		4.1467	0.0580	1.4000e-003	6.0124

8.0 Waste Detail

8.1 Mitigation Measures Waste

Category/Year

	Total CO2	CH4	N2O	CO2e
	MT/yr			
Mitigated	6.4632	0.3820	0.0000	16.0124
Unmitigated	6.4632	0.3820	0.0000	16.0124

8.2 Waste by Land Use

Unmitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Apartments Mid Rise	8.28	1.6808	0.0993	0.0000	4.1640
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	23.56	4.7825	0.2826	0.0000	11.8484
Total		6.4632	0.3820	0.0000	16.0124

Mitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Apartments Mid Rise	8.28	1.6808	0.0993	0.0000	4.1640
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	23.56	4.7825	0.2826	0.0000	11.8484
Total		6.4632	0.3820	0.0000	16.0124

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

6501 Shattuck Mixed Use - Alameda County, Summer

6501 Shattuck Mixed Use
Alameda County, Summer

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Enclosed Parking with Elevator	18.00	Space	0.00	7,200.00	0
High Turnover (Sit Down Restaurant)	1.98	1000sqft	0.00	1,980.00	0
Apartments Mid Rise	18.00	Dwelling Unit	0.19	18,000.00	51

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	63
Climate Zone	5			Operational Year	2020
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MW hr)	641.35	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

- Project Characteristics -
- Land Use - Project Description
- Construction Phase - Estimated schedule
- Off-road Equipment - estimated equip use
- Off-road Equipment -
- Off-road Equipment - estimated equip use
- Off-road Equipment - estimated equip use

Off-road Equipment - estimated equip use

Off-road Equipment -

Grading -

Demolition -

Trips and VMT - est. trips

Vehicle Trips - Traffic Study

Woodstoves - no woodburning devices

Construction Off-road Equipment Mitigation -

Mobile Land Use Mitigation -

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	100.00	220.00
tblConstructionPhase	NumDays	10.00	5.00
tblConstructionPhase	NumDays	5.00	4.00
tblConstructionPhase	PhaseEndDate	6/21/2019	12/2/2019
tblConstructionPhase	PhaseEndDate	6/7/2019	11/15/2019
tblConstructionPhase	PhaseEndDate	1/15/2019	1/8/2019
tblConstructionPhase	PhaseEndDate	1/18/2019	1/11/2019
tblConstructionPhase	PhaseEndDate	6/14/2019	11/25/2019
tblConstructionPhase	PhaseEndDate	1/16/2019	1/9/2019
tblConstructionPhase	PhaseStartDate	6/15/2019	11/26/2019
tblConstructionPhase	PhaseStartDate	1/19/2019	1/14/2019
tblConstructionPhase	PhaseStartDate	1/17/2019	1/10/2019
tblConstructionPhase	PhaseStartDate	6/8/2019	11/20/2019
tblConstructionPhase	PhaseStartDate	1/16/2019	1/9/2019
tblFireplaces	NumberGas	2.70	18.00
tblFireplaces	NumberNoFireplace	0.72	0.00
tblFireplaces	NumberWood	3.06	0.00
tblGrading	MaterialExported	0.00	50.00
tblLandUse	LotAcreage	0.16	0.00
tblLandUse	LotAcreage	0.05	0.00

tblLandUse	LotAcreage	0.47	0.19
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	4.00	2.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	4.00	2.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	7.00	6.00
tblOffRoadEquipment	UsageHours	7.00	6.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	7.00	3.00
tblTripsAndVMT	HaulingTripNumber	0.00	6.00
tblTripsAndVMT	HaulingTripNumber	6.00	0.00
tblTripsAndVMT	WorkerTripNumber	10.00	5.00
tblTripsAndVMT	WorkerTripNumber	8.00	10.00
tblTripsAndVMT	WorkerTripNumber	13.00	8.00
tblVehicleTrips	ST_TR	6.39	3.39
tblVehicleTrips	ST_TR	158.37	84.10
tblVehicleTrips	SU_TR	5.86	3.11
tblVehicleTrips	SU_TR	131.84	70.00
tblVehicleTrips	WD_TR	6.65	3.53
tblVehicleTrips	WD_TR	127.15	67.52
tblWoodstoves	NumberCatalytic	0.36	0.00
tblWoodstoves	NumberNoncatalytic	0.36	0.00

2.0 Emissions Summary

2.2 Overall Operational Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923
Energy	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555
Mobile	0.4024	2.0435	3.2454	0.0106	0.7253	0.0120	0.7373	0.1944	0.0113	0.2057		1,070.5443	1,070.5443	0.0537		1,071.8862
Total	1.0092	2.5381	4.9775	0.0136	0.7253	0.0584	0.7837	0.1944	0.0577	0.2521	0.0000	1,675.7462	1,675.7462	0.0678	0.0110	1,680.7340

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923
Energy	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555
Mobile	0.3730	1.7900	2.5456	7.7300e-003	0.4995	8.7700e-003	0.5083	0.1339	8.2700e-003	0.1421		785.3950	785.3950	0.0455		786.5326
Total	0.9798	2.2846	4.2777	0.0108	0.4995	0.0551	0.5547	0.1339	0.0546	0.1885	0.0000	1,390.5969	1,390.5969	0.0597	0.0110	1,395.3804

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	2.92	9.99	14.06	20.67	31.13	5.57	29.22	31.13	5.30	25.22	0.00	17.02	17.02	12.06	0.00	16.98

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Increase Diversity

Improve Destination Accessibility

Improve Pedestrian Network

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.3730	1.7900	2.5456	7.7300e-003	0.4995	8.7700e-003	0.5083	0.1339	8.2700e-003	0.1421		785.3950	785.3950	0.0455		786.5326
Unmitigated	0.4024	2.0435	3.2454	0.0106	0.7253	0.0120	0.7373	0.1944	0.0113	0.2057		1,070.5443	1,070.5443	0.0537		1,071.8862

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated Annual VMT	Mitigated Annual VMT
	Weekday	Saturday	Sunday		
Apartments Mid Rise	63.54	61.02	55.98	143,427	98,782
Enclosed Parking with Elevator	0.00	0.00	0.00		
High Turnover (Sit Down Restaurant)	133.69	166.52	138.60	161,371	111,141
Total	197.23	227.54	194.58	304,797	209,923

4.3 Trip Type Information

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Mid Rise	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Enclosed Parking with Elevator	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
High Turnover (Sit Down Restaurant)	9.50	7.30	7.30	8.50	72.50	19.00	37	20	43

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Mid Rise	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759
Enclosed Parking with Elevator	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759
High Turnover (Sit Down Restaurant)	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555
NaturalGas Unmitigated	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Mid Rise	430.542	4.6400e-003	0.0397	0.0169	2.5000e-004		3.2100e-003	3.2100e-003		3.2100e-003	3.2100e-003		50.6520	50.6520	9.7000e-004	9.3000e-004	50.9530
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	910.908	9.8200e-003	0.0893	0.0750	5.4000e-004		6.7900e-003	6.7900e-003		6.7900e-003	6.7900e-003		107.1657	107.1657	2.0500e-003	1.9600e-003	107.8025
Total		0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555

Mitigated

	Natural Gas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Mid Rise	0.430542	4.6400e-003	0.0397	0.0169	2.5000e-004		3.2100e-003	3.2100e-003		3.2100e-003	3.2100e-003		50.6520	50.6520	9.7000e-004	9.3000e-004	50.9530
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	0.910908	9.8200e-003	0.0893	0.0750	5.4000e-004		6.7900e-003	6.7900e-003		6.7900e-003	6.7900e-003		107.1657	107.1657	2.0500e-003	1.9600e-003	107.8025
Total		0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555

6.0 Area Detail

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923
Unmitigated	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0759					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.4301					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	0.0408	0.3484	0.1482	2.2200e-003		0.0282	0.0282		0.0282	0.0282	0.0000	444.7059	444.7059	8.5200e-003	8.1500e-003	447.3486
Landscaping	0.0456	0.0173	1.4920	8.0000e-005		8.2000e-003	8.2000e-003		8.2000e-003	8.2000e-003		2.6783	2.6783	2.6200e-003		2.7438
Total	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0759					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.4301					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	0.0408	0.3484	0.1482	2.2200e-003		0.0282	0.0282		0.0282	0.0282	0.0000	444.7059	444.7059	8.5200e-003	8.1500e-003	447.3486
Landscaping	0.0456	0.0173	1.4920	8.0000e-005		8.2000e-003	8.2000e-003		8.2000e-003	8.2000e-003		2.6783	2.6783	2.6200e-003		2.7438
Total	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923

7.0 Water Detail

7.1 Mitigation Measures Water

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
----------------	--------	----------------	-----------------	---------------	-----------

User Defined Equipment

Equipment Type	Number
----------------	--------

11.0 Vegetation

6501 Shattuck Mixed Use - Alameda County, Winter

6501 Shattuck Mixed Use
Alameda County, Winter

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Enclosed Parking with Elevator	18.00	Space	0.00	7,200.00	0
High Turnover (Sit Down Restaurant)	1.98	1000sqft	0.00	1,980.00	0
Apartments Mid Rise	18.00	Dwelling Unit	0.19	18,000.00	51

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	63
Climate Zone	5			Operational Year	2020
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MW hr)	641.35	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use - Project Description

Construction Phase - Estimated schedule

Off-road Equipment - estimated equip use

Off-road Equipment -

Off-road Equipment - estimated equip use

Off-road Equipment - estimated equip use

Off-road Equipment - estimated equip use

Off-road Equipment -

Grading -

Demolition -

Trips and VMT - est. trips

Vehicle Trips - Traffic Study

Woodstoves - no woodburning devices

Construction Off-road Equipment Mitigation -

Mobile Land Use Mitigation -

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	100.00	220.00
tblConstructionPhase	NumDays	10.00	5.00
tblConstructionPhase	NumDays	5.00	4.00
tblConstructionPhase	PhaseEndDate	6/21/2019	12/2/2019
tblConstructionPhase	PhaseEndDate	6/7/2019	11/15/2019
tblConstructionPhase	PhaseEndDate	1/15/2019	1/8/2019
tblConstructionPhase	PhaseEndDate	1/18/2019	1/11/2019
tblConstructionPhase	PhaseEndDate	6/14/2019	11/25/2019
tblConstructionPhase	PhaseEndDate	1/16/2019	1/9/2019
tblConstructionPhase	PhaseStartDate	6/15/2019	11/26/2019
tblConstructionPhase	PhaseStartDate	1/19/2019	1/14/2019
tblConstructionPhase	PhaseStartDate	1/17/2019	1/10/2019
tblConstructionPhase	PhaseStartDate	6/8/2019	11/20/2019
tblConstructionPhase	PhaseStartDate	1/16/2019	1/9/2019
tblFireplaces	NumberGas	2.70	18.00
tblFireplaces	NumberNoFireplace	0.72	0.00
tblFireplaces	NumberWood	3.06	0.00
tblGrading	MaterialExported	0.00	50.00
tblLandUse	LotAcreage	0.16	0.00
tblLandUse	LotAcreage	0.05	0.00

tblLandUse	LotAcreage	0.47	0.19
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	4.00	2.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	4.00	2.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	7.00	6.00
tblOffRoadEquipment	UsageHours	7.00	6.00
tblOffRoadEquipment	UsageHours	8.00	4.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	6.00	4.00
tblOffRoadEquipment	UsageHours	7.00	3.00
tblTripsAndVMT	HaulingTripNumber	0.00	6.00
tblTripsAndVMT	HaulingTripNumber	6.00	0.00
tblTripsAndVMT	WorkerTripNumber	10.00	5.00
tblTripsAndVMT	WorkerTripNumber	8.00	10.00
tblTripsAndVMT	WorkerTripNumber	13.00	8.00
tblVehicleTrips	ST_TR	6.39	3.39
tblVehicleTrips	ST_TR	158.37	84.10
tblVehicleTrips	SU_TR	5.86	3.11
tblVehicleTrips	SU_TR	131.84	70.00
tblVehicleTrips	WD_TR	6.65	3.53
tblVehicleTrips	WD_TR	127.15	67.52
tblWoodstoves	NumberCatalytic	0.36	0.00
tblWoodstoves	NumberNoncatalytic	0.36	0.00

2.0 Emissions Summary

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923
Energy	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555
Mobile	0.3445	2.1007	3.4880	9.8700e-003	0.7253	0.0122	0.7375	0.1944	0.0115	0.2058		1,001.2724	1,001.2724	0.0574		1,002.7066
Total	0.9513	2.5953	5.2202	0.0130	0.7253	0.0585	0.7838	0.1944	0.0578	0.2522	0.0000	1,606.4743	1,606.4743	0.0715	0.0110	1,611.5544

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923
Energy	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555
Mobile	0.3155	1.8232	2.8620	7.2200e-003	0.4995	8.9300e-003	0.5085	0.1339	8.4100e-003	0.1423		732.7833	732.7833	0.0496		734.0236
Total	0.9223	2.3177	4.5941	0.0103	0.4995	0.0553	0.5548	0.1339	0.0548	0.1886	0.0000	1,337.9852	1,337.9852	0.0638	0.0110	1,342.8715

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	3.05	10.70	11.99	20.45	31.13	5.55	29.22	31.13	5.31	25.21	0.00	16.71	16.71	10.85	0.00	16.67

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Increase Diversity

Improve Destination Accessibility

Improve Pedestrian Network

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.3155	1.8232	2.8620	7.2200e-003	0.4995	8.9300e-003	0.5085	0.1339	8.4100e-003	0.1423		732.7833	732.7833	0.0496		734.0236
Unmitigated	0.3445	2.1007	3.4880	9.8700e-003	0.7253	0.0122	0.7375	0.1944	0.0115	0.2058		1,001.2724	1,001.2724	0.0574		1,002.7066

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Mid Rise	63.54	61.02	55.98	143,427	98,782
Enclosed Parking with Elevator	0.00	0.00	0.00		
High Turnover (Sit Down Restaurant)	133.69	166.52	138.60	161,371	111,141
Total	197.23	227.54	194.58	304,797	209,923

4.3 Trip Type Information

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Mid Rise	10.80	4.80	5.70	31.00	15.00	54.00	86	11	3
Enclosed Parking with Elevator	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0
High Turnover (Sit Down Restaurant)	9.50	7.30	7.30	8.50	72.50	19.00	37	20	43

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Mid Rise	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759
Enclosed Parking with Elevator	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759
High Turnover (Sit Down Restaurant)	0.558186	0.040947	0.190770	0.110456	0.017401	0.005228	0.022658	0.042795	0.002118	0.002805	0.005569	0.000308	0.000759

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555
NaturalGas Unmitigated	0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Mid Rise	430.542	4.6400e-003	0.0397	0.0169	2.5000e-004		3.2100e-003	3.2100e-003		3.2100e-003	3.2100e-003		50.6520	50.6520	9.7000e-004	9.3000e-004	50.9530
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	910.908	9.8200e-003	0.0893	0.0750	5.4000e-004		6.7900e-003	6.7900e-003		6.7900e-003	6.7900e-003		107.1657	107.1657	2.0500e-003	1.9600e-003	107.8025
Total		0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Mid Rise	0.430542	4.6400e-003	0.0397	0.0169	2.5000e-004		3.2100e-003	3.2100e-003		3.2100e-003	3.2100e-003		50.6520	50.6520	9.7000e-004	9.3000e-004	50.9530
Enclosed Parking with Elevator	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
High Turnover (Sit Down Restaurant)	0.910908	9.8200e-003	0.0893	0.0750	5.4000e-004		6.7900e-003	6.7900e-003		6.7900e-003	6.7900e-003		107.1657	107.1657	2.0500e-003	1.9600e-003	107.8025
Total		0.0145	0.1290	0.0919	7.9000e-004		0.0100	0.0100		0.0100	0.0100		157.8177	157.8177	3.0200e-003	2.8900e-003	158.7555

6.0 Area Detail

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923
Unmitigated	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0759					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.4301					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	0.0408	0.3484	0.1482	2.2200e-003		0.0282	0.0282		0.0282	0.0282	0.0000	444.7059	444.7059	8.5200e-003	8.1500e-003	447.3486
Landscaping	0.0456	0.0173	1.4920	8.0000e-005		8.2000e-003	8.2000e-003		8.2000e-003	8.2000e-003		2.6783	2.6783	2.6200e-003		2.7438
Total	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0759					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.4301					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	0.0408	0.3484	0.1482	2.2200e-003		0.0282	0.0282		0.0282	0.0282	0.0000	444.7059	444.7059	8.5200e-003	8.1500e-003	447.3486
Landscaping	0.0456	0.0173	1.4920	8.0000e-005		8.2000e-003	8.2000e-003		8.2000e-003	8.2000e-003		2.6783	2.6783	2.6200e-003		2.7438
Total	0.5924	0.3656	1.6403	2.3000e-003		0.0364	0.0364		0.0364	0.0364	0.0000	447.3842	447.3842	0.0111	8.1500e-003	450.0923

7.0 Water Detail

7.1 Mitigation Measures Water

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
----------------	--------	-----------	------------	-------------	-------------	-----------

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation



August 29, 2018
City of Oakland
Page 22 of 25

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

APPENDIX C: HRA ATTACHMENTS AND MODELING RESULTS

Summary of Dispersion Modeling and Estimate of Health Risk Assessment

Project Construction Schedule	
Construction Duration - days	237
Days per week	5
Hours per day	8

AERMOD Model Input Parameters			
Parameter	Unit	Value	Notes
VOLUME SOURCES representing construction equipment			
Emission Rate	grams/second	0.00062	Calculated from onsite construction equipment exhaust PM10
Number of Volume Sources	count	6	Ref: SMAQMD
Release Height	meters	5	Ref: SMAQMD
Initial Vertical Dimension	meters	1	Ref: SMAQMD
Initial Horizontal Dimension	meters	2.3	Ref: EPA guidelines, 1995
Length of Sides	meters	10	Ref: SMAQMD
RECEPTORS			
Grid Spacing	meters	10	Ref: SMAQMD
Flagpole Receptor Height	meters	6	For second story receptors
METEOROLOGICAL DATA			
surface and profile data	for 5 years 2011 to 2015	Obtained from BAAQMD for Oakland STP Station	
Modeling Results			
Pollutant	Annual Average Concentration		Notes
	Unit	Value	
DPM (PM10 Exhaust)	µg/m ³	0.12	At the maximum exposed individual residence (MEIR) location
PM2.5	µg/m ³	0.11	At the MEIR

Health Risk Assessment				
Non-cancer Risk				
Chronic Reference Exposure Level (REL)	µg/m ³	5		
Chronic Hazard Index (HI) for DPM	no units	0.02	At the MEIR location	
Inhalation Cancer Risk from DPM Exposure				
Inhalation Cancer Risk from DPM Exposure	Unit	Age Group		Notes
		Third trimester	0-2 years	
Concentration (C)	µg/m ³	0.12	0.12	Annual average (AERMOD modeling result)
Daily breathing rate (DBR)	Liter/kg-day	361	1090	Ref: OEHHA, 2015
Inhalation Absorption factor (A)	fraction	1	1	Ref: OEHHA, 2015
Exposure Frequency (EF)	fraction	0.96	0.96	350 days per year (Ref: OEHHA, 2015)
Averaging Time (AT)	years	70	70	Life time exposure for residential receptor (OEHHA)
Exposure Duration (ED)	years	0.25	0.4	Based on total construction period of 11 months
Conversion Factor (CF)	m ³ /Liter	1000000	1000000	Cancer risk per million
Fraction of time at home (FAH)	fraction	0.85	0.85	Ref: OEHHA, 2015
Age Sensitivity Factor (ASF)	no units	10	10	Ref: OEHHA, 2015
Cancer potency Factor for DPM (CPF)	(mg/kg-day) ⁻¹	1.1	1.1	Ref: OEHHA, 2015
Cancer Risk	per million	1.36	6.70	At the MEIR location
Total Cancer Risk	per million	7.36		At the MEIR location

Notes:

DPM = diesel particulate matter

PM10 = particulate matter with aerodynamic resistance diameters equal to or less than 10 microns

PM2.5 = particulate matter with aerodynamic resistance diameters equal to or less than 2.5 microns

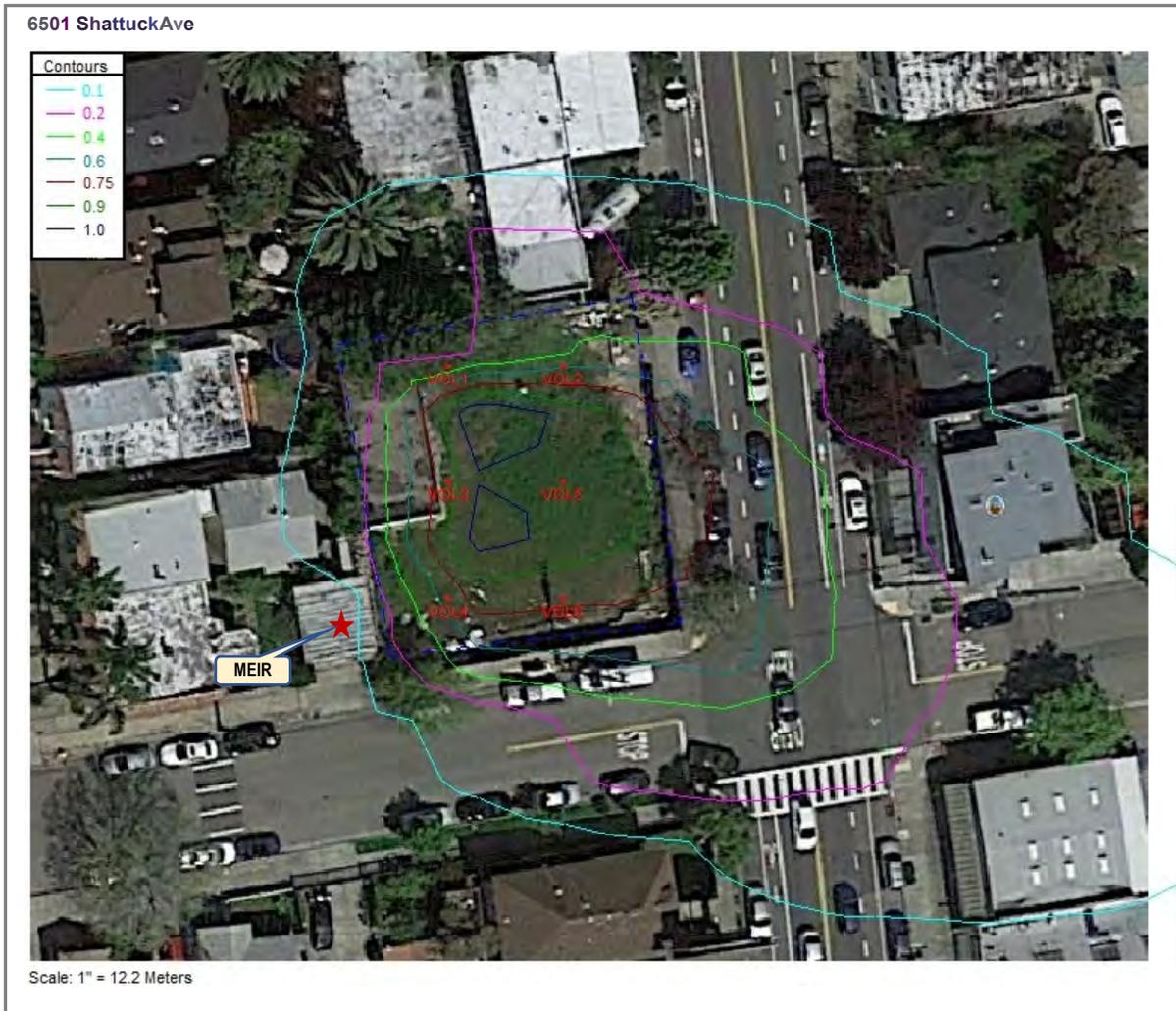
REL = reference exposure level; µg/m³ = micrograms per cubic meter; L/kg-day = liters per kilogram-day; m³/L = cubic meters per liter

References:

Office of Environmental Health Hazard Assessment (OEHHA), 2015 - *Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*
 Sacramento Metropolitan Air Quality Management District (SMAQMD), 2009. *Guide to Air Quality Assessment in Sacramento County*. Revised June 2015

AERMOD Results

Contours of Concentration of PM10 from Project Construction Activities



Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

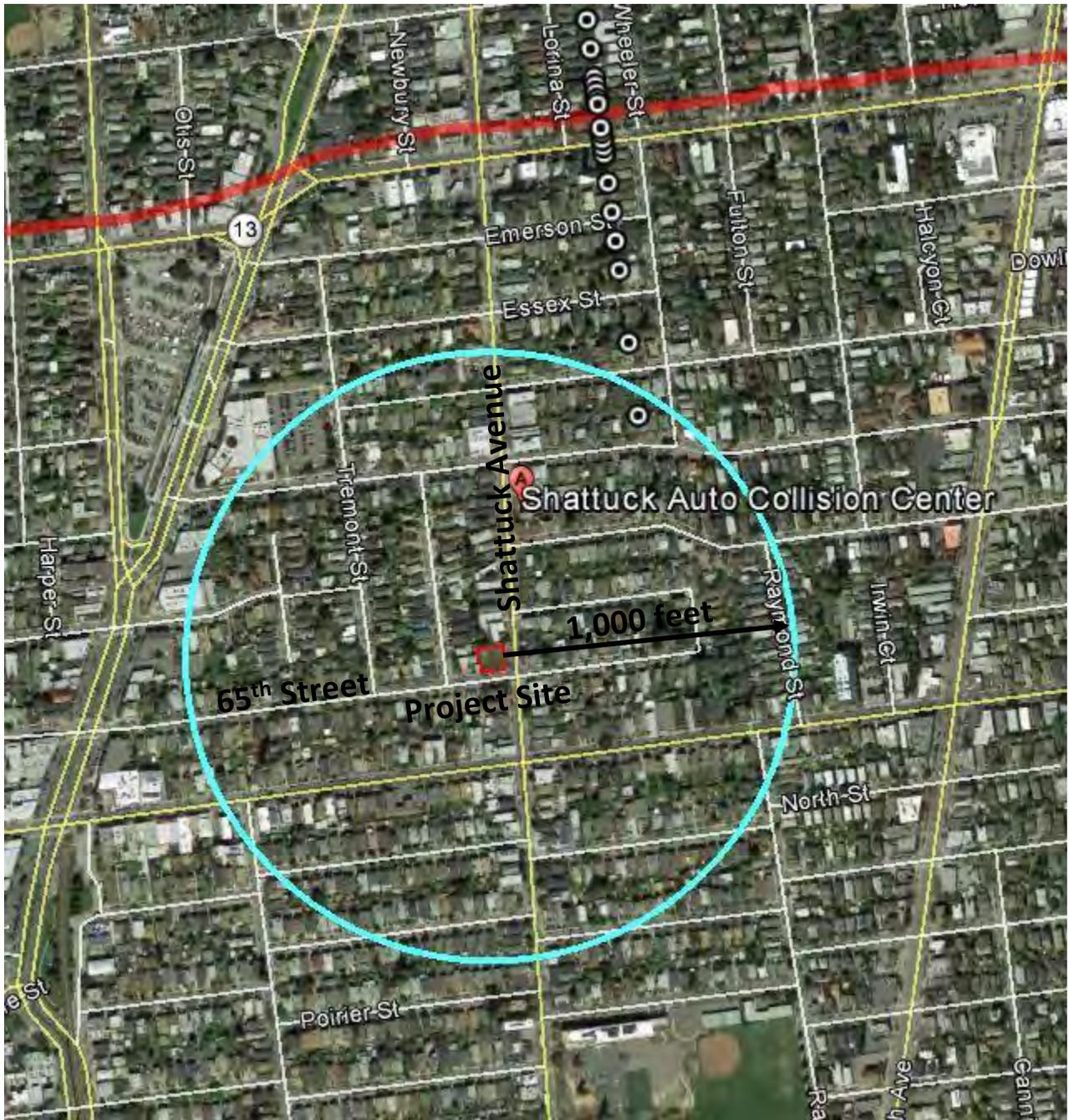


Figure 1: 1,000 foot radius for Zone of Influence for Toxic Air Contaminants

City of Oakland Traffic Counts for Shattuck between 62nd Street and 63rd Street

OAKLAND TRAFFIC COUNTS

This website contains historical traffic counts within the City of Oakland. Available data includes turning movement counts, pedestrian and bicycle counts, and automated tube count information.

Instructions: This map is based on Google Maps and works best with Google Chrome or Internet Explorer browsers. You can zoom or pan on the map by dragging or scrolling with your mouse, or change the map type by selecting the map option buttons on the upper right. Map layers can be toggled on and off by clicking on their names, which are shown in the green box in the upper right side of the screen. This can be useful to uncover data points, or to re-order the layer display. The most recent selection will be layered on top. Count information can be obtained by clicking on the markers. The markers display the last two digits of the year the data was collected. Clicking on the blue marker description box will expand the information, and provide access to summary data, charts, and electronic count files.

Having trouble viewing or using the map? Please contact Jamie Parks at [jparks\[at\]oaklandnet.com](mailto:jparks[at]oaklandnet.com) with your comments.

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Year	Traffic Count
2013	14,152
2014	14,294
2015	14,436
2016	14,581
2017	14,727
2018	14,874
2019	15,023

LAYERS

- + Turning Movement Counts
- + Automated Tube Counts
- + Bicycle Counts
- + Historic Counts (scanned)

LAST SELECTED: SHATTUCK AVENUE BETWEEN 62ND STREET AND 63RD STREET.

DATA COLLECTION PERIOD
 Tue 9/17/2013 to
 Wed 9/18/2013

DATA COLLECTION METHOD
 Automated Tube Count

DATA COLLECTION FIRM
 ATD/NDS

COUNT NOTES
 Axle Adjustments:
 Seasonal Adjustments: None
 Count Notes: No issues encountered or noted.

ELECTRONIC FILES
 Electronic *.csv File

TUBE COUNT DATA SUMMARY

Daily Volume(s):

- Tue 9/17/2013: 14,152
- Wed 9/18/2013: 14,455

Peak Hour Volume(s):

- Tue 9/17/2013, 4:45 PM: 1173
- Wed 9/18/2013, 5:30 PM: 1192

Reference: Air Quality and Greenhouse Gas Technical Memorandum for
6501 Shattuck Avenue Mixed

Shattuck Avenue Roadway Screening Calculator

Search Parameters	Results
County	Alameda County
Roadway Direction	NORTH-SOUTH DIRECTIONAL ROADWAY
Side of the Roadway	
Distance from Roadway	PM2.5 annual average
Annual Average Daily Traffic (ADT)	0.162 ($\mu\text{g}/\text{m}^3$)
	Cancer Risk
	9.05 (per million)
	Data for Alameda County based on meteorological data collected from Pleasanton in 2005

Notes and References:

1. Emissions were developed using EMFAC2011 for fleet mix in 2014 assuming 10,000 AADT and includes impacts from diesel and gasoline vehicle exhaust, brake and tire wear, and resuspended dust.
2. Roadways were modeled using CALINE4 air dispersion model assuming a source length of one kilometer. Meteorological data used to estimate the screening values are noted at the bottom of the "Results" box.
3. Cancer risks were estimated for 70 year lifetime exposure starting in 2014 that includes sensitivity values for early life exposures and OEHHA toxicity values adopted in 2013.

Attachment G

To:	The City of Oakland 250 Frank H. Ogawa Plaza, Suite 2114 Oakland, CA 94612	From:	Stantec Consulting Services Inc. 1340 Treat Boulevard, Suite 300
File:	6501 Shattuck Avenue Oakland, CA 94954	Date:	February 28, 2018

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

INTRODUCTION

NOISE TECHNICAL MEMO PURPOSE

The purpose of this Noise Technical Memorandum (Memo) is to support the 6501 Shattuck Avenue Mixed Use Project (proposed project) California Environmental Quality Act (CEQA) 15183 Exemption. This Memo provides analyses of potential project-related impacts for exposure to excessive noise during project construction and operation. This Memo has been prepared to analyze the potential construction-related noise impacts generated from the proposed project and estimate the potential operational noise conditions located at the proposed infill housing development. This Memo will be used as supplementary analyses to the CEQA 15183 Exemption.

Specifically, the purpose of this Memo is to assess the existing ambient noise conditions at the nearest sensitive receptors and within the proposed project area. This Memo includes an evaluation of the proposed noise-generating uses that could affect offsite noise-sensitive receptors as well as the potential for nearby offsite noise sources to impact residents of the project site. Additionally, this Memo assesses the potential indoor noise conditions located at the proposed mixed-use development.

Noise generation associated with mixed-use development projects is typically attributed to the project construction activities. These include site grading, construction of the building and apparatuses, and the increased traffic related to material delivery. Operational noise can be attributed to an increase of traffic counts from residents, visitors, and workers of the housing development as well as typical residential associated noise, such as, landscape maintenance, waste collection, and people congregating and talking at the community gathering areas.

PROJECT DESCRIPTION AND LOCATION

The proposed project is to develop a 17,480 square foot four-story mixed-use building on a 0.19 acre lot. The proposed project would include an 18-unit apartment complex with ground floor commercial store fronts and parking. The residential component of the proposed project would consist of three floors with a total floor area of 15,505 square feet. Additionally, the proposed project would include private residential courtyards and a 682 square foot communal rooftop courtyard. The ground floor commercial space would be approximately 1,975 square feet along Shattuck Avenue and 65th Street. It is anticipated that small restaurants and cafes would occupy the space, and outdoor seating would be provided. The proposed project would include approximately 4,582 square feet of podium garage space, with a total of 18 parking stalls that would consist of six standard parking stalls, 11 compact parking stalls, and one Americans with

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Disabilities Act (ADA) van accessible parking stall for residential use. The proposed project would include a wall mounted bicycle rack.

The project site is located in the North Oakland Planning Area of the City of Oakland within the Bushrod community, on the northwest corner of the intersection of Shattuck Avenue and 65th Street in the City of Oakland. The project site is served by various Alameda County Transit bus and shuttle lines and is located approximately 0.25 miles from the Ashby Bay Area Rapid Transit (BART) Station.

NOISE FUNDAMENTALS AND TERMINOLOGY

Noise is generally defined as unwanted sound that annoys or disturbs people and potentially causes an adverse psychological or physiological effect on human health. Because noise is an environmental pollutant that can interfere with human activities, evaluation of noise is necessary when considering the environmental impacts of a proposed project.

Sound is mechanical energy (vibration) transmitted by pressure waves over a medium such as air or water. Sound is characterized by various parameters that include the rate of oscillation of sound waves (frequency), the speed of propagation, and the pressure level or energy content (amplitude). In particular, the sound pressure level is the most common descriptor used to characterize the loudness of an ambient (existing) sound level. Although the decibel (dB) scale, a logarithmic scale, is used to quantify sound intensity, it does not accurately describe how sound intensity is perceived by human hearing. The perceived loudness of sound is dependent upon many factors, including sound pressure level and frequency content. The human ear is not equally sensitive to all frequencies in the entire spectrum, so noise measurements are weighted more heavily for frequencies to which humans are sensitive in a process called A-weighting, written as dBA and referred to as A-weighted decibels. There is a strong correlation between A-weighted sound levels (expressed as dBA) and community response to noise. For this reason, the A-weighted sound level has become the standard tool of environmental noise assessment. Table 1 defines sound measurements and other terminology used in this Memo, and Table 2 summarizes typical A-weighted sound levels for different noise sources.

With respect to how humans perceive and react to changes in noise levels, a 1dBA increase is imperceptible, a 3 dBA increase is barely perceptible, a 6 dBA increase is clearly noticeable, and a 10 dBA increase is subjectively perceived as approximately twice as loud (Egan 2007). These subjective reactions to changes in noise levels were developed on the basis of test subjects' reactions to changes in the levels of steady-state pure tones or broad-band noise and to changes in levels of a given noise source. These statistical indicators are thought to be most applicable to noise levels in the range of 50 to 70 dBA, as this is the usual range of voice and interior noise levels. The number of agencies and municipalities have developed or adopted noise level standards, consistent with these and other similar studies, to help prevent annoyance and to protect against the degradation of the existing noise environment.

Different types of measurements are used to characterize the time-varying nature of sound. These measurements include the equivalent sound level (Leq), the minimum and maximum sound levels (Lmin and Lmax), percentile-exceeded sound levels (such as L10, L20), the day-night sound level

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

(Ldn), and the community noise equivalent level (CNEL). Ldn and CNEL values differ by less than 1 dB. As a matter of practice, Ldn and CNEL values are considered to be equivalent and are treated as such in this assessment.

For a point source such as a stationary compressor or construction equipment, sound attenuates based on geometry at rate of 6 dB per doubling of distance. For a line source such as free flowing traffic on a freeway, sound attenuates at a rate of 3 dB per doubling of distance (Federal Highway Administration 2011). Atmospheric conditions including wind, temperature gradients, and humidity can change how sound propagates over distance and can affect the level of sound received at a given location. The degree to which the ground surface absorbs acoustical energy also affects sound propagation. Sound that travels over an acoustically absorptive surface such as grass attenuates at a greater rate than sound that travels over a hard surface such as pavement. The increased attenuation is typically in the range of 1–2 dB per doubling of distance. Barriers such as buildings and topography that block the line of sight between a source and receiver also increase the attenuation of sound over distance.

Table 1: Definition of Sound Measurement

Sound Measurements	Sample Heading
Decibel (dB)	A unit-less measure of sound on a logarithmic scale, which indicates the squared ratio of sound pressure amplitude to a reference sound pressure amplitude. The reference pressure is 20 micro-pascals.
A-Weighted Decibel (dBA)	An overall frequency-weighted sound level in decibels that approximates the frequency response of the human ear.
C-Weighted Decibel (dBC)	The sound pressure level in decibels as measured using the C-weighting filter network. The C-weighting is very close to an unweighted or flat response. C-weighting is only used in special cases when low-frequency noise is of particular importance. A comparison of measured A- and C-weighted level gives an indication of low frequency content.
Maximum Sound Level (Lmax)	The maximum sound level measured during the measurement period.
Minimum Sound Level (Lmin)	The minimum sound level measured during the measurement period.
Equivalent Sound Level (Leq)	The equivalent steady state sound level that in a stated period of time would contain the same acoustical energy.
Percentile-Exceeded Sound Level (Lxx)	The sound level exceeded xx % of a specific time period. L10 is the sound level exceeded 10% of the time. L90 is the sound level exceeded 90% of the time. L90 is often considered to be representative of the background noise level in a given area.

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Sound Measurements	Sample Heading
Day-Night Level (Ldn)	The energy average of the A-weighted sound levels occurring during a 24-hour period, with 10 dB added to the A-weighted sound levels occurring during the period from 10:00 p.m. to 7:00 a.m.
Community Noise Equivalent Level (CNEL)	The energy average of the A-weighted sound levels occurring during a 24-hour period with 5 dB added to the A-weighted sound levels occurring during the period from 7:00 p.m. to 10:00 p.m. and 10 dB added to the A-weighted sound levels occurring during the period from 10:00 p.m. to 7:00 a.m.
Peak Particle Velocity (Peak Velocity or PPV)	A measurement of ground vibration defined as the maximum speed (measured in inches per second) at which a particle in the ground is moving relative to its inactive state. PPV is usually expressed in inches/second.
Frequency: Hertz (Hz)	The number of complete pressure fluctuations per second above and below atmospheric pressure.
Source: Federal Highway Administration 2006a	

Table 2: Typical A-Weighted Sound Levels

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
Jet flyover at 1,000 Feet	-110	Rock band
Gas lawnmower at 3 Feet	-100-	
Diesel truck at 50 Feet at 50 MPH	-90-	Food blender at 3 Feet
Noisy urban area, daytime	-80-	Garbage Disposal at 3 Feet
Gas lawnmower, 100 Feet	-70-	Vacuum Cleaner at 10 Feet
Commercial area		Normal Speech at 3 Feet
Heavy traffic at 300 Feet	-60-	
Quiet urban daytime	-50-	Large business office
Quiet urban nighttime	-40-	Dishwasher in next room

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
Quiet suburban nighttime	-30-	Theater, large conference room (Background)
Quiet rural nighttime	-20-	Library
	-10-	Bedroom at night, concert hall (Background)
	-0-	Broadcast/recording studio

DECIBEL ADDITION

Because decibels are logarithmic units, sound pressure levels cannot be added or subtracted through ordinary arithmetic. On the dB scale, a doubling of sound energy corresponds to a 3-dB increase. In other words, when two identical sources are each producing sound of the same loudness, their combined sound level at a given distance would be 3 dB higher than one source under the same conditions. For example, if one source produces a sound pressure level of 70 dBA, two identical sources would not produce 140 dBA—rather, they would combine to produce 73 dBA. The cumulative sound level of any number of sources can be determined using decibel addition.

VIBRATION

Operation of heavy construction equipment, particularly pile driving and other impact devices such as pavement breakers, create seismic waves that radiate along the surface of the earth and downward into the earth. These surface waves can be felt as ground vibration. Vibration from operation of this equipment can result in effects ranging from annoyance of people to damage of structures. Varying geology and distance will result in different vibration levels containing different frequencies and displacements. In all cases, vibration amplitudes will decrease with increasing distance.

Perceptible groundborne vibration is generally limited to areas within a few hundred feet of construction activities. As seismic waves travel outward from a vibration source, they excite the particles of rock and soil through which they pass and cause them to oscillate. The actual distance that these particles move is usually only a few ten-thousandths to a few thousandths of an inch. The rate or velocity (in inches per second) at which these particles move is the commonly accepted descriptor of the vibration amplitude, referred to as the peak particle velocity (PPV).

Table 3 summarizes typical vibration levels generated by construction equipment (Federal Transit Administration 2006b).

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Table 1: Vibration Source Levels for Construction Equipment

Equipment	PPV at 25 Feet
Pile driver (impact)	0.644 to 1.518
Pile drive (sonic/vibratory)	0.170 to 0.734
Vibratory roller	0.210
Hoe ram	0.089
Large bulldozer	0.089
Caisson drilling	0.089
Loaded trucks	0.076
Jackhammer	0.035
Small bulldozer	0.003
Source: Federal Transit Administration 2006b	

Vibration amplitude attenuates over distance and is a complex function of how energy is imparted into the ground and the soil conditions through which the vibration is traveling. The following equation can be used to estimate the vibration level at a given distance for typical soil conditions (Federal Transit Administration 2006b). PPV_{ref} is the reference PPV from Table 3.

$$PPV = PPV_{ref} \times (25/Distance)^{1.5}$$

Table 4 summarizes guidelines vibration annoyance potential criteria suggested by Caltrans (California Department of Transportation 2004).

Table 2: Guideline Vibration Annoyance Potential Criteria

Human Response	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Sources
Barely perceptible	0.04	0.01
Distinctly perceptible	0.25	0.04
Strongly perceptible	0.9	0.10

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Human Response	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Sources
Severe	2.0	0.4
Notes: Transient sources create a single isolated vibration event, such as blasting or drop balls. Continuous/frequent intermittent sources include impact pile drivers, pogo-stick compactors, crack-and-seat equipment, vibratory pile drivers, and vibratory compaction equipment. Source: California Department of Transportation 2004.		

Table 5 summarizes guideline vibration damage potential criteria suggested by Caltrans (California Department of Transportation 2004).

Table 3: Guideline Vibration Damage Potential Criteria

Structure and Condition	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Sources
Extremely fragile historic buildings, ruins, ancient monuments	0.12	0.08
Fragile buildings	0.2	0.1
Historic and some old buildings	0.5	0.25
Older residential structure	0.5	0.3
New residential structures	1.0	0.5
Modern industrial/commercial buildings	2.0	0.5
Notes: Transient sources create a single isolated vibration event, such as blasting or drop balls. Continuous/frequent intermittent sources include impact pile drivers, pogo-stick compactors, crack-and-seat equipment, vibratory pile drivers, and vibratory compaction equipment. Source: California Department of Transportation 2004.		

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

REGULATORY SETTING

CITY OF OAKLAND GENERAL PLAN

The City of Oakland has developed goals and policies to protect public health from potential noise impacts. The noise element of the General Plan formulates two goals for the City:

- To protect Oakland’s quality of life and physical and mental well-being of residents and others in the City by reducing the community’s exposure to noise; and
- To safeguard Oakland’s economic welfare by mitigating noise incompatibilities among commercial, industrial, and residential land uses.

Policy 1: Ensure the compatibility of existing and, especially, of proposed development projects not only with neighboring land uses but also with their surrounding noise environment.

Action 1.1: Use the noise-land use compatibility matrix (Figure 6) in conjunction with the noise contour maps (especially for roadway traffic) to evaluate the acceptability of residential and other proposed land uses and also the need for any mitigation or abatement measures to achieve the desired degree of acceptability.

Action 1.2: Continue using the City’s zoning regulations and permit processes to limit the hours of operation of noise-producing activities which create conflicts with residential uses and to attach noise-abatement requirements to such activities.

Policy 3: Reduce the community’s exposure to noise by minimizing the noise levels that are received by Oakland residents and others in the City. (This policy addresses the reception of noise whereas Policy 2 addresses the generation of noise.)

Action 3.1: Continue to use the building-permit application process to enforce the California Noise Insulation Standards regulating the maximum allowable interior noise level in new multi-unit buildings.

Table 6: Permissible Maximum Indoor Noise Levels

Land Use	Maximum Indoor L _{DN} (dBA)
Residential, hotels, motels, transient lodging, institutional (churches, hospitals, classrooms, libraries), movie theaters	45 dBA
Professional offices, research and development, auditoria, meeting halls	50 dBA
Retail, banks, restaurants, sports clubs	55 dBA
Manufacturing, warehousing	65 dbA

Source: City of Oakland General Plan Noise Element 2005

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Table 7: Noise-Land Use Compatibility Matrix

LAND USE CATEGORY	COMMUNITY NOISE EXPOSURE (L _{CN} OR CNEL, dB)					
	55	60	65	70	75	80
Residential						
Transient lodging—hotels, hotels						
Schools, libraries, churches, hospitals, nursing homes						
Auditoriums, concert halls, amphitheaters						
Sports arenas, outdoor spectator sports						
Playgrounds, neighborhood parks						
Golf courses, riding stables, water recreation, cemeteries						
Office buildings, business commercial and professional						
Industrial, manufacturing, utilities, agriculture						

INTERPRETATION

 **NORMALLY ACCEPTABLE:** Development may occur without an analysis of potential noise impacts to the proposed development (though it might still be necessary to analyze noise impacts that the project might have on its surroundings).

 **CONDITIONALLY ACCEPTABLE:** Development should be undertaken only after an analysis of noise-reduction requirements is conducted, and if necessary noise-mitigating features are included in the design. Conventional construction will usually suffice as long as it incorporates air conditioning or forced fresh-air-supply systems, though it will likely require that project occupants maintain their windows closed.

 **NORMALLY UNACCEPTABLE:** Development should generally be discouraged; it may be undertaken only if a detailed analysis of the noise-reduction requirements is conducted, and if highly effective noise insulation, mitigation or abatement features are included in the design.

 **CLEARLY UNACCEPTABLE:** Development should not be undertaken.

Source: City of Oakland General Plan Noise Element 2005

CITY OF OAKLAND MUNICIPAL CODE

8.18.010 - Excessive and annoying noises prohibited.

- A. It is unlawful for any person to create or allow to be created any excessive or annoying noise as defined herein. Any violation of the regulations specified herein shall be punishable as an infraction.
- B. Definitions.

"Annoying noise" means noise with a repetitive pattern, shrill frequencies, and/or static-like sounds, including loud music and noise attributable to, but not limited to, leaf blowers, alarms, engines, barking dogs, and other animals.

"Excessive noise" means any unnecessary noise which persists for ten minutes or more; such period of noise need not be witnessed by enforcement personnel if the occupants of two or more separate housing or commercial units certify that they have experienced such period of noise and describe with particularity the source.

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

- C. Excessive and Annoying Noises a Nuisance. The following acts, and the causing or permitting thereof, shall be considered disturbing the peace and shall constitute an infraction.
1. Mechanical or Electronic Devices. Using any mechanical or electronic device for the intensification of any sound or noise into the public streets which produces excessive or annoying noise;
 8. Loading and Unloading. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, refuse, or similar objects between the hours of nine p.m. and six a.m. in such a manner as to cause a noise disturbance across a residential property line or at any time to violate the applicable noise provisions of the Oakland Planning Code;
 9. Domestic Power Tools, Machinery. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool between nine p.m. and six a.m. so as to create a noise disturbance across a real property line or at any time to violate the applicable noise provisions of the Oakland Planning Code;
 10. Sensitive Uses. Creation of any noise within or adjacent to a hospital or medical care facility, nursing home, school, court, day care, church, or similar facility, so as to interfere with the functions of such activity;
 11. Noise resulting from construction and demolition activities, the operation of commercial refrigeration units, air conditioning systems, compressors, commercial exhaust systems, ventilation units, and other commercial or industrial noises associated with land use activities, shall be regulated pursuant to standards contained within the noise regulations of the Oakland Planning Code.

8.18.020 - Persistent noises a nuisance.

The persistent maintenance or emission of any noise or sound produced by human, animal or mechanical means, between the hours of 9:00 p.m. and 7:00 a.m. next ensuing, which, by reason of its raucous or nerve-racking nature, shall disturb the peace or comfort, or be injurious to the health of any person shall constitute a nuisance.

- A. Failure to comply with the following provisions shall constitute a nuisance.
- B. All construction equipment powered by internal combustion engines shall be properly muffled and maintained.
- C. Unnecessary idling of internal combustion engines is prohibited.

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

- D. All stationery noise-generating construction equipment such as tree grinders and air compressors are to be located as far as is practical from existing residences.
- E. Quiet construction equipment, particularly air compressors, are to be selected whenever possible.
- F. Use of pile drivers and jack hammers shall be prohibited on Sundays and holidays, except for emergencies and as approved in advance by the Building Official.

Whenever the existence of any such nuisance shall come to the attention of the Health Officer, it shall be his or her duty to notify in writing the occupant of the premises upon which such nuisance exists, specifying the measures necessary to abate such nuisance, and unless the same is abated within forty-eight (48) hours thereafter, the occupant so notified shall be guilty of an infraction, and the Health Officer shall summarily abate such nuisance.

EXISTING NOISE CONDITIONS

The existing noise environment in a project area is characterized by the area’s general level of development because the level of development and ambient noise levels tend to be closely correlated. Areas which are not urbanized are relatively quiet, while areas which are more urbanized are noisier as a result of roadway traffic, industrial activities, and other human activities. Table 8 summarizes typical ambient noise levels based on level of development. Given the mixed-use residential/commercial nature of the project area, ambient noise levels are expected to be in the range of 65 to 70 Ldn.

Table 8: Population Density and Associated Ambient Noise Levels

Population Density	dBA, Ldn
Rural	40-50
Small Town or quiet suburban residential	50
Normal suburban residential	55
Urban residential	60
Noisy urban residential	65
Very noisy urban residential	70
Downtown, major metropolis	75-80
Area adjoining freeway or near major airport	80-90
Source: Hoover and Keith 2000.	

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

According to the Highway Traffic Noise Analysis and Abatement Policy and Guidance, provided by the Federal Highway Administration, the level of traffic noise depends on three primary factors: (1) the volume of the traffic, (2) the speed of the traffic, and (3) the vehicle mix within the flow of traffic. Generally, the loudness of traffic noise is increased by heavier traffic volumes, higher speeds, and a greater number of trucks. A doubling of the traffic volume, assuming that the speed and vehicle mix do not change, results in a noise level increase of 3 dBA. The vehicle mix on a given roadway may also have an effect on community noise levels. As the number of medium and heavy trucks increases and becomes a larger percentage of the vehicle mix, adjacent noise level impacts will increase. Vehicle noise is a combination of the noise produced by the engine, exhaust, and tires on the roadway.

Stantec conducted noise monitoring survey at five locations in November 2017, to determine existing ambient noise conditions. Noise levels were measured over a time interval of 15 minutes. The results from this survey are summarized in Table 9.

Table 9: Existing Noise Levels

Monitoring Location	Approximate Distance from Project Site Boundary (feet)	Daytime Leq (dBA)	Nighttime Leq (dBA)	Ldn (dBA)
Location 1	93	69	66	73
Location 2	<5	68	65	72
Location 3	47	61	58	65
Location 4	Onsite	55	55	61
Location 5	111	52	51	58

METHODS

A community noise survey was conducted on November 1, 2017 using an Extech sound level meter model 407764, which meets the standards of the American National Standards Institute (ANSI) for general environmental noise measurement instrumentation. Average vehicle speeds on local area roadways were assumed to be consistent with posted speed limits and remain as such with or without implementation of the Project. For the purpose of this analysis, potential sensitive receptors were determined by reviewing current aerial photography. The analysis of construction activities was split into two phases, the front portion of the building will be constructed during the first phase and the rear of the building during the second.

Data collected by Stantec were used as an input to the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM) as the existing ambient noise level input. The RCNM is used as the FHWA’s national standard for predicting noise generated from construction activities.

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

The primary method used to evaluate noise impacts for this analysis includes the use of the RCNM methodology. The RCNM analysis includes the calculation of noise levels (Lmax and Leq) at incremental distances for a variety of construction equipment. The spreadsheet inputs include acoustical use factors, Lmax values, and Leq values at the nearest sensitive receptor. For this analysis, it was assumed that a worst-case noise scenario for construction activity would entail the operation of the two noisiest pieces of equipment (grader and excavator) simultaneously.

Construction equipment that was used as an input for the RCNM is summarized in Table 10.

Table 10: Off-Road Construction Equipment Assumptions

Construction Phase	Equipment	Unit Amount	Hours per Day	Horsepower	Load Factor
Demolition	Concrete/Industrial Saw	1	8	81	0.73
	Rubber Tired Dozers	1	1	247	0.40
	Tractors/Loaders/Backhoes	2	6	97	0.37
Grading	Concrete/Industrial Saw	1	8	81	0.73
	Excavators	1	8	158	0.38
	Rubber Tired Dozers	1	1	247	0.40
	Tractors/Loaders/Backhoes	2	6	97	0.37
Building Construction	Cranes	1	4	231	0.29
	Forklifts	2	6	89	0.20
	Tractors/Loaders/Backhoes	2	8	97	0.37
Paving	Cement and Mortar Mixers	4	6	9	0.56
	Pavers	1	7	125	0.42
	Rollers	1	7	80	0.38
	Tractors/Loaders/Backhoes	1	7	97	0.37
Architectural Coating	Air Compressors	1	6	78	0.48

Construction on-road vehicle assumptions are provided in Table .

Table 11: On-Road Construction Vehicle Assumptions

Construction Phase	# of Worker Trips Per Day	# Vendor Trips Per Day	Total # of Haul Trips
Demolition	10	0	20
Grading	13	0	20
Building Construction	16	3	0

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Construction Phase	# of Worker Trips Per Day	# Vendor Trips Per Day	Total # of Haul Trips
Paving	18	0	0
Architectural Coating	3	0	0

Worker vehicles are assumed to be comprised of Light-Duty Automobiles and Light-Duty Trucks. Vendor vehicles are assumed to be comprised of Heavy-Heavy Duty Trucks and Medium-Heavy Duty Trucks. Haul vehicles are assumed to be Heavy-Heavy Duty Trucks.

The trip generation rates for the operation of the proposed Project are shown in Table 12. The trip generation rates were derived from the Preliminary Traffic Evaluation Memo prepared for the project. The CalEEMod default trip lengths for Alameda County were used in the analysis. The default trips lengths are as follows:

- Home to Work – 10.8 miles
- Home to Shop – 4.8 miles
- Home to Other – 5.7 miles
- Commercial to Commercial – 7.3 miles
- Commercial to Work – 9.6 miles
- Commercial to Non-Work – 7.3 miles

Table 12: Trip Generation Rates

Land Use (ITE Code)	Size	A.M. Peak Hour				P.M. Peak Hour				Daily (Week Day)		Saturday		Sunday	
		Rate	In	Out	Total	Rate	In	Out	Total	Rate	Trips	Rate	Trips	Rate	Trips
Apartments (220)	18 DU	0.50	2	7	9	0.67	8	4	12	6.65	120	6.39	115	5.86	105
Sit Down Restaurant (932)	1975 GSF	10.81	12	10	22	9.85	13	7	20	127.15	252	158.37	313	131.84	261
Subtotal			14	17	31		21	11	32		372		428		367
Non-Auto Reduction ¹	46.9%		7	8	15		10	6	16		175		201		173
Project Totals			7	9	16		11	5	16		197		227		194

Source: Trip Generation Manual, 9th Edition, Institute of Transportation Engineers (ITE), 2012; Stantec, 2017

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

NOISE ANALYSIS RESULTS

CONSTRUCTION-RELATED NOISE IMPACTS

Construction of the proposed project is expected to occur over a twelve-month period. Construction noise would typically be generated from the use of a grader and excavator. Noise generated from construction activities would be temporary and would occur within the hours allowed by the City's Standard Conditions of Approval (SCA), 7:00 a.m. to 7:00 p.m.

Table 13 lists equipment that is expected to be used along with noise levels generated from the Federal Highway Administration's Roadway Construction Noise Model (Federal Highway Administration 2006a). L_{max} sound levels at the nearest sensitive receptor residences approximately 25 feet from the western project boundary, are shown along with the typical acoustic use factor. The acoustical use factor is the percentage of time each piece of construction equipment is assumed to be operating at full power (i.e., its loudest condition) during construction and is used to estimate Leq values from L_{max} values. For example, the Leq value for a piece of equipment that operates at full power 50% of the time (acoustical use factor of 50) is 3 dB less than the L_{max} value.

Table 13: RCNM Estimated Construction Equipment Noise Levels at Nearest Receptor

Source	Distance to Nearest Residence	Sound Level at nearest receptor		
		L _{max}	Acoustical Use Factor (%)	Leq
Grader/Dozer	25 ft	91.0	40	87.0
Excavator	25 ft	86.7	40	82.8
Pickup Truck	25 ft	81.0	81	77.0
Backhoe	25 ft	83.6	40	79.6
Compressor (air)	25 ft	83.7	40	79.7
Concrete Pump Truck	25 ft	87.4	20	80.4
Crane	25 ft	86.6	16	78.6
Generator	25 ft	86.7	50	83.6
Tractor	25 ft	90.0	40	86.0
Pneumatic Tools	25 ft	91.2	50	88.2

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Source	Distance to Nearest Residence	Sound Level at nearest receptor		
		Lmax	Acoustical Use Factor (%)	Leq
All Other Equipment > 5	25 ft	91.0	50	88.0
Source: Federal Highway Administration 2006a (Stantec 2017)				

A reasonable worst-case noise condition for general construction activity is that a grader and excavator would operate simultaneously. This represents a conservative scenario, as it assumes that two pieces of equipment would be operating at the same time and same place. Construction would occur in sequential phases. Thus, in reality, it is not likely that the two loudest pieces of equipment would be operating simultaneously at the exact location of the project site closest to the nearest residence. Nevertheless, the RCNM calculated that this scenario would result in a combined noise level of 91.0 dBA-Lmax and 90.0 dBA-Leq at 25 feet. These calculations represent the worst-case scenario at the nearest residences, located approximately 25 feet from the proposed project where general construction activity would occur.

The types and locations of heavy construction equipment would vary over time across the project site. Therefore, the duration and frequency that heavy construction equipment would operate at the closest possible proximity to an adjacent receptor would be limited on any given day and would not be expected to last more than a few days at a time. In addition, the project site is largely graded, therefore, grading activities would be minimal.

Although construction-generated noise could temporarily result in the exposure of the nearby receptors to noise levels in excess of the Noise Ordinance Standards, the implementation of the City of Oakland’s Standard Conditions of Approval (SCA) would lessen the impacts of construction period noise, as described below:

- **SCA NOI-1 (#66): Project Specific Construction Noise Reduction Measures** requires that the project applicant submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts. The project applicant shall implement the approved Plan during construction.
- **SCA NOI-2 (#63): Construction Days/Hours** provides limits on the days and hours of construction to avoid generating noise when it would be most objectionable to neighboring residences and commercial operations. These limitations, which specify that construction activities would be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday (among other restrictions), would prevent the disturbance of sleep for a majority of residents located close to the project site. This SCA also requires any extension of these work hours to be approved in advance by the City and requires property owners and occupants within 300 feet of the project site to be notified of such an extension.

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

- **SCA NOI-3 (#64): Construction Noise** requires all construction projects to implement basic noise reduction measures during construction.
- **SCA NOI-4 (#65): Extreme Construction Noise** requires that the project applicant prepare and implement a Construction Noise Management Plan that contains site-specific noise attenuation measures to reduce construction impacts associated with any anticipated extreme noise generating activities (i.e., activities generating noise levels greater than 90 dBA). Since the construction of the proposed project could generate noise levels greater than 90 dBA at the adjacent commercial buildings to the south and to the west, this measure would apply to the proposed project. The types of measures that would effectively reduce construction noise to less-than-significant levels that may be included in the Construction Noise Management Plan include the following:
 - Temporary noise barriers will be placed between the proposed construction activities and nearby receptors. The noise barriers may be constructed from plywood and installed on top of a portable concrete K-Rail system to be able to move and/or adjust the wall location during construction activities. A sound blanket system hung on scaffolding, or other noise reduction materials that result in an equivalent or greater noise reduction than plywood, may also be used. The composition, location, height, and width of the barriers during different phases of construction will be determined by a qualified acoustical consultant and incorporated into the Construction Noise Management Plan for the project.
 - Best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) will be used for project equipment and trucks during construction wherever feasible. For example, exhaust mufflers on pneumatic tools can lower noise levels by up to about 10 dBA and external jackets can lower noise levels by up to about 5 dBA.
 - Noise control blankets will be utilized on the building structure as the building is erected to reduce noise emission from the site. The use of noise control blankets will particularly be targeted to cover the levels of the building that have line of sight with the windows of nearby receptors.
 - Construction equipment will be positioned as far away from noise-sensitive receptors as possible. The project site is surrounded by hard surfaces, and therefore, for every doubling of the distance between a given receptor and construction equipment, noise will be reduced by approximately 6 dBA.
 - Monitoring the effectiveness of noise attenuation measures by taking noise measurements.

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

- Notify property owners and occupants located within 300 feet of the construction activities prior to commencing extreme noise generating activities.
- **SCA NOI-5 (#67): Construction Noise Complaints** provides additional measures to respond to and track construction noise complaints during construction to allow sources of potentially disruptive construction noise to be quickly controlled or eliminated.
- **SCA NOI-6 (#69): Operational Noise** requires projects to comply with the performance standards of Chapter 17.120 of the Oakland Planning Code and Chapter 8.18 of the Oakland Municipal Code.
- **SCA NOI-7 (#68): Exposure to Community Noise** requires projects that prepared a Noise Reduction Plan to incorporate additional noise reduction measures to achieve an acceptable interior noise level in accordance with the City’s land use compatibility guidelines of the General Plan Noise Element.

VIBRATION

During construction of the proposed project, equipment such as cranes, excavators, graders, loaders, and backhoes may be used as close as 25 feet from the closest sensitive receptor. Construction equipment that would be used during project construction would generate vibration levels between 0.003 and 0.089 PPV as measured at a distance of 25 feet from the operating machinery. According to Table 14, the groundborne vibration levels are below the FTA vibration threshold at which human annoyance could occur of 0.1 PPV. Therefore, construction related groundborne vibration impacts would be less than significant.

Table 14: Construction Equipment Related to Groundbourne Vibration

Type of Equipment	Peak Particle Velocity at 25 feet	Peak Particle Velocity at 50 feet	Peak Particle Velocity at 100 feet	Threshold at which Human Annoyance could Occur	Potential for proposed project to exceed threshold
Large Bulldozer	0.089	0.031	0.011	0.1	None
Loaded Trucks	0.076	0.027	0.010	0.1	None
Small Bulldozer	0.003	0.001	0.000	0.1	None
Jackhammer	0.035	0.012	0.004	0.1	None
Vibratory Hammer	0.070	0.025	0.009	0.1	None

Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Type of Equipment	Peak Particle Velocity at 25 feet	Peak Particle Velocity at 50 feet	Peak Particle Velocity at 100 feet	Threshold at which Human Annoyance could Occur	Potential for proposed project to exceed threshold
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Source: Federal Transit Administration, Transit Noise and Vibration Impact Assessment Guidelines 2006b

The proximity of the project site to sensitive receptors, and the types of construction equipment that would be used as part of the proposed project, are similar to other projects in other urban areas. Because the project site and its vicinity are part of an established, urbanized area, periodic exposure to construction-related noise and vibration are part of the existing conditions. Implementation of the City of Oakland’s SCAs will lessen the impacts of noise generated by construction to receptors in the vicinity of the project site. Therefore, with the implementation of the required SCAs, the impact of construction generated noise on nearby receptors would be reduced to a less than significant level.

OPERATIONAL NOISE IMPACTS

Long-term operation of the Project would generate an increase in traffic volumes on the local roadways within the Project vicinity. As Shown in Table 9, the existing conditions currently do not exceed the applicable City of Oakland noise level thresholds of 60 and 65 dB Ldn. As discussed in the Preliminary Traffic Evaluation Memo prepared for this project, the project would generate approximately 197 additional vehicle trips per day during the week, 227 trips on Saturday, and 194 trips on Sunday. The additional vehicle trips generated by the project would not substantially increase the noise levels on the already busy, urban streets. Estimated noise levels resulting from the development of the proposed project would change slightly from existing conditions and are expected to increase as a result of typical residential and commercial uses, such as, landscape maintenance, waste collection, and people congregating and talking at the community gathering areas. It is not anticipated that the existing noise level would increase more than 3db, which is typically inaudible to the human ear. Furthermore, the project would comply with SCA NOI-6 (#69) and adhere to the performance standards of the City’s Municipal Code for operational noise. This would be considered an insignificant increase in noise levels and would not be considered a significant impact.

CONCLUSION

Noise generation associated with the proposed development is typically attributed to the project construction activities. These include site grading, construction of the building and apparatuses, and the increased traffic related to facility use. Operational noise generation can be attributed to the slight increase to traffic counts from residents, visitors, and workers of the housing development as well as typical residential associated noise, such as, landscape maintenance, waste collection, and people congregating and talking at the community gathering areas.



February 28, 2018
The City of Oakland
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Reference: Noise Technical Memorandum for 6501 Shattuck Avenue Mixed Use Project

Based on the FHWA RCNM the proposed project can anticipate, high levels of construction noise, which are temporary and will not result in long-term impacts from construction. While the noise level impacts presented for each phase of construction are a "worst-case" scenario and may at times be audible over traffic-related noise level impacts surrounding the area, these high levels are not expected to be continuous. Moreover, these noise levels will occur only during the hours allowed by the City's Standard Conditions of Approval, 7:00 a.m. to 7:00 p.m.; and will be reduced by the application of noise control techniques affecting and controlling the construction noise at the source. Noise control techniques would be implemented to ensure that noise generated from temporary construction activities would not exceed the City of Oakland's established maximum outdoor noise threshold at nearby sensitive receptors.

Furthermore, noise volumes from existing and projected roadway noise would be less than significant. Project occupants can anticipate long-term exterior operational noise conditions below the City's thresholds of significance. Likewise, given the anticipated noise reduction offered by the proposed building structure, the project occupants can anticipate long-term interior noise levels below the City's interior thresholds of significance. In summary, the proposed project is not anticipated to exceed interior noise levels above the City's thresholds of significance.

STANTEC CONSULTING SERVICES INC.

A handwritten signature in black ink that reads "Tina Garg". The signature is written in a cursive style and is positioned above a faint, light-colored rectangular stamp or watermark.

Tina Garg
Senior Environmental Planner
Phone: (408) 348-9772
Tina.Garg@Stantec.Com

References

California Department of Transportation. 2004. Transportation-and Construction-Induced Vibration Guidance Manual. 2004. Website: <http://www.dot.ca.gov/hq/env/noise/pub/vibrationmanFINAL.pdf>. Accessed December 4, 2017.

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State of California. Governor's Office of Planning and Research. 2003. General Plan Guidelines. Website: http://opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf. Accessed December 1, 2017.

Attachment H

To:	City of Oakland 250 Frank H. Ogawa Plaza, Suite 2114 Oakland, CA 94612	From:	Stantec Consulting Services Inc. 1340 Treat Boulevard, Suite 300
File:	6501 Shattuck Avenue Mixed-Use Project	Date:	April 17, 2018

Reference: Construction Noise Reduction Memorandum for the 6501 Shattuck Avenue Mixed-Use Project

This Memorandum (Memo) has been prepared in accordance with City of Oakland Standard Condition of Approval (**SCA NOI-1(#66)**): Project Specific Construction Noise Reduction Measures, to identify construction noise reduction measures for the 6501 Shattuck Avenue Mixed-Use Project (proposed project) CEQA Analysis. These noise reduction measures are to be implemented by the Applicant and its contractors during the construction of the proposed project.

As discussed in the CEQA Analysis, the proposed project would implement the City of Oakland Construction Noise SCAs, which apply to the specific conditions of the project site and surrounding noise-sensitive receptors; these include **SCA NOI-2 (#63)**: Construction Days/Hours, **SCA NOI-3 (#64)**: Construction Noise, **SCA NOI-4 (#65)**: Extreme Construction Noise, **SCA NOI-5 (#67)**: Construction Noise Complaints, **SCA NOI-6 (#69)**: Operation Noise, and **SCA NOI-7 (#68)**: Exposure to Community Noise.

A Noise Technical Memo (Attachment G) was prepared to support the analysis of the 15183 California Environmental Quality Act (CEQA) Exemption for the proposed project. The Technical Memo provides analyses of potential project-related impacts for exposure to excessive noise during project construction and operation. As shown in Table 13 in Attachment G, estimated construction equipment noise levels at the nearest receptor (25 feet) would not exceed 90 dB(A) (i.e., "extreme noise" levels per the City SCAs). That being said, the Applicant and its contracting team would incorporate site-specific measures consistent with those cited in the SCAs to ensure construction noise is minimized to the greatest extent feasible at the nearest receptors. These site-specific measures may include the following:

1. Construction activities will be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except extreme noise generating activities greater than 90dBA will be limited to 8 a.m. and 4 p.m. Monday through Friday. Construction activities occurring on Saturdays will be limited to between 9:00 a.m. and 5:00 p.m. Any construction activities proposed outside of these timeframes will be evaluated on a case-by-case basis by the City. If construction activities will take place outside of these timeframes, neighbors will be notified 14 calendar days prior to construction activity occurring outside of the above days/hours. No construction activities will take place on Sundays or Federal holidays, unless it is an emergency and the Building Official has approved for the activities to occur.
2. Construction activities will follow the City of Oakland Noise Ordinance parameters to avoid nuisances:
 - All construction equipment powered by internal combustion engines will be properly muffled and maintained.
 - All idling equipment will be turned off when not in use.

Reference: Construction Noise Reduction Memorandum for the 6501 Shattuck Avenue Mixed-Use Project

- All stationary noise-generating construction equipment such as tree grinders and air compressors will be located as far as practical from existing residences, and they will be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
 - Newer, smaller, or quieter equipment will be used wherever possible to minimize noise. Electric equipment is recommended over gas or pneumatic equipment.
3. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction will be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust will be used. External jackets on the tools themselves will be used, if available. Quieter procedures will be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- Construction activities shall incorporate temporary construction noise barriers such as the following:
 - Plywood;
 - Flexible sound blankets or rigid panels of composite-layer construction supported by a framing system;
 - Straw bales;
 - Storage trailers fitted with additional shielding to block noise transmission between/under individual trailer units
 - will be placed along the perimeter of the project site, and between the nearest sensitive receptors and the construction site.
 - The Applicant will use temporary power poles instead of generators where feasible.
 - The noisiest phases of construction will be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.
 - A noise disturbance coordinator will be designated to respond to neighborhood complaints about construction noise by determining the cause of the noise complaints and require implementation of reasonable measures to correct the problem. A telephone number to contact the disturbance coordinator will be placed at the construction site.
 - Schedule highest noise-generating activity and construction activity away from noise-sensitive land uses.
 - Signs prohibiting unnecessary idling of internal combustion engines will be posted.

Reference: Construction Noise Reduction Memorandum for the 6501 Shattuck Avenue Mixed-Use Project

The Applicant will submit a final site-specific construction noise reduction plan to the City for review and approval during the permit application. All coordinated and approved measures will be implemented by the contracting team at the project site.

Attachment I

To: The City of Oakland From: Stantec Consulting Services Inc.

File: 6501 Shattuck Avenue Date: December 22, 2017
Oakland, CA 94954

Reference: Preliminary Traffic Evaluation for the Proposed Mixed Used Development at 6501 Shattuck Avenue

INTRODUCTION

This Memo presents the preliminary result of a traffic evaluation completed for a proposed mixed used development located at 6501 Shattuck Avenue in the City of Oakland. This project is located on the north-east corner of the intersection of Shattuck Ave. and 65th St. As proposed, the project includes demolishing an existing abandoned structure and developing the existing unoccupied lot. The proposed project includes one four-story, 18-unit apartment complex with ground floor commercial space and parking, with a total floor area of 17,480 square feet. The residential element of the proposed project would consist of three floors (Floors 2 – 4) and a total floor area of 15,505 square feet. The commercial element of the proposed project would consist of 1,975 square feet of ground floor commercial/restaurant space. A total of 18 parking spacings will be provided on site for the residential units.

TRIP GENERATION

Trip generation for the existing building and the proposed building was estimated based on rates provided in the Trip Generation, 9th Edition, published by the Institute of Transportation Engineers (ITE), and the City of Oakland Transportation Impact Study Guidelines.

The project site is served by various AC Transit bus and shuttle lines and is located approximately 0.25 miles from the Ashby Bay Area Rapid Transit (BART) Station. Therefore, as per the *City of Oakland Transportation Impact Review Guidelines* (City of Oakland 2017), a 46.9% of trip reduction was applied in the trip generation estimation for the proposed project.

Table 1 shows the estimated net new trips generated by the proposed project. As shown in the table, the proposed project would generate approximately 16 vehicle trips on a typical weekday during the a.m. peak hour, with 7 inbound trips and 9 outbound trips. The proposed project is expected to generate approximately 16 p.m. peak hour trips, including 11 inbound trips and 5 outbound trips during the p.m. peak hour. Because the Project would not generate 50 new peak hour vehicle trips, its impacts would be considered less than significant and a Transportation Impact Assessment is not required per the City's guidelines.

Reference: Preliminary Traffic Evaluation for the Proposed Mixed Used Development at 6501 Shattuck Avenue

Table 1 Trip Generation for the Proposed Project

Land Use (ITE Code)	Units ¹	ITE Code	Rate	Daily	A.M. Peak Hour				P.M. Peak Hour			
					Rate	In	Out	Total	Rate	In	Out	Total
Apartments (220)	18 DU	220 ²	6.65	120	.50	2	7	9	.62	8	4	12
Restaurant (932)	1,975 KSF	932 ³	127.15	252	10.81	12	10	22	9.85	12	8	20
<i>Subtotal</i>				372		14	17	31		20	12	32
Non-Auto Reduction (46.9) ⁴				-175		-7	-8	-15		-10	-6	-16
Net New Project Trips				197		7	9	16		11	5	16

Source: ITE Trip Generation, 9th Edition, 2012; City of Oakland Transportation Impact Study Guidelines, 2017.

Notes:

1. DU = Dwelling Units, KSF = 1,000 square feet.
2. ITE Trip Generation (9th Edition) land use category 220 (Apartment):
 Daily: $T = 6.65 \times (X)$
 AM Peak Hour: $T = 0.51 \times (X)$ (20% in, 80% out) PM Peak Hour: $T = 0.62 \times (X)$ (65% in, 35% out)
3. ITE Trip Generation (9th Edition) land use category 932 (High-Turnover (Sit-Down) Restaurant): Daily: $T = 127.15 \times (X)$
 AM Peak Hour: $T = 10.81 \times (X)$ (55% in, 45% out)
 PM Peak Hour: $T = 9.85 \times (X)$ (60% in, 40% out)
4. Reduction of 46.9% assumed based on City of Oakland Transportation Impact Study Guidelines data for development in an urban environment with a distance less than 0.5 mile of a BART Station.

Vehicle Miles Traveled Analysis

The City of Oakland recently adopted new thresholds of significance and Transportation Impact Study Guidelines related to transportation impacts, "in order to implement the directive from California Senate Bill 743 to modify local environmental review processes by removing automobile delay, as described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion, as a significant impact on the environment pursuant to CEQA." The new thresholds replace LOS with criteria for vehicle miles traveled (VMT) to determine whether a project causes a significant impact on the environment related to transportation.

The City provides initial screening criteria for assessing the potential significance of impacts from VMT for land use development projects based on project size, project location related to a low-VMT area, and project location related to transit stations. If the project meets any one of the screening criteria, its impacts on transportation are presumed to be less than significant and detailed VMT analysis is not required. The screening guidelines are as follows, accompanied by the applicability of each criterion to the proposed Project¹:

¹ City of Oakland Transportation Impact Review Guidelines, April 14, 2017

Reference: Preliminary Traffic Evaluation for the Proposed Mixed Used Development at 6501 Shattuck Avenue

1. **Presumption of Less Than Significant Impact for Small Projects:** Absent substantial evidence indicating that a project would generate a potentially significant level of vehicle miles traveled, projects that generate fewer than 100 vehicle trips per day generally may be assumed to cause a less-than-significant transportation impact.

Project: The Project would generate more than 100 vehicle trips per day (see Table 1 above), so it does not meet the presumption of less than significant impacts based on project size.

2. **Presumption of Less Than Significant Impact for Residential, Retail, and/or Office Projects in Low-VMT Areas:** The project meets map-based screening criteria by being located in an area that exhibits below threshold VMT, or 15 percent or more below the regional average. Residential, retail, and office projects that locate in areas with low VMT, and that incorporate similar features (i.e., density, mix of uses, transit accessibility) will tend to exhibit similarly low VMT. Therefore, maps illustrating areas that exhibit below threshold VMT should be used to screen out residential, office, and retail projects which may not require a detailed VMT analysis.

Project: Based on the Metropolitan Transportation Commission's map of VMT by Transit Area Zones (TAZ), the proposed project is in TAZ 1001, which has a per capita VMT of 9.5, which is 36 percent lower than the Plan Bay Area regional average of 14.9 for 2020. The per employee VMT for TAZ 1001 is 20.8, which is 10 percent below the regional average of 23.2 for 2020. Based on the per employee VMT for TAZ 1001, the project does not meet the presumption of less than significant impacts based on VMT.

Commuter	Bay Area		TAZ 1001
	Regional Average	Regional Average minus 15%	
Commercial (Workers)	23.2	19.7	20.8
Residential (Per Capita)	14.9	12.6	9.5

3. **Presumption of Less Than Significant Impact Near Transit Stations:** Presume that residential, retail, and office projects, as well as mixed use projects which are a mix of these uses, proposed within ½ mile of an existing major transit stop or an existing stop along a high-quality transit corridor will have a less-than-significant impact on VMT. This presumption would not apply, however, if project-specific or location-specific information indicates that the project will still generate significant levels of VMT.

Project: The project site is located within approximately 0.25 miles from the Ashby BART Station, and AC Transit Line 6. There is no project-specific or location-specific information which indicates that the proposed project will generate significant levels of VMT. Therefore, its

Reference: Preliminary Traffic Evaluation for the Proposed Mixed Used Development at 6501 Shattuck Avenue

transportation impacts are presumed less than significant and detailed VMT analysis is not required.

The Project meets screening criteria #3 for VMT; therefore, it is reasonable to conclude that the Project impact on VMT will be less than significant.

CONCLUSIONS

Stantec has reached the following conclusions regarding the proposed Drive-Thru improvements at the restaurant in the City of Petaluma:

- The estimated trip generation for the proposed project is expected to produce less than 50 peak hour trips.
- Due to the project location's proximity to Transit, the project transportation impacts are presumed to be less than significant. For this reason, VMT analysis is not required.

Stantec Consulting Services, Inc.



Joy Bhattacharya, PE, PTOE
Principal
Phone: 925-296-2107
joy.bhattacharya@stantec.com



Attn: Ann Clevenger
CITY OF OAKLAND

Rec'd
7/14/10

BASIC APPLICATION FOR DEVELOPMENT REVIEW

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Zoning Information: 510-238-3911
www.oaklandnet.com

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY!

Please call (510) 238-3940 to schedule an appointment if your project involves any of the following:

- Conditional Use Permit
- Variance
- Regular Design Review
- Parcel Map Waiver
- Tentative Parcel Map
- Tentative Tract Map
- New dwelling unit(s)
- 1,000 sq. ft. or more of new floor area/footprint
- Additions ≥ 100% of existing floor area/footprint

All other projects may be submitted to the zoning counter without an appointment.

Submit applications for Small Project Design Review to station #12 at the zoning counter by signing the sign-up sheet.

1. TYPE OF APPLICATION

(Check all that apply)

Development Permits

- Conditional Use Permit (Major, Minor, or Interim)
- Variance (Major or Minor)
- Regular Design Review
- Small Project Design Review
- Tree Preservation or Removal Permit
- Creek Protection Permit (separate application required)
- Other: _____

Subdivision Applications

- Parcel Map Waiver (Lot Line Adjustment/Merger)
- Tentative Parcel Map (subdivision for 1 - 4 lots)
- Tentative Tract Map (subdivision for 5 or more lots)
- Planned Unit Development/Mini-Lot Development

Other Applications

- Request for Environmental Review
- General Plan Amendment
- Rezoning

2. GENERAL INFORMATION

APPLICANT'S NAME/COMPANY: MOSHE DINAR

PROPERTY ADDRESS: 6501 SHATTUCK AVE.

ASSESSOR'S PARCEL NUMBER: 016-1428-011-02 LOT AREA (ACRES/SQ. FT.): 8,334 SF

EXISTING USE OF PROPERTY: GAS STATION

DESCRIPTION OF PROPOSAL (including type of use, hours of operation, number of employees, etc., on additional sheets if needed.):

NEW MIXED USE BLDG, 4 STORIES; RETAIL & PARKING
@ GRADE; 20 UNITS RESIDENTIAL ABOVE.

TO BE COMPLETED BY STAFF

GENERAL PLAN LAND USE CLASS.: _____ ZONING: _____

FEES¹:

- APPLICATION FEE: \$ _____
- POSTER DEPOSIT²: \$ _____
- VIOLATION FEE³: \$ _____
- TREE PERMIT FEE: \$ _____
- CREEK PERMIT FEE: \$ _____
- TOTAL FEES DUE: \$ _____

EXPECTED PROCESSING TIME⁴:

¹ Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal.

² For permit applications requiring public notice, a refundable security deposit is required for the on-site poster containing the public notice.

³ For permit applications to legalize work that has already been started, the REPORT FEE portion of any permit application fee is DOUBLED.

⁴ Expected processing time is only an estimate and is subject to change without notice due to staff workload, public hearing availability, and the completeness or complexity of the application.

3. PROPERTY OWNER AND APPLICANT INFORMATION

Original signatures or clear & legible copies are required.

Owner: ATHAN MAGAUNAS
Owner Mailing Address: 2550 APPIAN WAY # 201
City/State: PINOLE, CA Zip: 94564
Phone No.: 510-520-1482 Fax No.: _____ E-mail: _____

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf. _____
Signature of Property Owner

Applicant (Authorized Agent), if different from Owner: MOSTHE DINAR
Applicant Mailing Address: P.O. BOX 70601
City/State: OAKLAND CA. Zip: 94612
Phone No.: 510-759-2133 Fax No.: 510-893-8305 E-mail: dinararche@spcglobal.net

I understand that approval of this application does not constitute approval for any administrative review, conditional use permit, variance, or exception from any other City regulations which are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, that after my application has been submitted and reviewed by City staff, it may be necessary for the City to request additional information and/or materials. I understand that any failure to submit the additional information and/or materials in a timely manner may render the application inactive and that periods of inactivity do not count towards statutory time limits applicable to the processing of this application.

I certify that all existing Protected Trees either on the site or within 10 feet of development activity are indicated on both the Site and Landscape Plan. I understand that if any Protected Trees are to be removed, or if Protected Trees exist within 10 feet of the proposed development activity (even if they are not being removed), I must apply for a Tree Preservation/Removal Permit (Section 6).

I certify that I have reviewed the Oakland Creek Protection Ordinance and understand that I may be subject to a Creek Protection permit pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (Chapter 13.16 of the Oakland Municipal Code) and that I have completed the Creek Protection Ordinance section of this application (Section 7).

I HEREBY CERTIFY UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Authorized Agent

7/15/10
Date

4. SUPPLEMENTAL PROJECT & LOT INFORMATION

AREA CALCULATIONS	Existing	New	Total	% Change
Total Lot Area (in acres or square feet)	8,334	-0-	8,334	0%
Total Building Footprint Area (square feet)	-0-	8,334	8,334	100%
Total Floor Area ⁱ (square feet)	-0-	27,620	27,620	100%
Building Height	0-	43'	n/a	n/a
Number of Dwelling Units	-0-	20	20	n/a
Number of Parking Spaces	-0-	20	20	n/a
Setback Slope ⁱⁱ (for hillside properties only)	N/A	N/A	n/a	n/a
Structure Slope ⁱⁱⁱ (for hillside properties only)	N/A	N/A	n/a	n/a

ⁱ**Total Floor Area for all projects with one or two dwelling units on a lot** means the total square footage of all levels of all buildings on the lot, measured horizontally from the outside surface of exterior walls and supporting columns, but excluding: (a) unenclosed living areas such as balconies, decks, and porches; (b) carports that are unenclosed on two or more sides; (c) 440 square feet within an attached or detached garage or carport that is enclosed on three sides or more; (d) non-habitable accessory structures of less than 120 square feet; (e) unfinished understories, attics and basements; and (f) finished basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point.

ⁱ**Total Floor Area for all projects except those with one or two dwelling units on a lot** means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings, or the center line of party walls separating such buildings, but excluding: (a) areas used for off-street parking spaces, loading berths, driveways, and maneuvering aisles; (b) areas which qualify as usable open space under the standards for required usable open space in Chapter 17.126; and (c) arcades, porticoes, and similar open areas which are located at or near street level of Nonresidential Facilities, are accessible to the general public, and are not designed or used as sales, display, storage, or production areas.

ⁱⁱ**Setback Slope:** Slope between edge of pavement and the front setback line, measured at the midpoint and perpendicular to the front property line.

ⁱⁱⁱ**Structure Slope:** Steepest slope across building footprint measured from one side of the building to another.

5. IMPERVIOUS SURFACE INFORMATION

See page 9 for more information on impervious surface

The City of Oakland is a member of the Alameda Countywide Clean Water Program (ACCWP) and is therefore subject to the requirements of the municipal stormwater permit issued by the Regional Water Quality Control Board, San Francisco Bay Region, to ACCWP under the National Pollutant Discharge Elimination System (NPDES) permit program. The purpose of the permit is to reduce the discharge of pollutants in stormwater to the maximum extent practicable and to effectively prohibit non-stormwater discharges into municipal storm drain systems and watercourses.

I ATTEST THAT: (check one)

- (1) The project site is **less than 10,000 square feet** in area.
- (2) The project site is **10,000 square feet or more** in area.; (check one)
 - (a) The project will create or replace **less than 10,000 square feet** of new or existing impervious surface area.*
 - (b) The project will create or replace **10,000 square feet or more** of new or existing impervious surface area.*
- **If you checked (2b) your project is subject to NPDES C.3 requirements and you must submit a completed Stormwater Supplemental Form (Planning Phase) and a Preliminary Post-Construction Stormwater Management Plan (see page 8) with your application. Applications for one single-family dwelling (that are not part of a larger multi-home development) are exempt from these requirements.**

* **Impervious Surface** = Any surface that cannot be effectively (easily) penetrated by water. Impervious surfaces include buildings, roofs, impervious decks, and paved driveways, parking lots, patios, and walkways. Permeable paving, such as permeable concrete and interlocking pavers underlain with permeable soil or permeable storage material, is not considered impervious surface for the purpose of calculating the amount of new or replaced impervious surface area in the project.

6. TREE PRESERVATION ORDINANCE

See page 9 for more information on protected trees and these regulations

Pursuant to the Tree Preservation Ordinance (§12.36 O.M.C.) a Tree Preservation/Removal Permit is required for any proposed construction activity (including buildings, driveways, paths, decks, construction vehicle routes, sidewalk improvements, & perimeter grading) within 10 feet of a Protected Tree, even if such trees are not being removed or if they are located on a neighbor's property.

The following are Protected Trees:

- a. Any Coast Live Oak tree that is larger than 4 inches dbh*
- b. Any tree (except Eucalyptus) that is larger than 9 inches dbh* (Eucalyptus trees and up to 5 Monterey Pines per acre are not considered Protected Trees under this section. Monterey Pines must be inspected and verified by the Public Works Agency – Tree Division prior to their removal. Contact the Tree Division at (510) 615-5850 for more information or to schedule an inspection).
- c. Any tree of any size located in the public right-of-way (including street trees).

I ATTEST THAT: *(check one)*

- (1) There are no existing Protected Trees anywhere on the subject property or within 10 feet of the proposed construction activities** (including neighbor's properties or the adjacent public right-of-way).
- (2) There are Protected Trees on the subject property or within 10 feet of the proposed construction activities**, and their location is indicated on the site plan and landscape plan **and** *(check one)*;
- (a) No Protected Trees are to be removed and No construction activity** will occur within 10 feet of any Protected Tree.
 - (b) No Protected Trees are to be removed and Construction activity** will occur within 10 feet of any Protected Tree.
 - (c) Protected Trees will be removed.

If you checked (2b) or (2c), a Tree Preservation/Removal Permit is required. Please complete the section below.

DESCRIPTION OF TREES (Identification numbers and letters must be consistent with the Tree Survey, see submittal requirements in Section 8)

<u>Trees proposed for removal</u>			<u>Trees not proposed for removal but located within 10 feet of Construction Activity**</u>		
#	Species	dbh*	#	Species	dbh*
1			A		
2			B		
3			C		
4			D		
5			E		
6			F		
7			G		

Reason for removal/impacting of trees: _____

* **dbh:** "diameter at breast height" is determined by measuring the trunk at 4'-6" from the ground. Multi-trunked trees are measured by combining the diameters of all trunks at 4'-6" from the ground.

** **Construction Activity:** Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading, or demolition.

7. CREEK PROTECTION ORDINANCE

See page 9 for more information on creeks and these regulations

Pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (§13.16 O.M.C.) a Creek Protection Permit is required for any proposed construction activity occurring on a Creekside property. The extent to which your development will be regulated by the Creek Protection Ordinance depends upon the location and type of proposed work.

WHAT IS A CREEK?

"A Creek is a watercourse that is a naturally occurring swale or depression, or engineered channel that carries fresh or estuarine water either seasonally or year around."

A creek must include the following two components:

1. The channel is part of a contiguous waterway. It is hydrologically connected to a waterway above or below the site or is connected to lakes, the estuary, or Bay. Creek headwaters, found at the top of watersheds, are connected in the downhill direction. Additionally, creeks in Oakland are often connected through underground culverts. Only the open sections of creeks are subject to the permit, and
2. There is a creek bed, bank and topography such as a u-shape, v-shape channel, ditch or waterway (identified through field investigation, topographical maps, and aerial photos). To help with identification in the field a creek may also have the following features (the absence of these features does NOT mean there is no creek):
 - A riparian corridor, which is a line of denser vegetation flowing downhill. This is sometimes missing due to landscaping or vegetation removal practices, landslide or fire.
 - The channel has a bed with material that differs from the surrounding material (i.e. more rocky, or gravelly, little or no vegetation).
 - There are man-made structures common to waterways, - for example bank retaining walls, trash racks, culverts, inlets, rip rap, etc.

I ATTEST THAT: (check one)

- (1) I do not know if there is a Creek on or near the proposed project site. I have submitted a request for a field inspection by the City of Oakland (see Master Fee Schedule for non-refundable "Creek Determination" fee) to the CEDA cashier.
- (2) No Creek exists on or near the project site: (check one)
- (a) Based on my review of the characteristics of the project site, as well as all relevant maps and plans, and the Creek Determination criteria provided in the "What is a Creek?" section above; or
- (b) Based on the attached report prepared by a relevant licensed professional.
- However, if the City determines that a Creek exists on or near the project site, a Creek Protection Permit is required.*
- (3) A Creek DOES exist on or near the project site and: (check one)
- (a) The proposed project only entails interior construction and/or alterations (including remodeling), and therefore requires a Category 1 Creek Permit (this is a no fee permit and only requires distribution of educational materials); or
- (b) The proposed project only entails exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek, and therefore requires a Category 2 Creek Permit (this permit requires a site plan and distribution of educational materials); or
- (c) The proposed project only entails (a) exterior work that is located between 20 feet from the top of the Creek bank and 100 feet from the centerline of the Creek, and/or (b) exterior work that includes earthwork involving more than three (3) cubic yards of material located beyond 20 feet from the top of the Creek bank, and therefore requires a Category 3 Creek Permit (this permit requires site plan, creek protection plan and environmental review); or
- (d) The project entails exterior work conducted from the centerline of the Creek to within 20 feet from the top of the Creek bank, and therefore requires a Category 4 Creek Permit (this permit requires site plan, creek protection plan, environmental review and hydrology report).

The Creek Permit requirements for your project are subject to verification by the City of Oakland and may differ from what you have indicated above. Additionally, you are responsible for contacting and obtaining all required permits from the relevant state and federal permitting agencies for Category 3 and Category 4 Creek Permits.

8. HAZARDOUS WASTE AND SUBSTANCES STATEMENT

STATE GOVERNMENT CODE SECTION 65962.5 (f):

(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list.

Please refer to the following state maintained website <http://www.calepa.ca.gov/SiteCleanup/CorteseList/> or contact the CalEPA at (916) 323-2514 to determine if your project is on any list of properties containing hazardous waste, toxic substances or underground fuel tanks. **NOTE: YOU MUST REVIEW ALL LISTS**

- I have reviewed **ALL** the lists and my site does **not** appear on them (sign below). **City Verification Required**
- My site does appear on the list(s). (Please complete the statement below)

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Name of applicant: _____

Address: _____

Phone number: _____

Address of site: _____

(street name and number if available, and ZIP Code)

Local agency (city/county): _____

Assessor's book, page, and parcel number: _____

Specify any list pursuant to Section 65962.5 of the Government Code:

Regulatory identification number: _____

Date of list: _____

Status of regulatory action: _____

Signature of Owner or Authorized Agent

Date

9. SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Planning staff reserves the right to require additional plans and information as needed for certain development proposals.

The following items are required for ALL applications unless otherwise noted.

Each and every item is required at the time of application submittal.

APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.

(1) **Basic Application for Development Review**

This application form signed and completed (including impervious surface, protected tree, creek information and the Hazardous Waste and Substances Statement). Original signatures or clear & legible copies are required.

(2) **Supplemental Forms and Findings**

Explanation describing how the proposal complies with City guidelines (forms provided by staff).

(3) **Assessor's Parcel Map**

Available at the City of Oakland Engineering Services or Zoning counters, the County Assessor's Office, 1221 Oak St. or the County Assessor's website at http://revfilesvr/countydisplay/county_home.asp

(4) **Photographs**

- Photographs must be placed in a secure envelope or mounted on a board folded to a size no larger than 9" x 12".
- Color photographs showing the existing structure or lot as seen from across the street and from the front, side and rear property lines. Label each photograph with the view pictured (i.e. front, side, rear, across the street).
- Color photographs showing the 20 nearest neighbors from the street (5 nearest lots on either side, 10 nearest lots across the street). Label each photograph with the address pictured.

(5) **Plans** (see supplemental requirements for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW) applications).

- **Two (2)** stapled and folded sets of full-sized plans and **Two (2)** additional sets of reduced plans (11" x 17") are required for all applications. A Color 11"x17" rendering **MUST** be submitted for Major Cases.
- As determined by staff, eleven (11) stapled and folded sets of full-sized plans may be required for projects reviewed by the Development and Technical Review Advisory Committee (DTRAC).
- Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
- Include north arrow, date prepared and scale.
- Acceptable drawing scales are: 1/4" = 1', 3/16" = 1', 1/8" = 1', and 1" = 10'. Other scales may be appropriate, but should be discussed with Planning Department staff before filing. Also, please limit the range of scales used, so the Planning Department can more easily analyze your project in relation to adjacent properties.
- Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.

(a) **Survey** (required only for the following project types listed below)

- Must be no more than 3 years old from the time of submittal – date of survey must be included.
- Must be prepared by a California State licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982).
- Include the wet stamp and signature of the Land Surveyor or Civil Engineer who prepared the survey.
- Include the applicable surveyor's statement in accordance with the Professional Land Surveyors Act.
- In addition to paper copies, the survey must also be submitted on a CD.

For all new buildings (except small non-habitable buildings), and >100% footprint additions to existing buildings:

- Full boundary & topographic survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, and dimensions to property lines of all existing buildings and similar structures.

For any building or addition within any required setback:

- Applicable line survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, and dimensions to property line of all existing buildings and similar structures that are adjacent to the applicable property line.

For any building or addition located on a lot with a slope of 20% or more:

- Site topography for all areas of proposed work and for all existing driveways, buildings, and similar structures.

- Location and dimensions for all existing driveways, buildings, and similar structures.

(b) **Site Plan**

- Location and dimensions of all property boundaries.
- Location and dimensions of all existing and proposed buildings, decks, stairs, and patios.
- Dimensions of all existing and proposed building setbacks from property lines.
- Location of building footprints and approximate height of buildings on adjacent lots.
- Location, dimensions, and paving materials of all adjacent sidewalks, curbs, curb-cuts (including curb-cuts on adjacent neighbor's lots), and streets.
- Location and dimension of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, wheel-stops, pavement striping/markings, and directional signage. Indicate existing and proposed paving materials.
- Location, height, and building materials of all existing and proposed fencing and walls.
- Location, height (including top and bottom elevation measurements), and building materials of all existing and proposed retaining walls.
- Location of all existing trees and indication of any trees to be removed.
- Location of drainage ways, creeks, and wetlands (check with the Engineering Services Division for this information)
- Roof plan showing roof slope and direction, and location of mechanical equipment, ducts, and vents.
- For projects located on a lot with a slope of 20% or more: Show existing and proposed topographic contours overlaid with proposed roof plan and indicating roof ridge spot elevations.
- For multi-family residential projects: Show the location, dimension, slope, and site area of all existing and proposed Group Usable Open Space and Private Usable Open Space, including a summary table of site area.

TO BE
SUBMITTED
CCD PHASE

(c) **Grading Plan** (required only if the project proposes any site grading)

- Show proposed grading plan and/or map showing existing and proposed topographic contours (this may be combined with the Site Plan for small projects with only minor grading).
- Include an erosion & sedimentation control plan.
- Include a summary table of all proposed excavation, fill, and off-haul volumes.

(d) **Elevations** (required only for new construction, additions, or exterior alterations)

- Show all structure elevations (front, sides and rear) that will be affected by the proposed project.
- For additions/alterations: label existing and new construction, as well as items to be removed.
- Identify all existing and proposed exterior materials - including roofing, roof eaves, eave brackets, siding, doors, trim, sills, windows, fences, and railings. Show details of proposed new exterior elements.
- Show any exterior mechanical, duct work, and/or utility boxes.
- Include dimensions for building height and wall length.

(e) **Floor Plan**

- Include complete floor plan of all floors of entire building, including existing and proposed work.
- Label all rooms (i.e. bedroom, kitchen, bathroom, etc.), and include dimensions of room sizes.
- Show the location of all existing and proposed doors, windows, and walls.
- For non-residential projects: show all existing and proposed seating areas, mechanical/kitchen equipment, and/or other major functional components of the proposed project.

(f) **Cross Sections** (required only for buildings or additions located on a lot with a slope of 20% or more)

- Include all critical cross sections, including at least one passing through the tallest portion of the building.
- Include floor plate and roof plate elevation heights.
- Label the location of the cross-sections on the site plan.

TO BE
SUBMITTED

(g) **Landscape Plan** (required for new buildings, new dwellings, and residential additions of more than 500 sq. ft.)

- Indicate any existing landscaping that is to be removed.
- Indicate the size, species, location, and method of irrigation for all plantings.
- Include all existing and proposed groundcovers, driveways, walkways, patios, and other surface treatments.

UNDER
SEPARATE
PERMIT

(h) **Sign Plan** (required only for non-residential and mixed-use projects)

- Include fully dimensioned color elevations for all proposed signs.
- Indicate method of lighting for all proposed signs.

(i) **Lighting Plan** (required only for non-residential, multi-family residential, and mixed-use projects)

- Show the type and location of all proposed exterior lighting fixtures (this may be combined with the Site Plan for small projects).

TO BE
SUBMITTED
DURING CD. PHASE

(5) **Plans (continued)** *N/A*

- N/A* (j) **Preliminary Post-Construction Stormwater Management Plan*** (required only for projects that will create or replace 10,000 square feet or more of new or existing impervious surface area (see page 3))
- Show proposed preliminary/conceptual type and location of site design measures to enhance stormwater quality.
 - Show proposed preliminary/conceptual type and location of source control measures to prevent pollutants from coming into contact with stormwater runoff.
 - Show proposed preliminary/conceptual type and location of stormwater treatment measures to remove/filter pollutants from stormwater runoff.
- * Please refer to the Stormwater Supplement Form (Planning Phase) for more information concerning post-construction stormwater requirements.

- N/A* (6) **Tree Survey** (required only for projects which involve a Tree Preservation/Removal Permit) *N/A*
- **Three (3)** folded full-sized plans are required (this is in addition to the plans required under Section 5 above).
 - Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
 - Include north arrow, date prepared and scale (Tree Survey should be drawn to the same scale as the Site Plan).
 - Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - For new construction on an undeveloped lot: include the stamp and "wet signature" of the licensed architect, landscape architect and/or civil engineer preparing the survey.
 - Indicate the size (dbh), species, and location of all protected trees within 30 feet of development activity on the subject lot, regardless of whether or not the protected trees are included on any tree preservation/removal permit application.
 - Label all protected trees that are located within 10 feet of construction (including trees located on neighbor's properties or the adjacent public right-of-way) with the matching number or letter from the Tree Preservation/Removal Permit application (Section 6 of this application).

- (7) **Materials & Color Board** (required only for non-residential, multi-family residential, and mixed-use projects involving new construction or an addition/alteration that does not match existing materials and colors).
- Limit board(s) to a maximum size of 9" x 12". Large projects (generally more than 25 dwelling units or 50,000 square feet of floor area) should also submit a large sized materials & color board (24" x 36") for use at public hearings.
 - Include samples of proposed exterior building materials and paint colors.
 - Include manufacturer's brochures as appropriate. *TO BE SUBMITTED FOR PLANNING COMM.*

- (8) **Three-dimensional Exhibits** (required only for large projects with more than 25 dwelling units or 50,000 square feet of floor area). *N/A*
- Provide color perspective drawings showing the project from all major public vantage points, or provide a scale model of the proposed project.

- (9) **Preliminary Title Report or deed not more than 60 days old** (required for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW), Rezoning, and General Plan Amendment applications, and any application where the owner information does not match the current Alameda County Assessor's records)

- (10) **Fees** (all fees are due at the time of application submittal) *TO BE SUBMITTED BY OWNER*
- Additional fees may be required if the project changes or based on staff's environmental determination.

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY (SEE PAGE 1 OF THIS APPLICATION FORM).
Please call (510) 238-3940 to schedule an appointment.
Appointments may be scheduled up to two weeks in advance.

If you have any questions regarding this application, you may visit the Zoning Counter or call the Zoning Information Line and speak to a planner.

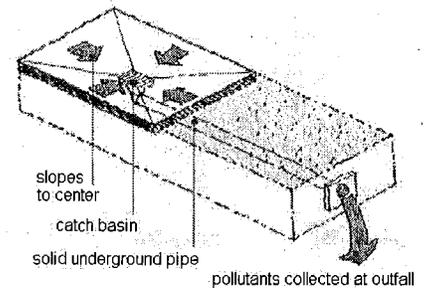
Zoning Information Line:
 (510) 238-3911
 Monday-Friday: 9am-Noon & 2pm-4pm

Zoning Counter:
 250 Frank H. Ogawa Plaza, 2nd Floor
 Oakland, CA 94612
 Monday, Tuesday, Thursday, & Friday: 8am-4pm
 Wednesday: 9:30am-4:00pm

Impervious surface



Impervious surface (pavement, buildings, carports, and other things that prevent rain water from reaching the earth) is directly related to storm water runoff and water quality. Impervious surfaces prevent rainwater from filtering into the ground and don't allow groundwater aquifers to recharge. When impervious surfaces keep water from soaking into the ground there is less groundwater seepage to creeks and the creeks dry up faster. When it rains, pollutants that have settled on impervious surfaces are concentrated and washed into storm sewers, nearby streams, and the bay. Impervious surfaces result in higher and faster peak water flows when it rains, which in turn results in increased erosion, flooding, and property damage. Large paved areas can also be unattractive and reduce the amount of land available for trees and other landscaping.



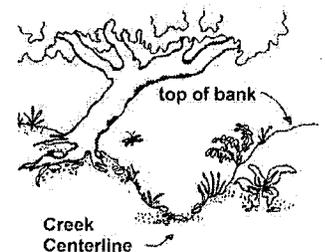
Trees

Among the features that contribute to the attractiveness and livability of the city are its trees. Trees contribute to the climate of the city by reducing heat buildup and providing shade, moisture, and wind control. Trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Trees contribute to the economy of the city by sustaining property values and reducing the cost of drainage systems for surface water. Trees are landmarks of the city's history (the "oak" in Oakland), and are a critical element of nature in the midst of urban settlement. For all of these reasons it is important to protect and preserve trees by regulating their removal; to prevent unnecessary tree loss and minimize environmental damage from improper tree removal; and to encourage appropriate tree replacement plantings.



Creeks

Oakland's creeks are a valuable resource to the City of Oakland. They remove water pollutants and improve water quality, provide flood control and storm water drainage, are vital to wildlife habitat, and create neighborhood beauty and improved quality of life. Creeks encourage economic activity through recreation and increased property values and are some of the most beautiful areas of the City. They are a vital recreational and aesthetic resource to the urban environment. It is important to protect and preserve creeks by ensuring safe and responsible development.



CONDITIONAL USE PERMIT INFORMATION

What is a Conditional Use Permit?

The Zoning Ordinance describes two different types of uses in each zoning district: 1) permitted uses; and 2) conditional uses. Conditional uses are those which require special consideration from the City. The Conditional Use Permit (CUP) process provides the City with the flexibility to determine if a specific use at a certain location will be compatible with the neighborhood.

In reviewing a CUP, the Planning Department relies upon the specific findings of Section 17.134.050 of the Zoning Ordinance.

REQUIRED C.U.P. FINDINGS PURSUANT TO SECTION 17.134.050

Conditional Use Permits are granted only when all of the following findings can be made:

Compatible with the Neighborhood

That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to:

- 1) harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character;
- 2) the generation of traffic and the capacity of surrounding streets; and
- 3) any other relevant impact of the development.

An Asset for the Neighborhood

That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

Enhances the Area

That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

Meets Design Review Standards

That the proposal conforms to all applicable Regular Design Review criteria set forth in the design review procedure in Section 17.136.050.

Complies with the General Plan and other adopted City Plans

That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.



CITY OF OAKLAND

CONDITIONAL USE PERMIT FINDINGS

The Zoning Ordinance describes two different types of uses in each zoning district: 1) permitted uses; and 2) conditional uses. Conditional uses are those which require special consideration from the City.

The Conditional Use Permit (CUP) process provides the City with the flexibility to determine if a specific use at a certain location will be compatible with the neighborhood. Conditional Use Permits can only be granted if all of the following general Use Permit findings from Section 17.134.050 can be made:

Please indicate the way in which the proposal meets the following required criteria. Attach additional sheets if necessary.

- A. The location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development:

THE PROPOSED DESIGN CONFORMS TO & ENHANCES THE
RETAIL & RESIDENTIAL USES OF SHATTUCK AVE. IT
FOLLOWS THE STREETLINE, PROVIDES CORNER ARCH. EMPHASIS
AND IS ARTICULATED BOTH VERTICALLY & HORIZONTALLY. PARKING
IS PROVIDED FOR ALL RESIDENTS - COMMERCIAL IS BELOW FLOOR
AREA REQUIRING NO PARKING.

- B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant:

BLDG
THE SITE PROVIDES PEDESTRIAN ORIENTED DEVELOPMENT
ALONG A MAJOR AVENUE WITH PUBLIC TRANSPORTATION
CLOSE TO SHOPPING, WORKING, & CIVIC FACILITIES.

- C. The proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region:

THE PROPOSED DEVELOPMENT WILL PROVIDE MUCH NEEDED
HOUSING & RETAIL & WILL REPLACE A FORMER NON-OPERATING
GAS STATION. IT WILL BE A CONTEXTUAL URBAN
BLDG TO SERVE THE COMMUNITY.

D. The proposal conforms with all applicable Regular Design Review criteria set forth in Section 17.136.050 of the Oakland Planning Code:

THE PROPOSAL CONFORMS TO ALL DESIGN REVIEW CRITERIA,
OPEN SPACE REQUIREMENTS & HEIGHT LIMIT PRESCRIBED
IN SECTION 17.136.050.

E. For proposals involving a One- or Two-Family Residential Facility: If the Conditional Use Permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

1. 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 conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height;

N/A

- OR -

2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, 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 closest lots on each side of the project site plus the ten 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 conditional use permit.

N/A

F. The proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

THE PROPOSAL CONFORMS TO THE OAKLAND GENERAL
PLAN.

Handwritten marks or scribbles in the top right corner.

VARIANCE INFORMATION

What is a Variance?

A Variance is permission to depart from the development regulations in the zoning code. Variances provide the discretion and flexibility to resolve difficulties or hardships that may be inappropriate where special or extraordinary circumstances occur on the property.

These circumstances do not mean economic hardship; rather, they refer to topographic or physical attributes of the site that do not allow for the development standards of the Zoning District to be applied.

When is a Variance needed?

A Variance may be needed in order to develop property when the strict application of a zoning regulation, such as maintaining a required yard area, cannot be met because of a physical limitation on the specific piece of property.

For example, a property owner of a hillside lot finds that the required front yard setback prohibits building a garage on the only flat part of the yard. All of the neighboring houses are built on flat lots and have garages. A Variance may be able to provide the relief needed from the strict adherence to the setback so that the garage can be built.

Major versus Minor Variance

A **Major Variance** involves any of the following provisions:

- 1) Allowable activity types or facility types;
- 2) Maximum number of living units;
- 3) Minimum lot area, except in the situation mentioned in Section 17.106.010B;
- 4) Maximum floor-area ratio;
- 5) Maximum size of Commercial or Manufacturing establishments;
- 6) Restriction on over-concentration of Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities as set forth in Section 17.102.212B;
- 7) Any variance application that requires development of an Environmental Impact Report;
- 8) Any variance application referred by the Director of City Planning to the City Planning Commission for decision.

A **Minor Variance** is a variance which does not involve any of the provisions listed above.

REQUIRED VARIANCE FINDINGS PURSUANT TO SECTION 17.148.050

Variations are granted only when all of the first five of the following findings can be made (variations for projects involving one or two residential dwellings units on a single lot are only granted when all six of the following findings can be made):

- | | |
|---|---|
| Unique Circumstance that is Specific to the Property | The 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. |
| Minimizes the Differences Between Properties in the Same Zoning District | 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. ¹ |
| No Adverse Impacts to the Neighborhood | 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 adopted plans or development policy. |
| No Special Privilege | 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. |
| Project Complies with the Regular Design Review Criteria | 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. |

¹ The finding of unique circumstance is slightly different for Adult Entertainment activities. Please refer to the full text of Section 17.148.050 of the Zoning Ordinance for the language for these activities.

No Increase In the Loss of Sunlight, Views, or Privacy For the Neighbors

-or-

Design is Consistent With a Majority of the Neighbors
(Required only for projects involving one or two residential dwelling units on a single lot)

That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with **at least one** of the following 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 60 percent 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 closest lots on each side of the project site plus the ten 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.

CITY OF OAKLAND VARIANCE FINDINGS

A Variance is permission to depart from the development regulations in the zoning district. Variances provide the discretion and flexibility to resolve difficulties or hardships that may be inappropriate where special or extraordinary circumstances occur on the property. These circumstances do not mean economic hardship; rather, they refer to topographic or physical attributes of the site that do not allow for the development standards of the Zoning District to be applied.

Proposals requiring a Variance may only be granted upon determination that the proposal conforms to the following Variance criteria set forth in Section 17.148.050:

Please indicate the way in which the proposal meets the following required criteria. Attach additional sheets if necessary.

1. Strict compliance with the specified regulations 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 PROJECT SEEKS TO COVER THE SETBACK PORTION OF (15 FT) THE REAR OPEN SPACE, LANDSCAPED & DESIGNED FOR PUBLIC USE. WITHOUT THIS ADDITIONAL LANDSCAPED OPEN SPACE THE LIVABILITY, & APPEARANCE OF THE PROJECT WOULD BE COMPROMISED. REAR FACING UNITS WOULD BE LOOKING DOWN ON TO PARKED CARS.

2. 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:

SIMILAR ZONED PROPERTIES, ENJOY PODIUM LEVEL OPEN SPACE THAT HIDES UNSIGHTLY PARKING AREAS.

3. 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:

IF THE VARIANCE IS GRANTED, THE LIVABILITY & APPEARANCE OF THE DEVELOPMENT WOULD ENTICE THE RESIDENTS & NEIGHBOURS Alike, WHO WOULD BE LOOKING AT LANDSCAPED OPEN SPACE RATHER THAN PARKED CARS.

4. 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:

NO SPECIAL PRIVILEGES WILL BE GRANTED WITH THIS VARIANCE

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 ELEMENTS OF THE PROPOSED REAR OPEN SPACE COMPLY WITH CITY OF GALLAND DESIGN REVIEW CRITERIA IN SECT. 17.136.050.

6. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

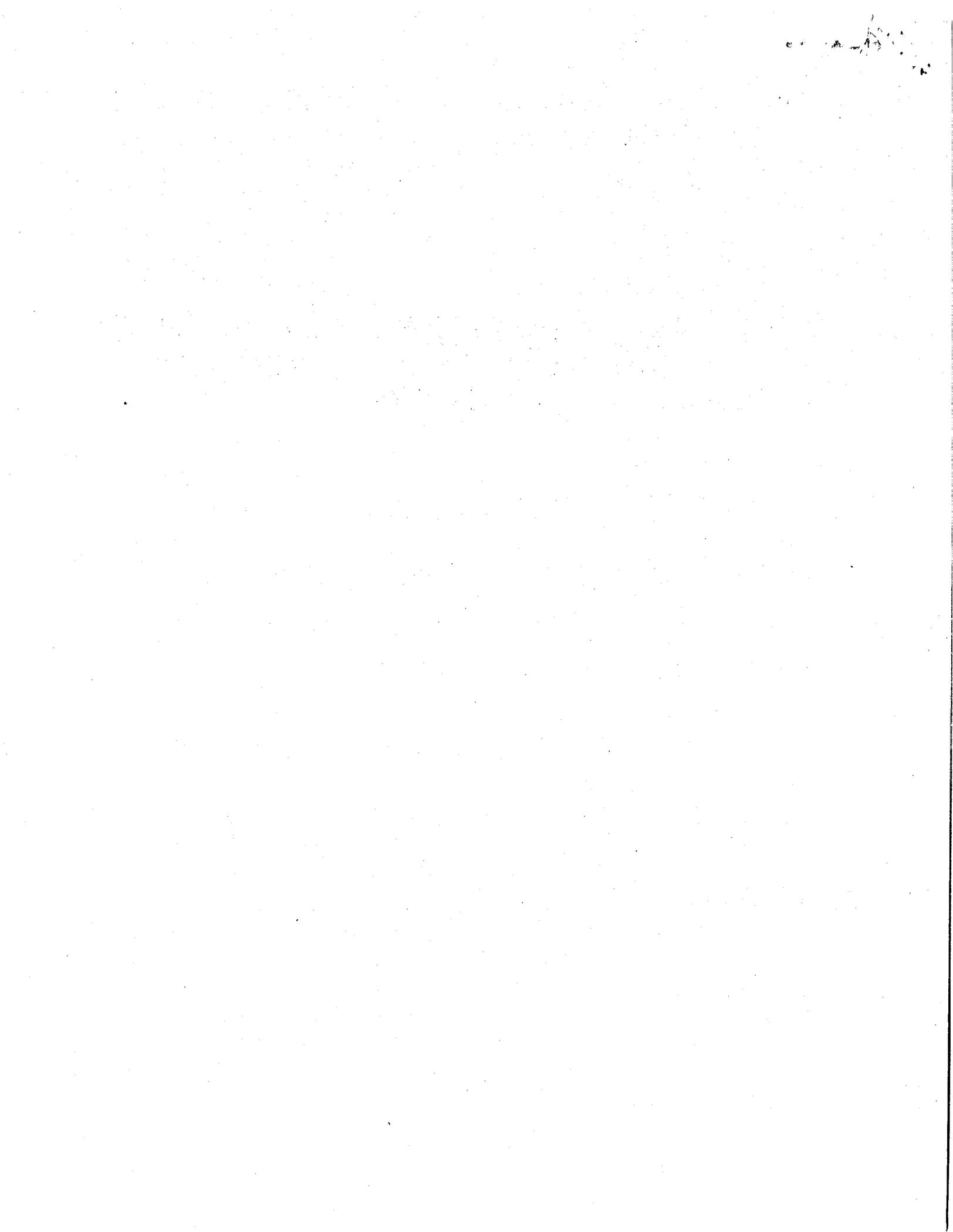
- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height:

N/A

-OR-

- b. Over 60 percent 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 closest lots on each side of the project site, plus the ten 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.

N/A





CITY OF OAKLAND JUSTIFICATION FOR GRANTING REGULAR DESIGN REVIEW

Design Review is intended to ensure high quality attractive designs that will compliment and benefit the surrounding neighborhood and city as a whole. Design Review is primarily focused on site planning and the exterior appearance of structures. This can include things such as architectural style; design quality; building materials; building mass and bulk; façade articulation; landscaping; preservation of sunlight, views, and privacy; screening of parking and loading areas; and other design related issues.

Regular Design Review approval can only be granted if all of the following applicable findings from Chapter 17.136 can be made:

Please indicate the way in which the proposal meets the following applicable criteria. Attach additional sheets if necessary.

A. FOR RESIDENTIAL FACILITIES:

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

THE PROPOSED DESIGN CONFORMS TO SCALE, USE, & ACTIVITIES OF SHATTUCK AVENUE. THE BUILDING FOLLOWS THE STREET LINE, PROVIDES ARCHITECTURAL EMPHASIS @ CORNER AND IS ARTICULATED BOTH VERTICALLY & HORIZONTALLY.

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

THE PROPOSED DESIGN MAINTAINS & PRESERVES EXISTING USES; RETAIL @ GRADE & RESIDENTIAL ABOVE. IT REPLACES AN EXISTING DILAPIDATED GAS STATION WITH A PEOPLE-ORIENTED NEIGHBORHOOD-FRIENDLY BUILDING.

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

THE SITE IS FLAT & THE BUILDING RESPONDS TO ITS CONTEXT & URBAN TOPOGRAPHY

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

* NOT - APPLICABLE - THE SITE IS FLAT - URBAN.

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

THE PROPOSED DESIGN CONFORMS TO GENERAL PLAN, DESIGN REVIEW GUIDELINES BY PROPOSING AN URBAN-MIXED USE, PEDESTRIAN ORIENTED, ENERGY EFFICIENT BUILDING LOCATED ALONG MAJOR AVENUES.

B. FOR NON-RESIDENTIAL FACILITIES AND SIGNS:

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

N/A

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

N/A

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

N/A

C. FOR LOCAL REGISTER PROPERTIES THAT ARE NOT LANDMARKS OR LOCATED IN THE S-7 OR S-20 ZONE:

1. That for additions or alterations -

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

N/A

2. That for demolition or removal,

- a. The affected structure or portion thereof is not considered irreplaceable in terms of its visual, cultural, or educational value to the area or community;

N/A

- OR -

- b. The structure or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it;

N/A

- OR -

- c. Considering the economic feasibility of preserving or restoring the structure or portion thereof, and balancing the interest of the public in such preservation or restoration and the interest of the owner of the property in the utilization thereof, approval is required by considerations of equity.

N/A

D. FOR POTENTIAL DESIGNATED HISTORIC PROPERTIES THAT ARE NOT LOCAL REGISTER PROPERTIES:

1. That for additions or alterations,

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

N/A

- OR -

- b. The proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood;

N/A

- OR -

- c. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

N/A

2. That for demolition or removal,

- a. The design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood;

N/A

- OR -

- b. The public benefits of the proposed project outweigh the benefit of retaining the original structure;

- OR -

- c. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

E. FOR RETAINING WALLS: N/A

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

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

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

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

Ian Martin
Marlene Martin
Vibeke Norgaard
P. O. Box 183
Carmel, CA 93921
(415) 516 6674

January 26, 2015

Ann Clevenger
Steve Miller
City of Oakland
Bureau of Planning – Zoning Division
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Re: Case File No. CDV10185/6501 Shattuck Ave.

Dear Ms. Clevenger and Mr. Miller,

As the owners of the property at 6500 Shattuck (the Nomad Café Building), we are writing to you to request that you deny the application for development proposed at 6501 Shattuck Ave, Case File No. CDV10185 (“the Application”). This Application should be denied on the following grounds:

I. The 3-Story Height Limit Effective 15, 2011 Applies To This Development.

On January 9, 2015 the public received notice that an application to develop 6501 Shattuck Ave filed on July 14, 2010¹ had been “deemed complete,” thus allowing the project to go forward under the old zoning laws that were in effect prior to April 15, 2011. The effect of this decision is that you appear to be applying the older 4-story zoning to a building in a neighborhood that is currently zoned for three stories. However, the Application was, and remains, incomplete.

¹ Despite the statement in the public notice, the exact date on which the City received the Application is unclear. The Application was not date stamped, and the Application fee section not filled out. It was signed by the Applicant on 7/15/2010, but Clevenger notes on the Application it was “rec’d 7/14/2010”. In an email dated 7/30/10, Clevenger said it was received on 7/12/2010. On 7/21/2010, Applicant and his architect met with neighbors and led them to believe they had not yet filed a formal application.

The City of Oakland's ("the City's") decision to deem this Application complete as of April 15, 2011 violates state law, the City's own application process, rules and zoning ordinance. As set forth below, deeming the incomplete application complete is a violation of state law. In fact, under the City's own rules the City should not even have *accepted* the application due to its incompleteness, let alone deemed it complete. And because it was not complete, it cannot fit in under the limited exception to the new zoning. In addition, the submitted Application is rife with outright misrepresentations and omissions. Further, to the extent the Application was deemed complete by operation of law, the new zoning would have to apply.

This Applicant should not be allowed to get in through the backdoor what he could never have got in through the front door when he filed this Application.

(1) The Application Was Incomplete As It Failed to Include Information Required by State Law.

The owner of the property, Mr. Magganas and his architect Moshe Dinar (combined, "the Applicant"), submitted a Basic Application for Development Review to the City of Oakland Planning Department (the City) on or around July 14, 2010 ("the Application"). However, the Application was incomplete.²

The Application was incomplete because the Applicant left the entire Hazardous Waste and Substance Statement section of the Application blank. (See Application, Section 8, p.6). According to California state law, before the City "accepts" a Basic Application "as complete" the Applicant must consult the state lists of sites affected by hazardous waste and substances, and must "submit a signed statement" to the City indicating whether the project is located on a site that is included on any of the lists. (Cal. Gov. Code §§ 65962.5 (f), 65929). In fact, 6501 Shattuck Avenue, a former gas station with leaking underground tanks, was identified on the state lists as a site affected by hazardous substances. Thus, the Application failed to include information that is required by state law. Because of this omission, the Application was incomplete as of April 11, 2015 and cannot now be "deemed complete."

Conversations with Ann Clevenger suggest that the City may be taking the position that the site at 6501 has since been fully remediated and therefore it is now besides-the-point that the Applicant did not complete this section at the time of the Application. Even though the site may now be remediated, at least as far as Alameda County is concerned, allowing the Applicant to circumvent the process required by state law is not acceptable. Such an approach leaves the public with no assurance

² It should be noted that the incompleteness of the Application cannot be dismissed as the result of mistakes or ignorance on the part of the Applicant: Mr. Magganas is a seasoned developer with many large developments in Alameda County under his belt.

that remediation of building sites will occur with proper oversight, and leaves open the possibility that that developments can go ahead despite being on the state hazardous waste list without any special permits.

If the City's position is that the incompleteness of the Application was somehow remedied by subsequent information received, that argument also fails as none of the documents in the City's file (as of a review of it on January 20, 2015) appear to have alerted the City prior to April 15, 2011 that the site was hazardous.

A conclusion by the City that this incomplete Application can nonetheless be "deemed complete" runs an end-run around the state law intended to protect the quality of our environment and our health. Furthermore, regardless of the City's rationale, state law requires all applications to include the Hazardous Waste and Substance Statement. Since the Application fails to include this statement, the City lacks authority to deem the Application complete.

(2) The City Should Not Have Even Accepted the Application Under Its Own Guidelines.

In addition, the City cannot deem this Application complete under its own permit application guidelines. The Applicant did not have all the items that the City requires before it even is able to *accept* the Application, let alone deem it "complete".

Section 9 of the application form is a checklist of everything required in order for the application to be accepted by the City. It has a large, bolded, bordered and partly capitalized header which notifies applicants of this rule:

"[T]he following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED." (Emphasis in original).

The first item explicitly requires that the Applicant has submitted a "completed" application form "including ... the Hazardous Waste and Substances Statement." The Applicant represented on his Application that he had submitted this Statement, when, as set forth above, he had not. This inaccuracy likely misled the City into accepting an application that should never even have been accepted.

Further, the Application appears to never have been fully processed by the City. It appears from the Application in the City's project file that the required Application fee was never paid. The section requiring the City to note the fee received and date it was received is left blank. (See Application, p.1.)

(3) The Application Does Not Fall Within the Limited Exceptions to the Amended Zoning Ordinance.

There is nothing in the Planning Department's project file on 6501 Shattuck that indicates when or how this Application was "deemed complete." For example, there is no letter to the Applicant alerting him that his application has been deemed complete, nor any letter from the Applicant demanding that the city deem his application complete.³ On January 20, 2015, Vibeke Norgaard spoke with Ann Clevenger and received no further clarification as to when or exactly how or when it was deemed complete.⁴

Oakland City Council's Ordinance No. 13064 ("the Ordinance"), which amended the zoning laws and changed the zoning for the parcel under consideration, allows for exceptions to the new zoning for some applications that have already been deemed complete but only if they are "deemed complete...as of the date of final passage" of the ordinance. (Oakland City Council's Ordinance No. 13064, Section 6). If the Application were "deemed complete" after April 15, 2011, the development would thus be subject to the current amended zoning under the Ordinance.

The Ordinance requires that the Application be deemed complete as of April 15, 2011 to fall under the exception. As set forth above, this Application was not complete as of that date because it lacked information required by state law. The city therefore has not authority to deem it complete as of that date. Because it is not encompassed by this exception to the new zoning, this Application falls under the new zoning. (Oakland Planning Code § 17.114.030; see also e.g., *Avco Cmty. Developers, Inc. v. S. Coast Reg'l Com.*, 17 Cal. 3d 785 (1976)).

Furthermore, if the City's position is that the Application was deemed complete by operation of law 30 days after it was received under the Permit Streamlining Act (Cal. Gov. Code § 65920 et. seq), then the new zoning also must be applied to this proposed development. The exceptions set forth in section 6 of the City's ordinance only apply to those applications deemed complete "by the City", not

³ The Oakland Planning Department's file on this Application was remarkably sparse. Much correspondence that we and other neighbors have had with the Planning department about this site was not in it.

⁴ In this conversation between Ms. Clevenger and Vibeke Norgaard, Ms. Clevenger did vaguely indicate there were "some meetings" in which the language of the ordinance was carefully considered and the decision to deem the application complete made. It was not clear when these meetings were held or why there was no indication of them in the public file. If the ordinance was being reviewed when the decision was made, that would strongly suggest the application was deemed complete *after* April 15, 2011.

those applications deemed complete by operation of law. (Oakland City Council's Ordinance No. 13064, Section 6). It should also be noted that the Permit Streamlining Act was created to protect Applicants from foot-dragging by public officials. It can hardly be a valid use of that Act to allow foot-dragging by Applicants, who only complete half of their applications, to help them be grandfathered into old zoning laws.

(4) The City Should Not Deem This Application Complete Because It Contains Misrepresentations of Fact.

Not only is the Application, as set forth above, incomplete, but it also should not be deemed complete as it contains several outright misrepresentations of fact. As set forth above, the Applicant noted, under penalty of perjury, that he had filled out section 8, when he in fact had not.

In addition, in Section 6 of his Application, which requires an applicant to attest whether there are any existing Protected Trees "anywhere on the subject property or within 10 feet of the proposed construction activities (including neighbor's properties or the adjacent public right-of-way)" this Applicant informed the City there are no such trees. In fact, there is a large 36" diameter redwood on the back corner of the adjacent property, within ten feet of his proposed construction activity. The Applicant's Proposed site plan also does not show the protected Redwood tree.⁵

For the City to now say this Application has been "deemed complete" means that not only is it acceptable to leave required sections entirely blank, but that actually making outright misrepresentations on an application is acceptable.

(5) Additional Inaccuracies In The Application.

In addition, there were several other aspects of the Application that make it both inaccurate and incomplete: (1) The variance justifications are not updated to reflect the latest design; (2) The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, or lot coverage; (3) There are no photographs of neighboring properties; (4) The elevation drawings do not show adjacent houses; (5) No materials and color board was submitted; (6) The survey is not stamped by a licensed surveyor; (7) The building elevations do not reflect the slope of the site, which slopes over two feet from front to back - this means that the building walls will be taller near neighbors' properties, and will have greater impact than shown; (8) It contains an incorrect rendition of

⁵ The Applicant's proposal shows a concrete masonry fence, 16-foot tall walls, a paved driveway and parking all within 10 feet of this tree. The Applicant, in an email to Guita Boostani, dated 7/30/2012, threatened legal action against the neighbor if they did not remove this tree.

neighboring houses and setbacks: The perspective drawing misleadingly shows the adjacent neighbor on the North (the Muse) as a narrow two-story structure where it is actually a one-story structure on a lot that is wider than the applicant's lot. The site plan does not show the correct configuration and relationship of the site to the neighbor's property on the North (the Muse). The site plan still does not accurately show the neighbors' properties, location on the lot, and setbacks. (9) The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden). This will significantly add to the height and impacts on neighbors, but this aspect of the proposed building is not shown.

(II) The Public Does Not Have Enough Time Or Enough Information To Comment Fully On This Proposed Development.

The neighborhood received only 17 days notice to comment on this proposed development. This is insufficient time for a project of this magnitude.

First, given the proposed four-story height in a neighborhood zoned only for three stories, story polls should be required so that the public can better consider the impact of this massive building on the neighboring community. The public comment period should be extended at least 30 days, once the story poles are installed, so that the public can consider and comment on them to the City.

Second, it has proved impossible during this short time to obtain the information necessary to fully evaluate and comment on this Application. For example, we have attempted in vain to obtain information about the process in which this Application was deemed complete. On January 20, 2015, Vibeke Norgaard went to the Planning Department and requested to see the file on 6501 Shattuck. She was given a very small and very incomplete file. Many pieces of correspondence between neighbors and Ms. Clevenger about this project over the past years were not in the project file. Most notably, nothing in the project file references either the meetings Clevenger referred to, or any other process by which the decision was made to deem the Application complete. When Vibeke Norgaard requested to see such documents, she was directed to file a Public Records Act request. Such a request would, of course have been futile in the short period given to the public to comment on this major development. Ian Martin had, in fact, filed one on January 15th, 2015 (Public Records Act request No. 7559) for certain documents and has to date heard nothing back.

Third, to the extent this project is being analyzed under the old zoning laws from 2010 in its entirety (which is not clear to us based on the public notice) after much searching, we are unable to find those old zoning laws online. It would be necessary to analyze the entire project under those older laws in order to be able to fully comment. We therefore request that the City perform, or require that the Applicant perform, a detailed comparison of the proposed development under old and new zoning.

Fourth, in order to fully comment, the public should be able to see a composite building elevation that shows the proposed building and its relationship to adjacent buildings in order to demonstrate how issues of scale, massing, open space, and privacy are being addressed.

Fifth, we also request that a shadow study be performed in order to understand how our building's solar access will be impacted in the afternoon by the development.

For all of the above reasons, we request that the public notification period be extended.

(III) Additional Concerns About the Design of the Proposed Building.

This proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor, and its massing will be sorely out of context. While we support greater density near transit nodes, this building, as proposed, will work against efforts to bring greater density to our urban areas. In fact, it will serve as a poster child of poorly considered urban planning by people who are against greater density. Increased density cannot be the only guiding design principle, but must be balanced with a proposed buildings' impact on the surrounding community. This building, at three stories with appropriate modifications to break up its massing would be a welcome addition to our neighborhood. As it is proposed now, it is entirely unacceptable.

(a) Size, Massing, Height Transitions, And Set-backs Are Inappropriate For The Neighborhood.

From the west on the residential 65th Street, the proposed building leaps from single-story, single family homes to its full-four-story height, dwarfing them. Under Oakland's General Plan (housing element) Policy N8.2 regarding compatible interfaces between densities, the height of a development should step down as it nears lower-density residential areas in order to minimize conflicts at the interface between the different types of development. This proposed development does not do that.

The next building to the south (across 65th Street) of the proposed development is a two-story home with substantial setbacks on all sides. The proposed development has no setbacks and, due to the bay windows, jumps immediately to nearly its full height—outside its own property lines and over the narrow right-of-way.

On the north side of the development there is a simple, single-story mid-century modern building adapted to create affordable housing. The proposed

development will tower over it when viewed from Shattuck Ave by a full-three stories, and, even higher when the legally-required elevator tower is included.⁶

From the east, our Nomad Café building—which is three stories— is tapered down in height from south to north, and the third floor is set back from Shattuck, as well as from the north, in order to reduce its massing. The third floor of our building is clad in cedar on its western elevation, in order to reduce its visual impact when viewed against the Oakland hills when the building is viewed from street level down 65th Street. We incorporated these design elements in order to reduce our building's impact on this neighborhood of predominantly single-family homes and single and two story commercial buildings, as well as to allow the large palms on our property to be seen from the west.

Further, it appears that the massive building profile will shade the street and surrounding sidewalks for most of the day.

(b) The Proposed Bay Windows Exacerbate Massing.

In addition, the bay windows of the proposed building should be eliminated on 65th and Shattuck. The looming nature of the proposed building will be exacerbated by the bay windows that project out over the narrow right of way of the 66'-wide Shattuck Corridor, with its 43'-wide roadway and minimal 6' sidewalks, and the residentially-scaled 65th Street.

While we encourage the Applicant to break up the massing of these four-story walls, this can be done by withdrawing sections of the walls from the property lines on Shattuck and 65th Street, thus providing massing relief to the neighborhood.

(c) The Proposed Development Causes Unnecessary Loss of Views From Our Building.

The bay windows overlooking 65th Street will eliminate our building's view of San Francisco and the Bay Bridge. This would adversely affect the property value and our tenant's enjoyment of our building. The view of the Golden Gate Bridge and San Francisco Bay from our building will be eliminated by the sheer height of the proposed four stories. This violates the spirit of Oakland's General Plan Policy N3.9. ("Residential developments should be encouraged to...avoid[] unreasonably blocking sunlight and views for neighboring buildings".) Removing the bay windows from 65th street will likely save our view of San Francisco and the Bay Bridge, and limiting the building to 3 stories, as required by current zoning, would at least partially save our views of the Golden Gate Bridge and San Francisco Bay.

⁶ As set forth above, this elevator is not shown in the Application plans.

(d) Variances.

The variances required, for the rear setback, density, and driveway, add to the excessive bulk and adverse impact on the neighborhood as described above. We therefore feel staff is being too generous in designating them as "minor" variances. See Oakland's General Plan Policy N11.3 which states that "variances ... **should not be granted lightly** and 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 of privileges enjoyed by similar properties, **as well as the fact that the variance will not adversely effect the surrounding area nor will it grant special privilege to the property.**" (emphasis added).

Furthermore, as the plans submitted with the Application do not show the legally-required elevator tower, we are concerned that they may also lack other important details. If so, additional variances or use permits may be required.

We respectfully request that the City force the Applicant to take the above concerns into consideration and revise their design accordingly.

(IV) Don't Reward The Applicant's Creation Of An Eyesore.

We would also like to urge the City to not accept the Hobson's choice of approving Applicant's imperfect development project in order to the alleviate the blight Applicant has created over the past four years.

As you are hopefully aware, the Applicant has left his site in disrepair over the past four years. Starting in 2010, neighbors contacted the City about the site's poor condition, requesting that the City do something to force the Applicant to clean up his site. The blight on this property has included graffiti covering the front of buildings, black cloths on the fences flapping into the sidewalk area, trash building up on a regular basis, and mosquitos breeding in the large pits of standing water.⁷ Neighbors have for years reported illegal activity and the poor condition of the site. Some neighbors now will put up with anything just to see an end to this blight.

Please do not end the message to developers in Oakland that creating blight and nuisance in any way speeds up the approval process. It is better for the neighborhood that this be a well-maintained vacant lot for another decade than it be developed in a way that is way too big and massive for the narrow Shattuck Corridor.

⁷ Applicant has even gone so far as to blame neighbors for the blighted condition of his own property in an email to Ms. Guita Boostani on December 18, 2013.

(V) The City Should Apply Diligent Oversight To This Applicant.

Given the Applicant's history of rule-breaking and shortcut-taking, we urge the City to carefully scrutinize the Applicant's construction process to ensure that he does not deviate from his approved plans.

As documented by the City's own inspectors, ourselves and other neighbors in numerous phone calls, letters and photos over the last five years, the Applicant has shown willful disregard for the rules and procedures of development.⁸ Since none of these actions appear in Applicant's project file, they are summarized here: (1) The Applicant demolished a building on the site on 3/17/10 without any permit, without the required public notification and without the asbestos survey required by the Bay Area Air Quality Management District. The City issued a permit for this demolition on 3/27/10 -- *after* the building was demolished; (2) According to a neighbor, Applicant began remediating the underground tanks in the middle of the night; (3) According to a conversation with Oakland Fire Department Inspector, Keith Matthews, the Applicant pulled the UST tanks with incomplete plans in place, including no dust abatement plan⁹; (4) Although, according to the Fire department, Applicant was supposed to stop the tank removal work during high winds the Applicant removed the tanks on an extremely windy day in 2010 causing gasoline smelling dust to blow around the neighborhood: Our family, including our then 5 year old daughter and myself, a then pregnant mother, experienced having particles of this gasoline-infused soil blow around us as we entered and exited our home; (5) Two swimming pool-sized pits, where the underground storage tanks had rested were not lined with plastic and backfilled with clean soil as is normally required, according to a Fire Department Inspector. Although he was ordered by the Oakland Fire Department to backfill the pits on March 4, 2010, as late as July 2011, Applicant had not yet complied; (6) Although once tanks were discovered to have leaked into soil, Applicant was not supposed to further disturb the soil, he did so, on several occasions in 2010; (7) Although the contaminated soil was supposed to be transported through the City in covered dump trucks, we documented the trucks driving away uncovered, with contaminated soil spilling into City streets; (8) Pools of water gathered in the pits, pools most likely filled with hazardous substances because the tanks had leaked into the surrounding soil; (9) An agent of Applicant was seen draining the pools of this water into the back building, where there was a public sewer access, possibly into the public sewer. Although he told neighbors he was draining the toxic water into a tank, which would later be hauled away, he

⁸ As noted above, since the Applicant is a seasoned developer, his ignoring building and remediation rules and regulations cannot be dismissed as the result of mistake or ignorance.

⁹ A Public Records Act request was mailed by registered mail in or around early 2012 to the Fire Department in order to obtain more details about the UST removals and whether or not Applicant had a proper permit in place when they were begun. To date we have had no response to this request.

refused to let them see the tank. According to Erica Fisker, the senior environmental consultant for SOMA, the company engaged by Applicant to remediate the site, this siphoning of water was not authorized by SOMA, and she knew nothing about it.

Further, in a lawsuit against the City over fines assessed against him for blight on his property prior to his ownership, a hearing officer found “not credible [Magganas’] claim he was unaware of the existence of violations when he purchased the building.” The hearing officer also found “Magganas had engaged in either subterfuge or studied ignorance in his testimony regarding the continuing existence of code violations” and concluded he was “either ...not genuinely confused about the existence of violations” or “kept his eyes closed to avoid seeing any problems while he was there.” The hearing officer ultimately found that several violations existed, and affirmed the City’s finding that the property constituted a public nuisance. (See *Bruder, LLC v. City of Oakland*, Case No. A136256, Court of Appeals of California, First District, Division One (Filed August 29, 2013).)

Given this Applicant’s history of acting first and dealing with the consequences later, the City should apply diligent oversight to any construction process they approve.

VI. This Application Should be Denied.

Due to the glaring inaccuracies and omissions on this Application, and all the additional concerns raised above, we respectfully request that you revoke your decision to deem this Application complete, and require that the Applicant submit an accurate and completed Application.

You have the authority to do so. On your own application form, the Applicant was clearly warned that “inaccuracies may result in revocation of planning permits as determined by the Planning Director.” (cite) Therefore, when the Applicant decided to omit and misrepresent on his Application, he was on notice that doing so might mean that any permit he received as a result of the inaccurate and incomplete application could be revoked.

Please also be on notice that given the issues mentioned in this letter, we will appeal any decision to approve this development to the Planning Commission and if necessary, to the Superior Court.

Sincerely,
Ian Martin, Marlene Martin and Vibeke Norgaard

[Faint, illegible text, possibly a signature or stamp]

January 26, 2015

Re: 6501 Shattuck Avenue
Case number: CDV10185
APN: 016-1428-011-02

Ms. Ann Clevenger
Oakland Planning/Zoning Division
250 Frank H. Ogawa Plaza 2nd Floor
Oakland, CA 94612

Dear Ms Clevenger,

I'm writing as a concerned property owner that lives 8 blocks away from the proposed development. Simply put, my primary concern is the massive scale of this proposed structure.

This shouldn't even be an issue since the original application was incomplete when the April 2011 zoning changes took effect. Why is the planning/zoning staff giving Mr. Magganas special consideration where none is warranted?

As both a participant and sector representative of our local neighborhood crime prevention council, I've been listening to the neighborhood's blight concerns ever since I moved to Bushrod from Piedmont Avenue 5 years ago. The stories my neighbors tell describe a developer who has little regard for the neighbors, building codes, or impact to the environment.

I see no reason to grant the requested setback variances allowing the new building to cover even more of the parcel. A little more effort please in trying to blend in with existing building facades along the North Oakland Shattuck Avenue corridor.

Unfortunately Oakland CEDA is going to have to deal with Mr. Magganas during the development of this parcel. Apologies in advance for the neighbors playing building inspector and bringing almost certain future violations to your attention.

Sincerely,

Jeff Spragg
5728 MacCall Street
Oakland, CA 94609
510-545-8337

FILED
JAN 29 2015
OAKLAND, CALIF.

Clevenger, Ann

From: jeff spragg <jeffspragg@mac.com>
Sent: Monday, January 26, 2015 3:20 PM
To: Clevenger, Ann
Cc: Kalb, Dan; Don Link; coreydeanmc@yahoo.com
Subject: 6501 Shattuck Avenue; CDV10185
Attachments: JS comments on CDV10185.docx

6501 Shattuck Avenue
Monday, January 26, 2015 3:20 PM

6501 Shattuck Avenue
Monday, January 26, 2015 3:20 PM

Clevenger, Ann

From: Stephen <stephen@boostani.com>
Sent: Monday, January 26, 2015 3:47 PM
To: Clevenger, Ann; Miller, Scott
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave CDV 10185

Hi Ann and Scott - I am writing to express my deep concerns regarding the proposed project, my frustration with the mismanaged deemed approved application/notification processes, and my anger at what has become a poster child for what is wrong with city agencies and the city attorney's office.

I have lived around the corner on 65th street since 1990 and I am also co-owner of the Muse, which is directly north of the proposed project. In regards to the Muse, the proposed project will completely shade the only usable outdoor open space during many months and significantly shade the outdoor open space during the rest of the year. Furthermore, the large scale of the project, the elevated 2nd story podium & common open space at the property line with no setbacks, and 3 additional stories with windows overlooking the Muse open space, will significantly affect privacy and the ability of tenants to enjoy their rights to sunlight and the peaceful enjoyment of their home.

As you know, while the applicant, Athan Magannas / Bruder LLC was excavating, tearing down buildings, ignoring stop work orders, removing leaking underground storage tanks without proper permits, using neighborhood meetings as a false facade, draining toxic water into the city drains, 'working' the cracks between various city agencies, and counter-suing the city for fines, he submitted the incomplete application for the 4 story building that is currently under consideration.

Given the utter lack of city enforcement, the disinformation coming from the owner, and the city's almost complete obfuscation of their own duties and regulations, it is fair to say that we, as a neighborhood, are being thrown under the bus.

In spite of constant neighborhood vigilance, photographic evidence, and persistent communications with blight inspectors, OFD, the city attorney's office, our council members, and the zoning department, the applicant was still allowed to proceed. Even as I write this letter, the site is surrounded by graffiti, an abandoned vehicle sits in tall grass, water routinely pools and stagnates, and a large boarded up building continues to shed paint and attract squatters and additional blight.

And now, beyond belief, the city intends to reward the developer with a 4 story building under old zoning codes, complete with variances, encroachment permits, and tree permits.

For the record, the first notification, which was mailed out by the City in 2010, was immediately rescinded by the City after neighborhood intervention. This, in and of itself, clearly indicates that the application was incomplete. And now, in 2015, after nearly 5 years, the City casually resumes the notification process. At this point, it seems clear that the the City is either running scared, desperately seeking property taxes /housing & retail at all costs, or both.

Additional concerns include the following : the lack of opportunity to ever question the validity of the deemed approved application as required; the ongoing and still incomplete application; the disarray of city agencies including the zoning department, the fire department, and the city inspection services department when addressing the legitimate concerns of the neighborhood; the black hole of the city attorney's office even after numerous requests for information; and incomplete files even when we made copies a couple weeks ago.

Before going into specifics, I expect the City to immediately rescind this second notification, hold the applicant to the current zoning codes, withdraw all support for variances, encroachment permits, and tree permits, and hold the owner fully responsible for past illegal work. In addition, I expect the city to require story poles, shadow studies, and additional time for neighborhood input for what will hopefully be a revised 3 story building once the revised application, story poles, and shadow studies are complete.

It seems the least you can do, the fair and legal thing to do, and the right thing to do.

As a preface, I completely support affordable housing, appropriate density, and good architecture. Unfortunately, the proposal for 6501 Shattuck fails in all three categories.

Please consider the elephants in the room that are listed below, and help our neighborhood insure that a quality 3 story building, with quality materials, significant architectural detailing, specific conditions of approval, and a vigorous enforcement strategy that addresses the community needs, is eventually submitted.

Affordable housing - Sounds great, but a post tensioned 2nd level concrete podium structure with 3 stories of type V wood frame construction above, is one of the most expensive building types for a lot of this small size. Current codes, green building requirements, sound isolation requirements between units, gurney sized elevators, and utility upgrades will insure that these units will be far from affordable.

The units will likely be rented for 10 years by the developer to avoid any legal issues within the statute of limitations. This is common procedure for 'bottom line' developers seeking to maximize profits. During those 10 years, if past performance at this property and many others around the Bay Area is even the slightest indication, the developer will wantonly ignore stop work orders, skirt conditions of approval, and blow off any problems to the point of lawsuits, counter lawsuits, and arrest warrants being issued for compliance. High rents will be the norm to recoup costs and support the developer's legal needs

Once the ten years have passed, tenants no longer have the right to seek legal redress, and at that point, the units will likely be converted to condo's. Current condo's are selling in the range of \$500,000. In ten years probably \$750,000, hardly 'affordable'.

A more likely outcome is that many of the units will be sold to owners who will pay cash and rent the units for as much as the market allows, which again is hardly affordable. Due to the absolute absence of any usable ground level open space and small size, the units are also unlikely to attract any families. Other likely outcomes are sublets, air bnb, or simply vacant units as investment vehicles.

This approach to maximize profits will also undoubtedly effect any commercial rental as well. Imagine an opaque storefront and a lice control business like the recent development just to the north. Be assured that the developer will rent to the highest bidder with no regard for neighborhood needs

The unfounded perception of 'affordable housing' pales next to the clear risk of a 4 story stucco box with variances and encroachment permits, built by a developer with a long track record of obfuscation, lack of regard for tenants, and blatant disregard for the rules.

density - sounds great, all for it !!, but 3 stories of standard 1 & 2 bedroom 'condo' units above a concrete podium is hardly density and hardly green. It is more likely that the (11) junior / 1 bedroom units and (7) 2 bedroom units will only accommodate around 25-30 people. Small families will migrate to units with accessible outdoor space for their children ; couples will struggle to afford a 2 bedroom; and singles will be priced out of the 1 bedroom units.

Density can be achieved in many ways besides the standard cliché condo approach. As an example, the Muse directly to the North is a single story building complex on approximately the same size lot that provides 16 adults, 2 children, and a bunch of chickens a livable village with gardens, play areas for kids, and viable ground level open space for outdoor activities.

Even the higher density that the proposal requests can be done more elegantly and more 'green' by reducing or eliminating the parking requirement, and building a more conventional 3 story wood frame structure

Yet another option is co-housing, with individual and multi room suites along with shared kitchen(s) and common areas, that could easily reach the density of the proposed project.

As another reference, in 2007, the Oakland Planning Department and Planning Commission approved a 4 story building at the current location of the Muse. At that time, the Planning Commission approved 12 units with full side yard setbacks, outdoor ground to sky open space, outdoor ground to sky setbacks from the Shattuck Ave. property line, no variances, no encroachment permits, additional setbacks at the 4th floor to mitigate scale and bulk, a gracious lobby, 2 commercial spaces, and a large communal gathering space.

good architecture (and planning) - sounds great, ... but unfortunately, architecture and planning have taken a back seat to the bottom line of even good developers for a long time now. In this case, the applicant/developer has already gone to minimal lengths by having his architect propose his standard cliché stucco box condo building with large bay projections and a little tile at the base as lipstick. And that will only be the beginning.

Potential recessed windows will quickly become surface mounted aluminum or vinyl. A rich variety of finishes has already lost the battle to 4 stories of 'multi colored stucco' Building volume articulation devolved long ago to a monolith block with bay window attachments that require encroachment permits.

The parking requirements (1 per unit) and the first level have already violated the required rear yard setback and open space requirements and will require a variance.

Material detail will fade to inexpensive applied accents

Metal and fabric canopies will be tacked on at best

And, last but not least, the entire development will be built and maintained for 10 years by the same developer that has been responsible for all shenanigans of the past 5 years.

Oakland can and should expect much more from developers - especially this one. And as much as the architect may want to create a quality project, his wishes will always take a back seat to the bottom line of this developer. Sad but true !

Thank you for your consideration,

Stephen Glaudemans

stephen@boostani.com

Clevenger, Ann

From: Guita <guita@boostani.com>
Sent: Monday, January 26, 2015 4:20 PM
To: Clevenger, Ann; Miller, Scott
Subject: Fwd: Suggested Informational E-mail to Neighbors interested in 6501 Shattuck Avenue
Attachments: 6501 Summary of Issue 1_18_15.pdf; ATT1654409.htm; 2009- 2015 Timeline C1_19_15 .pdf; ATT1654410.htm; 6501 Violations Updated 1_15 C.pdf; ATT1654411.htm; Magannas Violations in Bay Area.pdf; ATT1654412.htm

Dear Ann and Scott,

Please find attached my comments and issues regarding the proposed development plans for 6501 Shattuck Ave. which is owned by Athan Magganas of Bruder, LLC.

I would also like to take this opportunity to record some of the troubled history related to the owner's relationship with the neighbors. Attached below are other documents related to this.

When Athan first came to own 6501 Shattuck Avenue, we had high hopes. Ever since we had moved to our house on 65th street 25 years ago, this prominent corner of our neighborhood had been an eye sore.

We thought Athan, with his development experience and financial means, was going to finally turn things around for the better.

We were so wrong.

Athan approached us in 2009 about the possibility of combining our own development project with his lot, and expanding the development we had approvals for. But we had already done an initial environmental assessment of his property and knew that it would require a lot of toxic remediation which would hamper the feasibility of any project.

The City had already limited us in 2006 to only 12 units where we had asked for up to 15. That, combined with the drop in housing prices in 2007, was already making our approved project unbuildable and the future units unaffordable. By 2009 when Athan approached us, the Muse was a thriving group house providing affordable housing to 15 people.

Instead of combining our properties, we offered to help Athan to create a good project and minimize costly delays. I personally wrote to our council representative, Jane Brunner, and encouraged her to work with Athan and CEDA to forgive previous liens on the property and do whatever possible to ensure a smooth review and clean up process. I also offered to introduce him to neighbors and hold public meetings in our community room at the Muse.

It was enlightened self interest on my part. I wanted to see a good project that offered affordable housing and knew that the way to achieve it on such a difficult site was to have an efficient process that saved the developer time and money.

I might as well have tried to go to the moon.

Despite my efforts to show Athan the right way to proceed, he manipulated and lied to everyone from the

start. But we were so trusting and hopeful that we didn't realize this until 2010 when he removed the corner building on the property without a demolition permit, asbestos control plan, or neighbor notification.

Six months before, in October of 2009, he had started to remove the underground tanks. Even though the work started at 11:00pm and created a noxious smell in the neighborhood for weeks, none of us questioned him or suspected that it was being done without approvals or environmental oversight as required by law. Athan had assured us in writing that he had obtained all the proper permits and we took him at his word.

Five months later while I was away on an extended trip, I received word from neighbors that the corner building was being demolished and that Athan had told them that I knew about it. Of course I didn't - I had been gone for four months already and Athan knew it. Still I gave him the benefit of doubt and wrote to ask what was going on. He wrote back saying that everything was fine, and that the very neighbors I had heard from were very happy and thankful.

That's when I realized I had been dealing with a sheep in wolf's clothing.

Everything was far from being fine. The City had issued three stop-work-orders that he had ignored and he was being fined for doing illegal work. There were no dust mitigation measures. The sidewalks were blocked and major demolition took place with no traffic re-routing plan to protect pedestrians and bikers. It was a mess and when one neighbor asked him what happened to the Stop-Work-Orders, Athan said he had wiped his ass with them.

This is the type of person we are dealing with here.

Even then I continued to try to steer Athan in the right direction. I warned that he was losing the trust of neighbors and asked him to provide us with the permit numbers that he was presumably working under. He never did.

It is now a documented fact that he never followed the proper procedures for any of the work. He didn't even have an environmental engineer on board until 2011. And he has continued to skirt around proper procedures which is why it has taken him 5 years to clean up the site.

Even so, when we returned from our trip in mid- 2010, I remained on friendly terms with Athan. I strongly encouraged him to reach out to neighbors and rebuild their trust by being forthcoming about his future plans.

Then finally in July of 2010, after months of dodging efforts to meet, he met with about 10 neighbors who had been involved up to that point to talk about the site clean up and future development plans.

At that meeting he gave us the impression that the clean up was being done under close supervision, and his development plans were in the pre-application process. We took him at his word and gave him comments about the design - mostly objecting to the height, scale, and impacts on neighbors. We also urged him to expand the neighborhood outreach since our group did not speak for the larger community.

It wasn't until a few days AFTER our meeting that we discovered that Athan had misrepresented everything - again. The drawings we all saw were already submitted to Zoning as a formal application - 9 days BEFORE our meeting with him - and he still did not have an environmental engineer on board for all the toxic work he was doing.

That's when neighbors completely lost trust and any hope of working with Athan, and actively started their own investigations into how the City and County had allowed for this dishonest property owner to continue obfuscating the regulations at the expense of the health and safety of the public.

It became clear that Athan is a savvy developer with a long track record of doing illegal work in multiple counties in the Bay Area, calling foul when caught, and becoming litigious when he didn't get his way.

Based on these findings, we asked the City to stop the processing of his zoning application until the clean up of the site, under proper environmental oversight, was done. The City Manager, City Attorney, Code Compliance Division, and Zoning came together to rescind the public notification for the development project.

During this same time period the project architect, Moshe Dinar made minor changes to the design (which still didn't alleviate the neighbors' concerns), and asked for my help in mending Athan's relationship with the neighbors. I told him that it was not my place to do so and expressed my concern that they had still not expanded their neighborhood outreach. I also expressed my discomfort in being used as a conduit between him and the select group of neighbors - especially given Athan's continued lies. Moshe assured me that Athan's misdeeds were in the past and that he is now being steered in the right direction. Although Moshe may not have been aware of it at the time, it is now a known and documented fact that Athan still did not have an environmental engineer on board and was continuing to do work without proper approvals.

Since then, Athan has become more hostile toward the neighborhood. He has refused to keep the property in good shape. He has deliberately let it be in a state of blight and blames us for the delays he has brought upon himself.

His motive is clear - he wants neighbors to feel that after the blight, anything else would be better - even a severely oversized building.

Now, it is surreal that after all this history of misrepresentations and obfuscations, his hastily submitted application from 2010 is being deemed complete.

It's not even the same application anymore. The original application from 2010 was a Planning Commission case. The project now is an administrative case.

There are many other oddities. The original application was submitted but not reviewed for almost two months afterwards. The regulatory clock was ticking but neighbors were never notified. We never had an opportunity to comment or advise on the incompleteness of the application before it was (erroneously) deemed complete. The architect and owner were instructed to do neighborhood outreach but it was left to them to devise what form that took; it turned out to be a limited and exclusive process that resulted in meeting with only a select group of people; and despite those neighbors' objections about the exclusion of other neighbors, staff agreed with the architect that the Planning Commission would be the forum for broader input. And now that's a moot point because the case is no longer going before the Planning Commission.

It just seems like a very unusual process that goes against the intent of the laws set in place for the purpose of engaging and protecting the public.

I sincerely hope that you will correct the course of the review process for this project and not allow this errant property owner to continue to bully the City and Neighbors into submission.

Furthermore, I hope that by now it is clear that the proposed project will not be good for the neighborhood. Aside from issues of scale and design, it will NOT provide affordable housing since the property owner wishes to recoup his costs for not only the construction of a very expensive building type, but also the costs of a lengthy soil remediation process.

Sincerely,

Guita Boostani
Architect
Homeowner
Adjacent Neighbor

1. List of Neighborhood Concerns / Design Analysis

I. DESIGN AND DEVELOPMENT IMPACTS

1. The 4-story building is too tall in a predominantly two- and three-story neighborhood. The proposed building is **44-feet tall** with a stair tower on the North side at \pm **51-feet** tall. As a comparison: the Nomad building is 38' tall; and the building on the north is 10-13 feet tall. The houses in the rear are one- and two-story bungalows that are about 22-feet tall at their highest peak.
2. The building scale and bulk are out of context with the surrounding neighborhood. The massing approach is additive rather than reductive - starting with an extruded box that covers almost the entire property and adding more building mass as "articulation". In addition, the four-story North facade, which will be very visible above the neighbor's one-story building, remains massive and without any detailing to scale it down.
3. The variance requested for covering the required rear yard setback adds to the already excessive size of the building, eliminates openness between buildings, and leaves no room for substantial landscaping between properties. The proposal is to build a podium structure (\pm 16.5' tall including guardrail) that is located within 7.5' of the required rear yard setback (where 15' is required). This reduced setback severely limits the potential for landscape screening if it is expected to reach 30'-40'.
4. The street character and pedestrian experience are negatively impacted by four-story walls directly on the property lines and multiple bay projections over the sidewalks.
5. Access to sun and light to neighboring properties and the street is severely impacted by the tall building massing along the perimeter of the site.
6. Privacy of adjacent neighbors is negatively impacted by the location of windows and the podium level common open space which will look directly into neighboring properties. The podium is located at the property line to the north (Muse), and within 7.5-feet of neighbors to the west. The floor level of the podium is \pm 14-feet above grade; additionally, the fourth-level decks are located within 18'-1" of the rear property line and are approximately 34-feet above grade.
7. The site plan does not show the protected Redwood tree (36" diameter) on the neighbor's property to the north (Muse), and in Section 6 of the Submittal Requirements incorrectly states that: "There are no existing Protected Trees anywhere on the subject property or within 10 feet of proposed construction activities (including neighbor's properties or the adjacent public right-of-way)

Construction activity is defined as: Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading or demolition. Along with the demolition of a building that is on the property line within 5 feet of the tree (with an illegal addition that encroaches into the neighbors property), the extent of new construction in that area will also have extensive impacts. This includes: a Concrete Masonry fence, 16.5'-foot tall walls, and paved driveway and parking within 5 feet of the tree. Additionally, the upper floors of the building are too close to the tree's canopy and would require severe and unattractive pruning to accommodate.

8. The Variance findings cannot be made: There are no unique circumstances that preclude adherence to the 15 foot rear yard setback requirement; strict compliance with setbacks would not preclude an effective design; the design severely impacts neighbors; and it would constitute a grant of special privilege that none of the other properties in the area have.
9. The Conditional Use Permit findings cannot be made: The proposal is not in harmony with the character of the neighborhood in terms of scale, bulk, and lot coverage; it will not enhance the neighborhood; and it will have a harmful effect upon desirable neighborhood character.

10. The Regular Design Review Findings cannot be made: The proposed design will not create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures; and it will not protect, preserve or enhance desirable neighborhood characteristics.
11. The design is inconsistent with the General Plan provisions for preserving sun, light, air, privacy, and open space, and minimizing impacts on neighbors.
 - General Plan Policy N3.9 Orienting Residential Development
"Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure"
 - General Plan Policy N8.2 Making Compatible Interfaces Between Densities
"The height of development in urban residential and other higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between the different types of development"
 - General Plan 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 and 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 effect 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."
12. The owner, Athan Magganas, has a history of doing substandard construction and using low-quality building materials. While his project architect may wish to apply high standards to the design, he will be at the mercy of an owner who has a history of making unauthorized changes during construction. We request detailed conditions of approval to be imposed, including a requirement for high quality finishes and materials, quality recessed windows, varied siding to break up visual monotony, and NO modifications to be permitted without public notice and review.
13. The owner, Athan Magganas has a history in the Bay Area of doing illegal work, disregarding the health and safety of neighbors, and becoming hostile toward reviewing agencies and neighbors who object. He is known to ignore stop work orders, incur fines, and sue various jurisdictions to get out of complying with regulations. We request that the Zoning Division perform additional inspections during construction to ensure compliance with the conditions of approval and to catch and remedy any violations of those conditions immediately.

II. MISLEADING INFORMATION

14. The latest plans still incorrectly show the relationship and configuration of the property on the north and west. (Neighbors pointed this out in the previous plans, as well.) Consequently, the site plan shows neighboring houses having larger footprints, less setbacks and smaller areas of open space than is the case. The site plan incorrectly shows the rear property line of the development to be in alignment with the rear property line of the properties to the north. However, there is a 5-foot jog near the northwest corner. As a result of this discrepancy, the buildings on the north are stretched by 5-feet, and the rear yards of the northwest are compressed by 5-feet. A correct rendition of the property boundaries and neighboring buildings would show how severely the project is out of context and impacting neighboring properties.

15. The building elevations do not reflect the slope of the site (2-feet between the front and the rear property lines) which will result in taller building walls near neighbors toward the rear of the site.
16. The rendering shows the adjacent neighbor to the North on Shattuck Avenue as being a two-story building whereas it is only a one-story.
17. The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden)-this will significantly add to the height of the building and impact neighbors even more.
18. The renderings show cafe tables on the sidewalks, however, the relatively narrow width of the sidewalks here (6'), and the building being on the property lines, do not leave enough space for this.
19. The applicant misleadingly notes that the 5' setback is per neighbors' request, when in actuality, the neighbors need a much greater setback at all levels to preserve their light, solar access and privacy.
20. The Applicant shows a single 6' fence at the property line on the Ground Floor Plan, yet shows a double fence in the Building Section.
21. The drawings show a restaurant at the ground floor but with no adequate space for trash cans, and other utilitarian spaces needed for such use.

III. GENERAL COMMENTS

22. We DO NOT support the grandfathering of this application under the old 4-story rules and challenge the "deemed complete" status. The original application was filed prematurely and incomplete.

Per State Government Code Section 65962.5 (f) "Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list." The applicant failed to disclose that the property was a toxic remediation site in Section 8 of the Application Form, Hazardous Waste and Substances Statement. The City rescinded the public notification and put the application review on hold until remediation of toxic soil was complete. The clean up has taken five years, mainly due to the owner having started work without permits and environmental oversight; he incurred further delays by continually trying to cut corners and being forced to go back and remedy his mistakes. Now, four years after the downzoning, it is unreasonable to apply the old standards to the application.

23. We DO support the development of affordable housing and unit density in our neighborhood provided that it is appropriate in scale and massing, and provides a more harmonious ratio of building to open space.
24. We would support a reduction of the number of parking spaces to reduce building bulk, allow for more open space, and increase opportunities for landscape screening between properties.
25. We request that the time period for comments be extended until more information and a complete application are provided.

IV. REQUEST FOR ADDITIONAL INFORMATION TO ASSESS IMPACTS

26. The owner needs to put up story poles to assess the impacts of such a large building.
27. The owner needs to provide shadow studies to show the impact on neighboring gardens. (Shadow studies should be done for 9a.m., noon, and 3 p.m. for the following dates: 3/21, 6/21, 9/21, and 12/21.)
28. The elevations and site plan need to show neighboring properties and buildings to demonstrate the relationship of the proposed building to the existing context, and how issues of scale, massing, open space, and privacy are being addressed.

V. INCOMPLETE APPLICATION

29. The variance justifications are not updated to reflect the latest design and fails to justify the elimination of rear yard open space.
30. The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, lot coverage, etc.
31. No application for Tree Preservation Permit for construction within 10 feet of the protected Redwood tree on the neighbor's property, as required by the Tree Preservation Ordinance. Section 6 of the Submittal Requirements incorrectly indicates that: "There are no existing Protected Trees anywhere on the subject property or within 10 feet of proposed construction activities ((including neighbor's properties or the adjacent public right-of-way)).
32. There are no photographs of neighboring properties.
33. The elevation drawings do not show adjacent houses.
34. Materials and Color Board were not submitted.
35. The survey is not stamped by a licensed surveyor.
36. Section 8 of the Application Form, Hazardous Waste and Substances Statement (which was never completed in the original application filing) remains blank. According to State law, as well as the instructions on the application form, this section must be completed before an application can be deemed complete. This section has never been, and is still not, completed.

VI. INCOMPLETE CITY FILES DURING PUBLIC COMMENT PERIOD

37. The project file that is made available to neighbors during the comment period is incomplete and does not contain many of the relevant documents that were generated since the application was initially submitted to the City in 2010, including letters from neighbors, previously rescinded applications on file notice, documentation for putting the previous application on hold; and evidence for deeming the previous application complete.

2. An abbreviated Timeline 2009-2015

6501 Shattuck Timeline

2009-2015



6501 SHATTUCK AVENUE
October 12, 2011

2009-2010

REMOVAL OF UNDERGROUND STORAGE TANKS

Without Proper Submittals

Drilling and site work started at 11 p.m. one night

1

Extensive Site Excavation with NO dust mitigation measures and NO Traffic or Site Safety Plans

EXCAVATED PITS LEFT OPEN & IMPROPERLY PROTECTED

Collected Pools of Water over the Winter

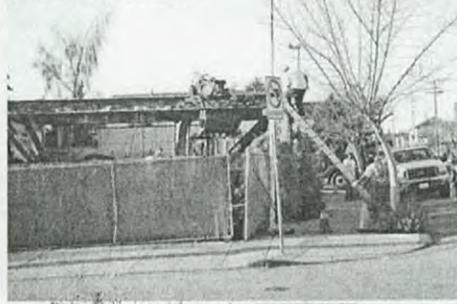
Emanated Toxic Smelling Fumes for Months

Multiple OFD Citations Ignored by the Owner

Sept-October 2009	<p>A Permit for removal of underground storage tanks was approved by Jessie Cooper in OFD, but according to Keith Matthews at OFD, <u>the Owner did not submit a required dust control plan</u></p> <p>Oakland Police responded to complaints about drilling and site work around 11 p.m. which had been going on for hours. The Police talked to the Owner's son who was parked outside in his truck, overseeing what was apparently the beginning of removing the tanks. The underground tanks were removed over a period of many days, creating strong toxic fumes and extensive disruption for blocks around the site, and for weeks afterwards. Tanks were removed during high winds, resulting in contaminated soil blowing over neighbors' houses. The holes were left open over the winter - collecting water and infusing the air with the smell of hydrocarbons.</p> <p>3 Months of No-Activity,</p>
January 2010	<p>After months of inaction on the site, neighbors complained to BAAQM, and OFD about toxic fumes emanating from the open pits.</p>
February 2010	<p>Fire Inspector Keith Matthews checks site and notices "swimming pools" not backfilled. Saw it as a "safety risk". What should have happened once the soil was found to be contaminated is that Athan should have backfilled the pits. Plastic material should have been draped into the pits, and clean material should have been put into place so that there were no holes in the ground.</p>
March, 2010	<p>Contaminated site referred by Fire Dept. to ACEH – Owner required to send unauthorized leak report and to wait for ACEH to come up with a work plan before anything is done.</p>
March 1, 2010	<p>Neighbors called Alameda County Mosquito Abatement re: water-filled excavation pits, which were breeding flies that swarmed the sidewalk, street and neighboring properties.</p>
March 3, 2010	<p>Neighbors complained <u>again</u> to OFD re: the toxic fumes emanating from the site.</p>
March 4, 2010	<p>OFD visits the site and notifies Owner <u>once again</u> that the pools are hazardous and must be backfilled.</p>
March 5, 2010	<p>Alameda County Mosquito Abatement had visited the property on 3/2/10 and applied a chemical to the pools of water to kill the mosquito larvae. (source: Maria Barra-Gibson from Jane Brunner's office)</p>

6501 Shattuck Timeline 2009-2015

6501 SHATTUCK AVENUE
ILLEGAL DEMOLITION OF FRONT BUILDING



3/17/2010

- Demolition without permits for the front building
- No Permit, No Notice, No dust mitigation measures, No Asbestos Survey
- No re-routing of pedestrian and bike traffic to protect them from hazardous conditions.
- Permit issued after-the-fact -- work described as only "Minor Demolition"

2010

UNAUTHORIZED DEMOLITION OF FRONT BUILDING
AGAIN With Incomplete Submittals
Multiple Violations Of Stop-Work-Orders
Hazardous and Disruptive Conditions
Extensive Site Excavation with NO dust mitigation measures
NO Traffic or Site Safety Plans

2

PERMITS ISSUED AFTER THE FACT

City allowed Fee Reductions and Expedited Processing

- | | |
|---------------------|--|
| March 17 - 18 2010 | Owner demolishes front building without permit. Neighbors complain to City after witnessing unsafe working conditions that posed a hazard to people walking on the sidewalk; Owner falsely claims that a building permit was not required for demolishing the front building because it was condemned by the City as a hazard and its demolition was part of the remediation process. The City disagrees and Martin Florez issues a Stop-Work-Order. / Fire Dept refers matter of open pits to CEDA. (source: KM). |
| March 18, 2010 | Owner falsely claims that a building permit was not required for demolishing the front building because it was condemned by the City as a hazard & that its demolition was part of the remediation process. The City disagrees & Martin Florez issues a Stop-Work-Order. Owner ignores Stop-Work Order and continues with unauthorized demo. |
| March 19 - 20, 2010 | City has to issue another Stop-Work-Order... Owner ignores second Stop-Work-Order and again continues his unauthorized demolition of the building. Neighbors complain to the City again. |
| March 24, 2010 | Adjacent neighbor sends e-mail to Owner asking for permit information but the Owner ignores the request. |
| March 24, 2010 | City issues a demolition permit after the fact for an already demolished building (Permit # RB1001041) The work is understatedly described as "light demo of canopy and supply office." Neighbors are not informed by the City of the Permit application, nor that it was approved. |
| March 25 - 26, 2010 | Owner continues demolition without additional measures for public safety. When a neighbor (CH) asks the Owner what happened to the Stop-Work-Order, he gestures: "I wiped my ass with it." |

6501 Shattuck Timeline

2009-2015

2010

3

RUSHED ZONING APPLICATION - INCOMPLETE SUBMITTAL
Requires Multiple Variances for Building Bulk and Setback Encroachments
Use Permit for Density
Failure to Disclose Ongoing Toxic remediation
Public Notification Rescinded
Zoning Application Put On Hold Pending Clearance Letter from ACEH

July 12, 2010	Owner Submits Zoning application to beat the deadline for reduction of height limits in the area. (CDV10185) The application requires multiple Variances for excessive size, substandard setbacks and open space. Neighbors do not learn about the application being filed for another few weeks.
July 21, 2010	The Owner and his architect meet with a small group of neighbors to show their design proposal, which they portrayed as being only in a pre-application stage. Owner fails to mention that an actual Zoning permit had already been filed just the week before.
July 23, 2010	Neighbors contact Ann Clevenger about the case and find out that there is an actual permit filed. Neighbors express concern that community outreach has been selective and excludes many neighbors within the notification radius, noting that we do not speak for the neighborhood and don't want to be perceived as having compromised anything in exclusive meetings.
October 2010	Owner's Architect asks for a meeting with small group of neighbors to present revisions. Neighbors request that such a meeting include the larger community given that there was already an application filed. The Owner and Architect strongly declined. Planning Department ends out letters Rescinding the Public Notification Period; Put s Application Review on hold pending clearance letter from the County certifying that the site is clean.

January-June 2011

ILLEGAL SIPHONING OF TOXIC POOL WATER INTO THE SEWER SYSTEM
Owner Drains Toxic Pool Water via hose leading into the building
OFD Contacted Numerous Times
City and County Both Give Neighbors the Run Around

4

*APRIL 14, 2011: ZONING CHANGES FROM 4-STORIES TO THREE *

January 2011	Owner's son, George, is seen draining toxic water into the sewer. OPD is called in. 6 Months of No-Activity, then:
July 2011	Owner is again seen draining toxic water into the sewer in preparation for additional drilling - Neighbors take pictures - OFD is called in - lieutenant Gregory Bell came out and said he was "shocked" by the conditions and said he would write a report. Neighbor (GB) calls the Owner's Environmental Engineering consultants (SOMA) to ask if they were aware that contaminated water was being drained down the sewer. Senior Staff Geologist, Erica Fisker, said that they were unaware of the work. She said that their company only got involved the previous fall (2010) - a year after the tanks were removed. She also said that they have asked the Owner for permit documents for removing the tanks but he had not provided the information.

July 27, 2011	Neighbor (VN) sends public record act request to OFD asking for evidence of permits for reviewing Underground Storage Tanks. To date, OFD has not responded to this request.
---------------	--

6501 Shattuck Timeline
2009-2015

OCTOBER 2011

5

EVEN MORE EXCAVATION WITHOUT PROPER MEASURES
AGAIN NO dust mitigation Measures and NO Traffic or Site Safety Plans
Owner Takes Advantage Of The Piecemeal Processing Of Permits
Creates Confusion And Gives Vague Information -
Circumvents Public Safety Regulations To Cut Costs

CITY AND COUNTY FAIL TO PROVIDE OVERSIGHT AND ENFORCEMENT

No Conditions of Approval
Incomplete Files at OFD and Inspection Services
Grading Permit and Drawings are NOT Available for Neighbors Review

CITY COUNCIL UNANIMOUSLY VOTES NOT TO FORGIVE FINES

- October 13-15, 2011 Extensive grading and excavation of toxic soil - without any notice to neighbors. Massive amounts of dirt piled even higher on the site.
- October 14, 2011 Neighbors (GB / SG) try to get a hold of the grading permit plans and approvals to see if the work is according to approved permits and conditions. The City Inspection Services and OFD cannot find the files. They are told to come back on Monday to speak to the Inspector, Cliff Ray.
- October 17, 2011 Neighbor (SG) goes to the City again to see the Inspector. Jeff Hutcher said they don't have grading permit drawings or application information and referred us to County Health Department. According to CEDA Inspectors (CR/JH), the Owner is currently seeking an Alternate Method Request (AMR) to allow for wet weather grading. city attorney's office sent Keith Siegel to the city council asking to settle the lawsuit with Magganas. Jane Brunner, our council member at the time, brought us in to a closed-door session of the council so that we could testify. The council then unanimously voted to not settle.
-

OCTOBER 2011

6

UNKNOWN HAZARDOUS MATERIAL HAUL ROUTE AND DUMP SITE

Neighbors follow dump truck to an unauthorized location, which was never entered on the manifest. Neighbor (GB) talks to K. Paresh at ACEH, who expresses doubt and frustration at the idea - advises we wait until owner submits report to see what the Owner attest to. Another neighbor (VN) contact the County DA to discuss potentially bringing criminal actions against Athan.

6501 Shattuck Timeline
2009-2015

2012-2013

7

PERPETUAL VIOLATION OF THE BLIGHT ORDINANCE
SITE IS NOT SECURED
BUILDING IS NOT SECURED
ATTRACTS ILLEGAL DUMPING AND SQUATTERS

8

2013

MEETING WITH NEW CITY COUNCIL REPRESENTATIVE
CODE COMPLIANCE ACTIONS SUSPENDED
NEIGHBORS' COMPLAINTS ARE REFERRED TO CITY ATTORNEY
PEOPLE NOT FAMILIAR WITH THE CASE
CITY ATTORNEY'S RESEARCH SHOWS SERIOUS GAPS IN INFORMATION

9

2014

MULTIPLE UNSUCCESSFUL ATTEMPTS BY NEIGHBORS TO MEET WITH ZONING
COMPLAINTS TO CITY ABOUT UNSECURED PROPERTY AND SQUATTERS
PROPERTY OWNER REFUSES TO BOARD UP BUILDING AND LASHES OUT AT
NEIGHBORS

* Alameda County Environmental Health sign off on the Toxic Remediation *

10

2015

FOUR-STORY DEVELOPMENT PROJECT IS RESURRECTED
CITY DETERMINES PROJECT IS SUBJECT TO OLD ZONING RULES

3. Photos of Violations during Toxic soil remediation of the property (2009-2014)

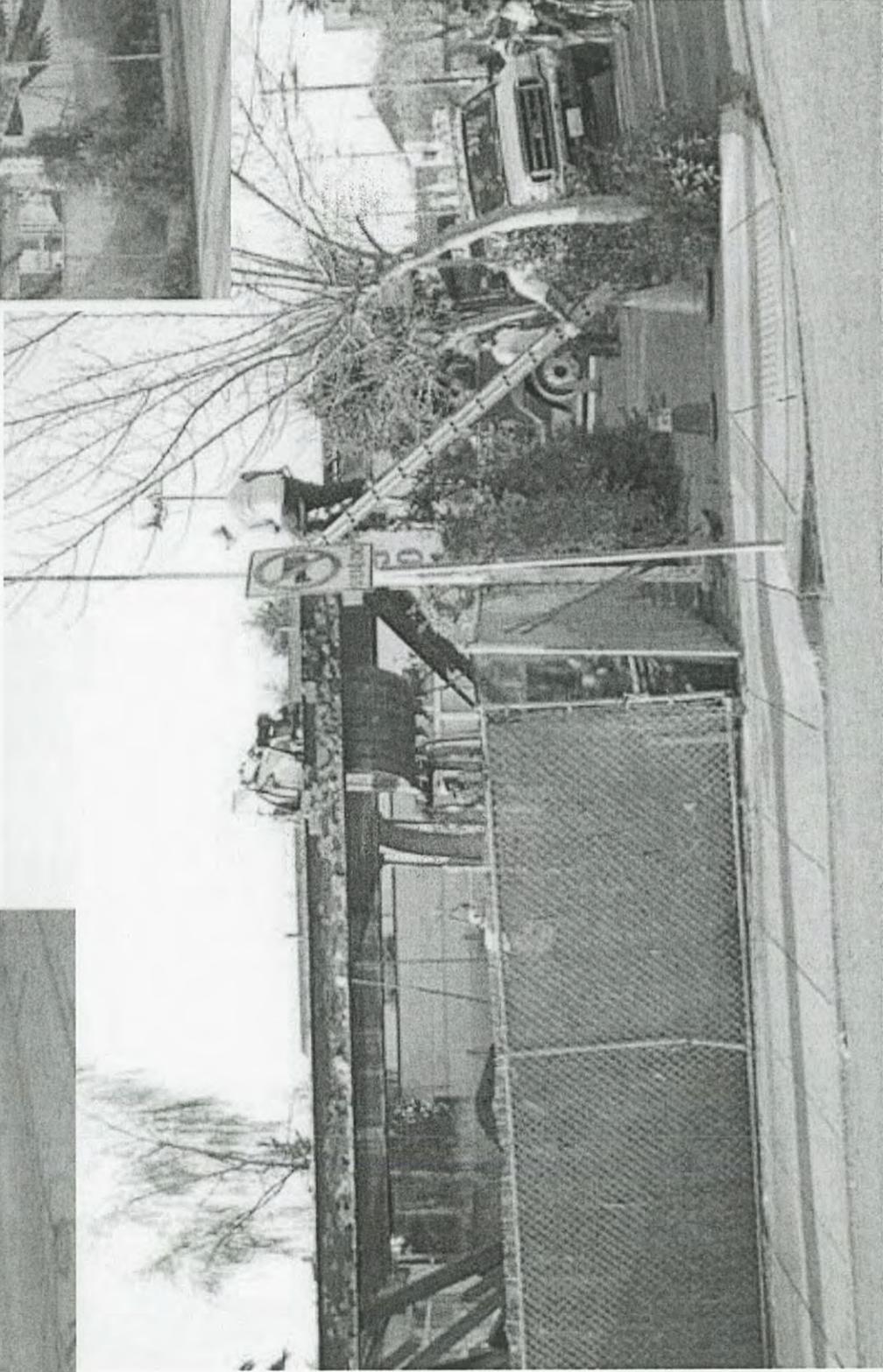
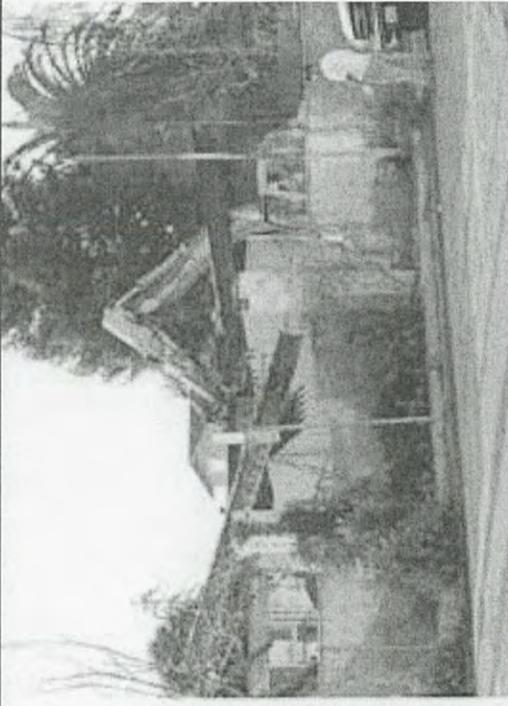


REMOVAL OF UNDERGROUND STORAGE TANKS WITHOUT PROPER PERMITS OR ENVIRONMENTAL OVERSIGHT

work began late at night and without regulatory and environmental oversight as required by State law, which resulted in strong toxic fumes in the area for weeks, endangering public health.

Site work stopped while Owner obtained permits / hired SOMA Environmental Engineers in 2010

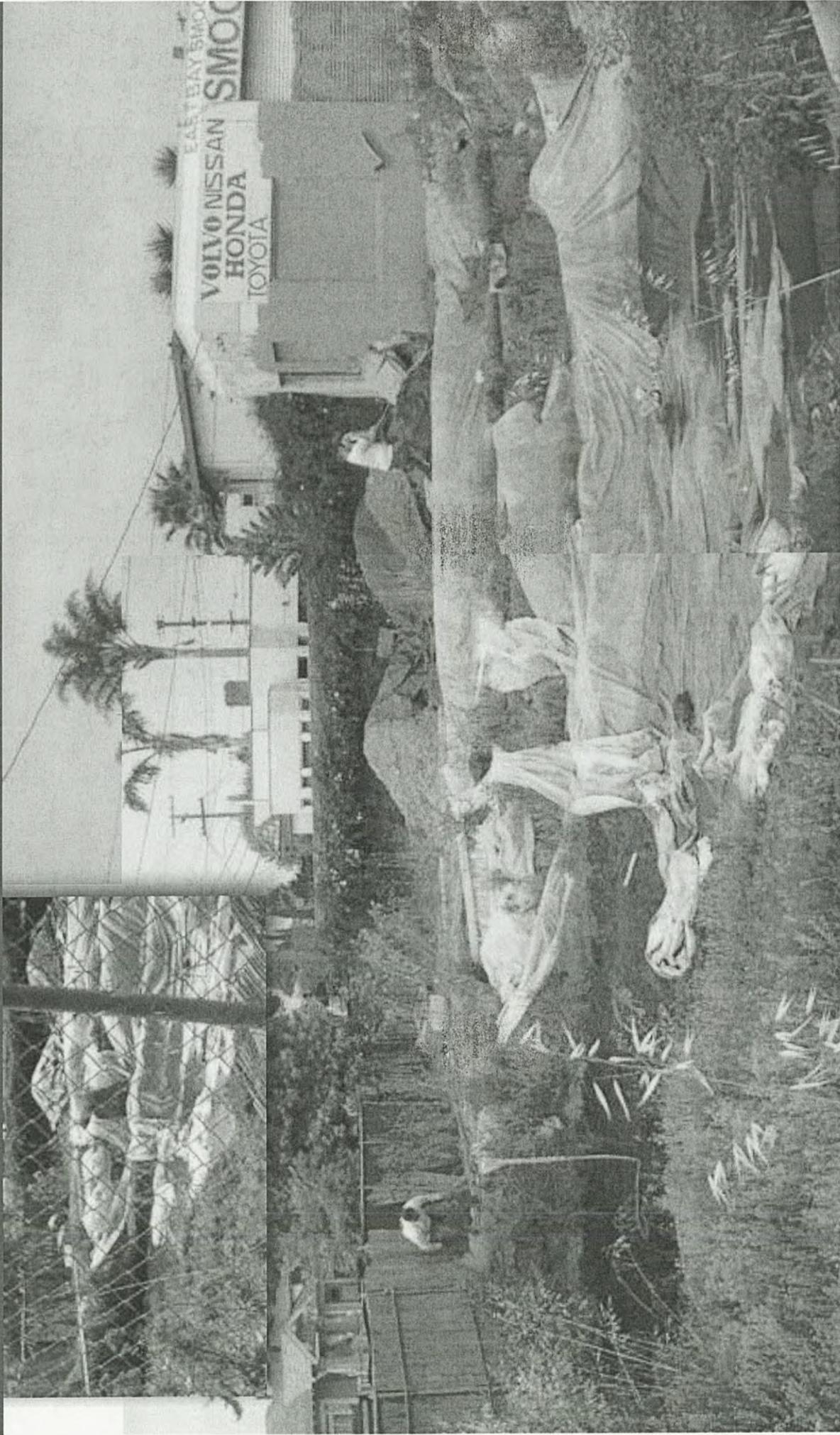
6501 SHATTUCK AVENUE VIOLATIONS



DEMOLITION OF THE CORNER BUILDING WITHOUT PROPER PERMITS
No notification to neighbors, traffic re-routing measures, safety precautions, dust control measures,
or the required asbestos survey and remediation.

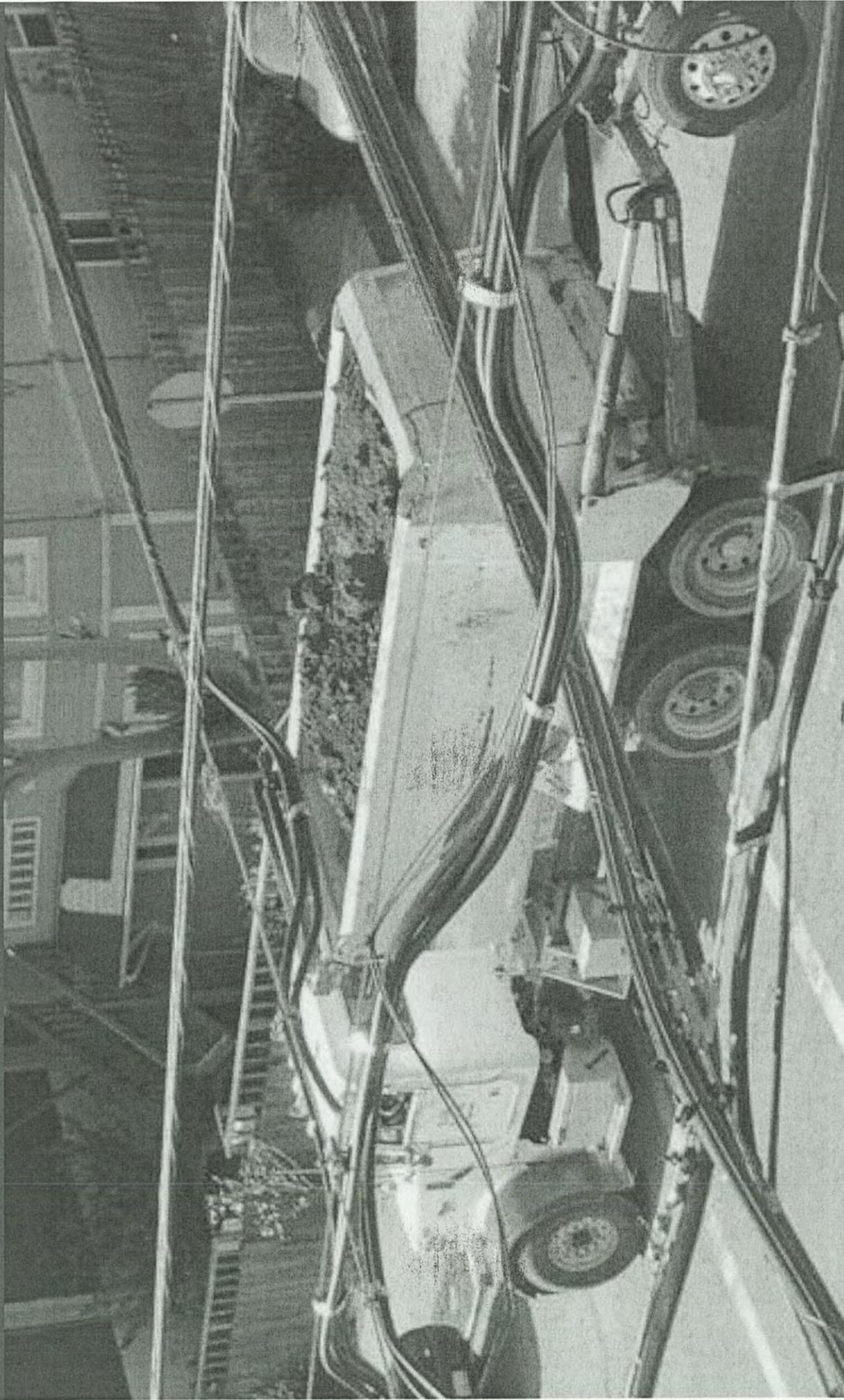


CONTINUED DEMOLITION IN VIOLATION OF MULTIPLE STOP-WORK-ORDERS ISSUED BY THE CITY
Permits were issued after the fact; the work was described as: "Minor Demolition"



ILLEGAL SIPHONING OF TOXIC POOL WATER INTO THE SEWER SYSTEM

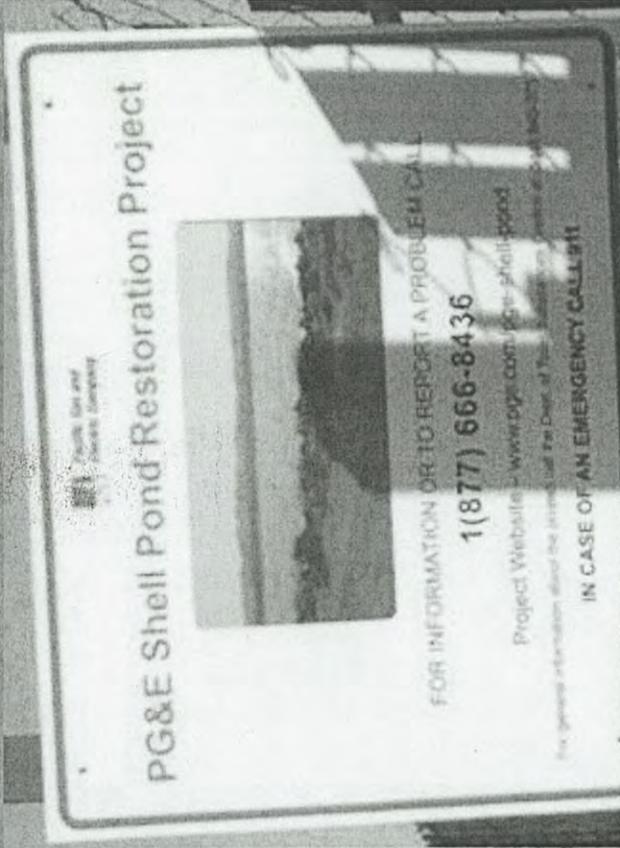
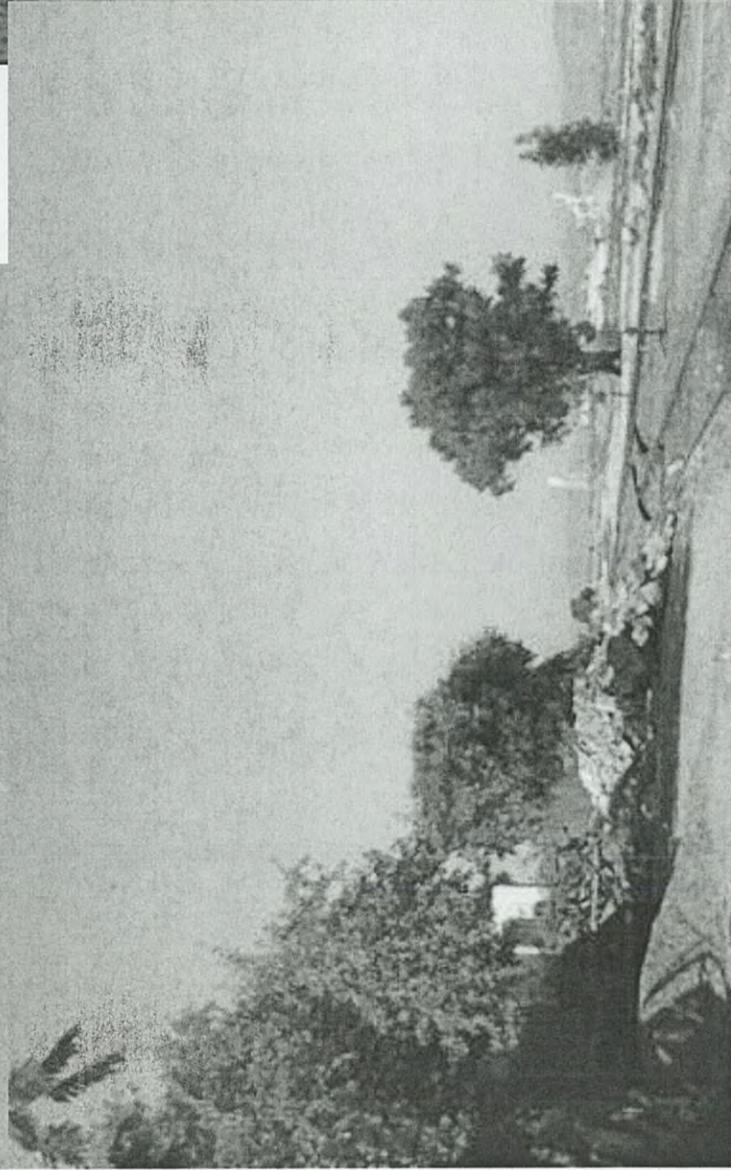
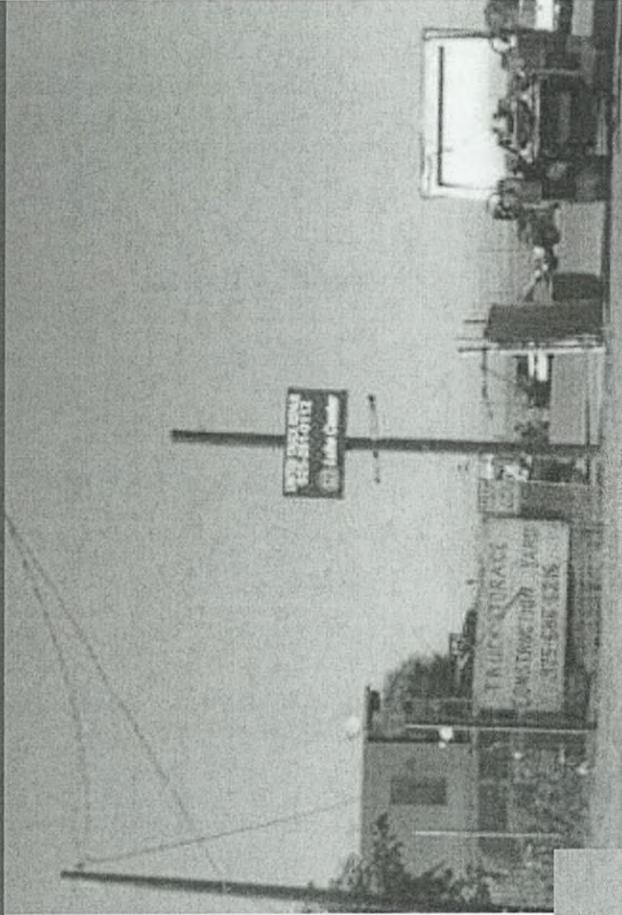
Owner Drains Toxic Pool Water via hose leading into the building
Reported to the Oakland Fire Department who sent out an inspector



IMPROPER HANDLING OF TOXIC SOIL
Trucks routinely left the site with the soil left uncovered, and much of the work took place on high-wind days, jeopardizing the health and well-being of the public.

Picture was taken on October 21st, 2011

6501 SHATTUCK AVENUE VIOLATIONS

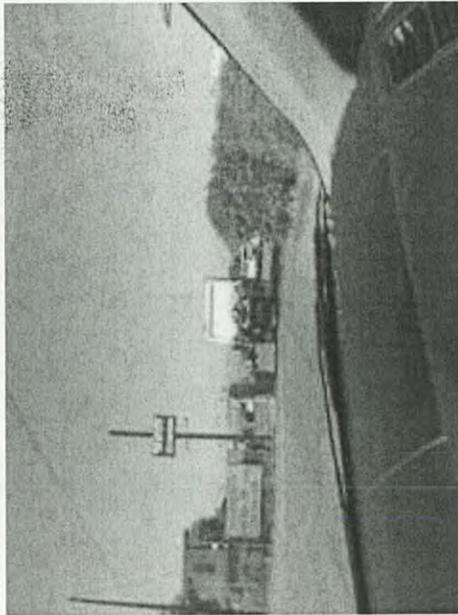


UNAUTHORIZED AND UNDOCUMENTED HAULING OF HAZARDOUS MATERIAL

Contaminated soil from 6501 Shattuck was taken to an unlicensed site in Bay Point adjacent to a PG&E Shell Pond Restoration Project; this stop was not recorded on the Waste Manifest as required by law. (see Next Exhibit)



1) 10/13/11 @ 1:11 p.m.
Truck #600 Left 6501 Shattuck



2) 10/13/11 @ 2:09 p.m.
Truck #600 Stops at 825 Port Chicago Hwy
Bay Point, CA 94565

SCALE TAGS *2011*

POTRERO HILLS LANDFILL
A Waste Connections Company

NON-HAZARDOUS WASTE MANIFEST

GENERATOR INFORMATION
 Generator Name: BRUBER, LLC Billing Name: BRUBER, LLC
 Address: 2159 APPALACHIAN WAY STE 201 Address: 2159 APPALACHIAN WAY STE 201
 City: JENSEN County: CENTRAL CO. City: JENSEN County: COOSIA
 State: CA Zip: 94546 State: CA Zip: 94544
 Site Location (if different): 220 BALESTRAKASE, PALMISANO, CA

CUSTOMER BILLING INFORMATION
 Generator's Authorized Agent Name: WES BRUBER, LLC Signature: [Signature] Date Shipped: 10/11

TRANSPORTER INFORMATION
 Transporter Name: Calden Trucking Date: 10/13/11
 Transporter Address: 2045 CHATELAIN BLVD Truck Number: 600
PALMISANO, CA Phone Number: 925-766-6738

I certify no hazardous waste or other regulated substance was knowingly transported to this waste while in my custody. The waste transported in this vehicle is the waste described herein to the best of my knowledge.

DISPOSAL SITE INFORMATION
 Site Name: POTRERO HILLS LANDFILL, INC. Site Address: 2075 POTRERO HILLS BLVD, RICHMOND, CA 94801
 I hereby acknowledge receipt of the above-described materials. Signature: [Signature] Date Received: 10/14/11

Approval #	Description of Waste	Volume/Weight	Expiration Date	Container Type
PHF10015	PROFILE SOIL-AUX <i>(Profile material on 10/11)</i>	900 TNS	01/03/2012	

I hereby certify that the above-described generation, transportation, and/or disposal of this waste is in compliance with all applicable state laws. Penalties for the above waste of materials are property, classification, storage, packaging, manifest and handling, and are in proper compliance for transportation according to the appropriate regulations of the Department of Transportation.

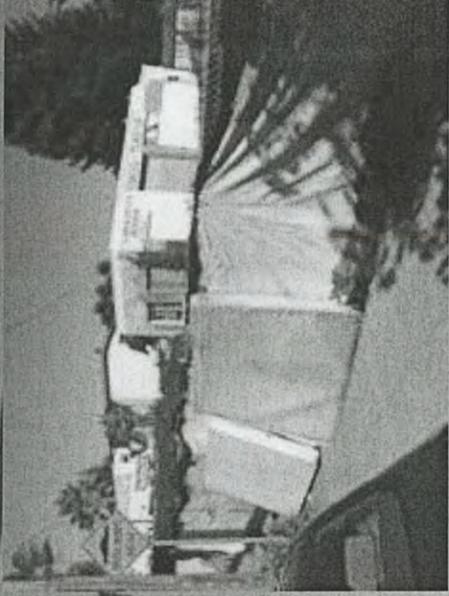
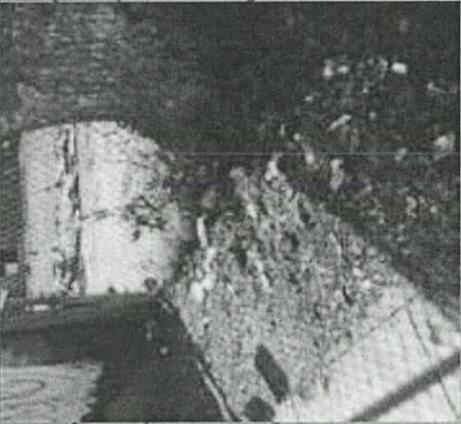
3) Manifest Shows Truck #600 delivering its load on 10/14/11

Waste Manifest contains numerous inconsistencies which call into question whether soil was properly disposed:

- a) The Waste Manifest shows that Golden Trucking #600 DID NOT LOG IN its stop in Bay Point (on 11/13) and it delivered its load on the following day (11/14) with no indication of what happened to it over night.
- b) according to this Manifest, the load was delivered the next day - even though several other trucks (#8 and #9) are shown in the Manifest as having left later that day, and delivered their load on that same day, not the day after;
- c) this document is marked as Load #5, but in the report it inconsistently

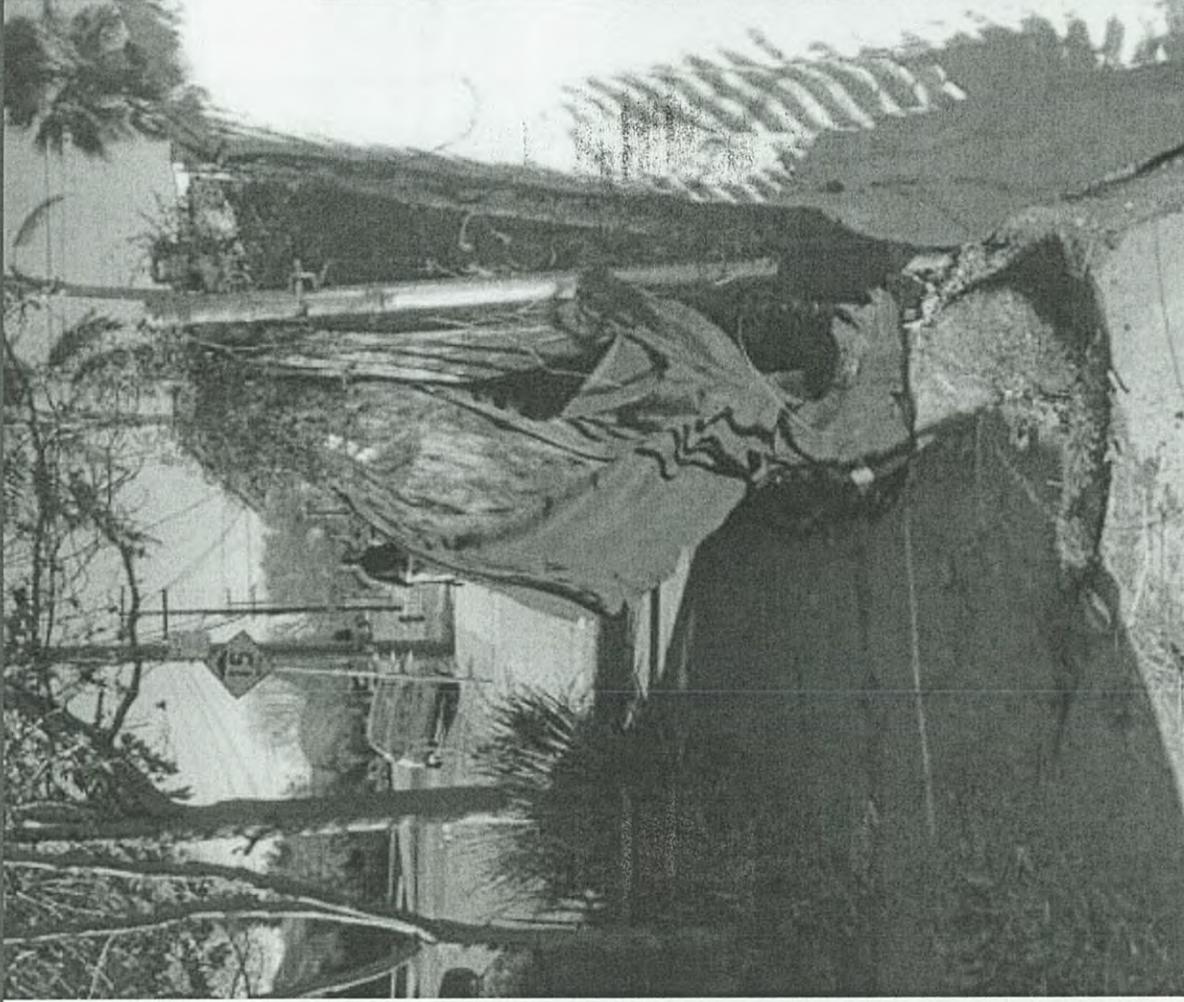
INCONSISTENT INFORMATION IN THE WASTE MANIFEST
UNAUTHORIZED AND UNDOCUMENTED HAULING OF HAZARDOUS MATERIAL
Owner's self certification for handling of contaminated soil is highly suspect

6501 SHATTUCK AVENUE VIOLATIONS



PERPETUAL VIOLATION OF THE BLIGHT ORDINANCE

Owner refuses to take responsibility for keeping the property in good condition
The unsightly conditions attracts graffiti and illegal dumping
Surrounding sidewalks are littered with garbage, and landscape debris left by the owner's workers
Graffiti is painted over with non-matching paint which adds to the unsightly appearance



PERPETUAL VIOLATION OF THE BLIGHT ORDINANCE CREATES HAZARDOUS CONDITIONS FOR NEIGHBORS

Sidewalks are made hazardous by loose tarp and debris that block passage for pedestrians;

Unsecured building attracts squatters; neighbors have reported odors and smoke coming from the building;

Owner ignores pleas from adjacent neighbors to board up the building, thereby continually jeopardizing their safety;

City services are wasted as they are forced to continually deal with the blighted conditions.

4) List of the property owner's other Violations in Alameda and Contra Costa Counties:

ATHAN MAGGANAS / Brudder LLC, Maxaco LLC
VIOLATIONS AND LEGAL ACTIONS FOR BLIGHT AND ILLEGAL CONSTRUCTION
THROUGHOUT THE BAY AREA

<http://elevatorconversations.blogspot.com/2006/04/pleasant-hill-sues-brothers-to-have.html>

Pleasant Hill Sues Brothers to Have House Razed

Contra Costa Newspapers

Dec. 11, 2002

"Nine times out of 10, property owners comply over a period of time," said City Attorney Debra Margolis. "But this is the first time in my eight years here that we've had to file a lawsuit to do it."

<http://www.leagle.com/decision/ln%20CACO%2020120124027>

Oakland: MAGGANAS v. CITY OF OAKLAND NO. A131347.

Court of Appeals of California, First District, Division Two.

January 24, 2012.

"In the course of this construction, and more specifically during the period from November 2007 through 2008...the City assessed fines and other fees against the property ... for the purpose of monitoring and correcting blight during the course of a development project....Those fees totaled "in excess of \$53,000...The judgment is affirmed."

<http://leagle.com/decision/ln%20CACO%2020130829018/BRUDER,%20LLC%20v.%20CITY%20OF%20OAKLAND>

Oakland: BRUDER, LLC v. CITY OF OAKLAND NO. A136256

August 2013

"The hearing officer also found Magganas had engaged in "either subterfuge or studied ignorance" in his testimony regarding the continuing existence of code violations, concluding Magganas either was not "genuinely confused" about the existence of violations or was confused only because he was unfamiliar with the property and "kept his eyes closed to avoid seeing any problems while he was there." According to the hearing officer, photographs of the remaining building, taken in 2010, showed evidence of occupancy and various violations, "notwithstanding [Magganas's] denial or claim of ignorance."

Appeal: Imposition of Lien; Maxaco LLC, Property Owner of 3049 Adeline/1909 Essex Street, Berkeley CA

November 2014

Berkeley: Imposition of Lien; Maxaco LLC, Property Owner of 3049 Adeline/1909 Essex Street, Berkeley CA (The Historic Marmot Mountain works Building)

"Maxaco LLC constructed a building addition without a permit at the rear of 3049 Adeline / 1909 Essex Street. The Building and Safety Division issued two Notices of Violation and Orders to Correct in January 2013. Based on the owner's failure to comply with those notices, six monthly administrative citations were issued. The owner failed to remit the fines or appeal the citations and the owner was notified of the City's intent to impose a special assessment lien for the outstanding citations of \$26,600."

http://www.contracostatimes.com/contra-costa-times/ci_27190118/concord-allegedly-ignoring-bedbugs-bites-landlord-judge-issues

Concord: Allegedly ignoring bedbugs bites landlord; judge issues arrest warrant

December 2014

"Since April, Magganas has ignored multiple violation notices and fines totaling \$800 from the city for failing to exterminate bedbugs in two apartments in his 20-unit building at 2175 California St., according to Concord police records."

Clevenger, Ann

From: pamela crawford <pamela.crawford@comcast.net>
Sent: Monday, January 19, 2015 2:24 PM
To: Kalb, Dan; Clevenger, Ann
Subject: STOP 65th & Shattuck case file # CDV10185!

STOP permits for NW corner 65th & Shattuck!

The building proposed (and permitted through some smoke & mirrors "technicality") is a monstrosity, completely and totally unsuited to the neighborhood it's sited for, a blight on the neighborhood. Maybe some developer's and architect's wet dream, but a blundering mistake on the part of the City employees whose job it is to keep Oakland livable.

It's inappropriate, an eyesore, and going to attract more crime and vandalism.

This is not New York City. If I wanted a building like that on my block I'd have moved to NYC.

What kind of demented building & planning dept. permitted a building so out of proportion to the neighborhood? Were they not thinking, or only thinking of their own pockets? It smacks of good old fashioned payola, baksheesh, bribery.

The zoning here is for 3 stories at the most. For a reason.

This is a wretched building. It belongs in an industrial or warehouse district like those in West Oakland, not on the border of Berkeley.

This lot has been blighted for years. It attracted another blighter. That kind of developer can take it to San Pablo Ave. where the other cookie cutter insta-condos are being whipped up in a city whose council member actually said "Emeryville will look like New York City in 10 years" because of lack of zoning and planning controls. All precedented and predicated on that big white testosterone tower allowed to be built in the 60's next to the freeway, completely out of context with anything but, say, Singapore or Hong Kong.

Are you looking toward the Hong Kong-ization of Oakland? Sure seems like it.

Please put a stop to this atrocity and demand an appropriate plan and building for that frequently trafficked corner lot which the owner has allowed to attract vermin, pollution, and mosquitos for years. He's obviously irresponsible and arrogantly impervious to concern for anyone but himself, his profit, and who he can con into getting his way.

If you allow this building, then, Congratulations. He won, you and all of Oakland loses. And you've stamped yourselves forever as the money whores, time wasters, sell-out, trouble makers, obstructionists and do-nothings that you and your departments can sink to.

Step up and show some concern for the citizens of this fair city, please and do the right thing.

Pamela Crawford
Broker, Best & Co.
(510) 655-4781

Clevenger, Ann

From: Paul Tillman Smith <chumpchange@lmi.net>
Sent: Thursday, January 22, 2015 1:12 PM
To: Clevenger, Ann
Subject: proposed four story building/ case file CDV10185

I don't see any lower level parking? That corner is pretty condensed already. I am already having a problem parking in front of my house in that neighborhood. That is a pretty small lot for a four story building. Looks like retail on the bottom. Well everybody in the neighborhood can kiss goodbye any front home parking tranquility. Might as well move to Japan and live in a box. By the way the original owner of that lot thinks all Black women should be domestics. Heard him refer to Black women as Auntie Buelah's on a pancake box.

Clevenger, Ann

From: Suzannah Cowell Rodriguez <suzannahcowell@gmail.com>
Sent: Friday, January 30, 2015 1:18 PM
To: Clevenger, Ann
Cc: Kalb, Dan; David Rodriguez
Subject: 6501 Shattuck Ave; Case File # CDV10185

As a resident of North Oakland on 65th Street, I'm writing regarding the proposed 4 story building on the northwest corner of 65th and Shattuck. I understand that due to a technicality the city is allowing this 4 story building in our neighborhood which is only zoned for 3 stories. I think a 4 story building would be detrimental to our neighborhood in many ways - aesthetic, crime, and traffic, and parking (to name a few). As such, I and am very opposed to the project.

I realize that the public comment period ended earlier this week, but hope you will still consider my input in your deliberations.

thank you,
Suzannah Rodriguez
780 65th Street, Oakland, CA 94609
773-255-4170

2015 1:18 PM

2015 1:18 PM

Clevenger, Ann

From: Ben Goldstone <bengoldstone@hotmail.com>
Sent: Monday, January 26, 2015 3:59 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: NW corner of 65th and Shattuck

I live next to corner of Shattuck and Alcatraz and am strongly opposed to proposed 4 story bldg on NW corner of 65th and Shattuck Case File # CDV10185. It is zoned for only 3 story property

Building would be far too big. The developer has questionable process. He should be reviewed carefully

Ben Goldstone
510-882-2100

Clevenger, Ann

From: V. Carpenter <toriac0@gmail.com>
Sent: Friday, January 30, 2015 5:24 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: re: Proposed Building on 6501 Shattuck

This email is concerning the building proposed at 6501 Shattuck Ave. Case File Number: CDV10185.

I live on 65th street and the proposed building is a monolith which I don't want on my street. It is totally out of proportion and relates to nothing in the neighborhood. It is a hideous monstrosity.

Yes, we need more housing ..The East Bay is becoming denser which is all the more reason for the city to create a comprehensive design plan for our neighborhood. . We need smart housing in a neighborhood that is walkable, bike-able. We need a plan that includes green space, is environmentally sustainable and inviting.

Please do not allow this monolith to be built ...!!

Victoria Carpenter
779 65th
Oakland 94609

510 655 6561

Clevenger, Ann

From: Jochelle Pereña <jochelleelise@hotmail.com>
Sent: Sunday, January 25, 2015 10:31 PM
To: Clevenger, Ann; Kalb, Dan
Subject: 6501 Shattuck Avenue - Case File Number (CDV10165)

Dear Ms. Clevenger,

I am a resident of 6525 Shattuck Ave writing with my concerns about the 4 story building proposed at 6501 Shattuck, directly south of my home.

I moved to 6525 Shattuck Ave, a community also known as the Shattuck Muse, 7 years ago with my husband. I currently live with 15 other adults and 2 toddlers (one of whom is my own). We have chosen to stay here - and to birth and raise our daughter here - because we've felt that we can be a part of something unique and special in building community in an urban environment.

One of the essential and central elements in building our community has been our backyard. Here we host weekly potluck barbecues, often inviting neighbors, family and friends to sit around the fire pit and share stories. Here we have rehearsed and performed small theatre and dance shows, organized fundraiser parties for friends who have experienced hardship. Here I've celebrated big milestones in my own and my housemates' lives: birthdays, graduations, new jobs, holidays. Here we've worked hard together to cultivate a garden from what was a dry patch of scraggly grass and hard-packed dirt full of broken glass - now full of kale, tomatoes, salad greens, kohlrabi, and herbs that feed our house. Here is where we dry our laundry. Here is where we can find a quiet spot to rock a baby, read, write, enjoy the sunshine. Here is where my daughter plays every day, feeding the chickens, observing the bugs, learning about plants. We live on a dusty, busy street, full of traffic and noise, but our backyard offers a private and tranquil respite and haven where I feel safe, and where I feel like my daughter is safe.

I am deeply concerned about the proposed building that would jut up to be flush with our backyard fence line and tower over our backyard at 4 stories - much taller than anything else in our neighborhood (our own home is 1 level). The sunlight that nourishes our garden, dries our clothes and draws us out into the backyard to be together would likely be eliminated as the new building would block it out. Windows from this building would peer directly into our backyard, and we would no longer have any privacy, but rather would be on display. Our backyard would shift from being the most valuable space in strengthening our community, to a place where we would not feel 100% comfortable, even in our own home.

These are the points that concern me personally, but this proposed building would have a deep impact on the entire neighborhood. It will be larger and taller than any other building here. It will house retail spaces and parking. It is so very different from the smaller scale homes and locally-owned shops that this area is known for.

Before the approval of any building proposals at 6501 Shattuck, I request the following steps:

- implementation of story poles so that current residents of the neighborhood can visualize the size of the building
- shadow studies be completed and presented so that the impact on solar access can be understood
- additional time given to completely understand the impact of this building on the neighborhood
- strong consideration that the proposed building follow the current zoning of 3 stories

Thank you for your consideration, and for helping us protect our unique neighborhood.

Jochelle Pereña

resident of 6525 Shattuck Ave

Jochelle Pereña
Co-Director, Co-Choreographer of The Thick Rich Ones
thethickrichones.org

Clevenger, Ann

From: Amanda B. Elder <amandabe@gmail.com>
Sent: Sunday, January 25, 2015 10:52 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Regarding 4-story bldg proposal 6501 shattuck ave

Case file # CDV10185

Thank you for hearing and considering my comments on the 4-story bldg proposal at 6501 shattuck ave. I live next door as a renter and my apt and carpark are right along the property line. I have never received, nor has my landlord Claudia Mall received any notification regarding construction nor what means the toxic materials have been disposed and whether it was contained enough to harm me or my neighbors. I'm concerned about the demolition of the brick building that stands on the property line and how the proceedings will take place. Based on the covert actions of the owner, I assume the demolition will not involved proper oversight for asbestos or other hazardous materials that lie within that building or surrounding lot.

The height of the building is absurd and does not make sense for the surrounding neighborhood. I'm concerned about this owner's poor track record for not taking care of his properties, obtaining proper permits and oversight, and lack of concern for the community needs for buildings appropriate to the surrounding neighborhood. All the construction and various activity that has occurred on the lot so far has been a nuisance.

Amanda Elder
720 65th St.
Oakland,CA

Clevenger, Ann

From: Stefanie Stowers <sjstowers@gmail.com>
Sent: Sunday, January 25, 2015 11:47 PM
To: Clevenger, Ann
Subject: Proposed Building at 6501 Shattuck APN: 016-1428-011-02 Case #CDV10185

Dear Ms. Clevenger,

I am writing this letter in response to the building proposal of a four story apartment complex in the planning process for 6501 Shattuck Avenue in Oakland.

As a resident of the neighboring household, I am inclined to request that this proposal not move forward into execution. This neighborhood is not equipped to accommodate a structure of this stature and along with it the additional parking requirements for its residents and the owners prior track record of negligence.

It is one thing to build something that will bring more beauty and community to the neighborhood, but to implement a monstrous structure in such a small space is infringing on the zoning laws of this neighborhood and what makes North Oakland beautiful and welcoming. Not to mention the tragic imposition on our neighboring property which currently houses families, young children, students, chickens and a self sustaining garden.

Not only do we want to keep our garden and our privacy, we want to see the neighborhood grow in a more contemporary way. Building something that makes fast money has never worked in anyone's favor but the contractor/landlord. What could this neighborhood possibly benefit from fewer parking spaces, more waste, more water consumption and eventually complaints of poor living conditions?

Don't bury the community in tall buildings, enrich the community with more community housing spaces like The Muse, more parks and restaurants or even a space for food trucks to park daily to accommodate the foot traffic and weekend flea market patrons. There are many alternative options to the 4-story building and I urge you to review, research and re-evaluate this plan.

Let's keep the sun shining in all parts of Oakland. Let's remain aware of the impact of our actions when made swift and without careful thought to those who could be affected. Let's keep improving Oakland for the community of Oakland.

Thank you for your time,
Stefanie S.

Clevenger, Ann

From: Anne Robert <annerobert1@gmail.com>
Sent: Friday, January 23, 2015 4:15 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: case CDV10185

Dear Ms. Clevenger,

I'm writing with my thoughts about the proposed construction project at 6501 Shattuck Ave. I'm of the opinion that this project is far out of scale, much too large for the lot and the streetscape of Shattuck Ave, and there is no reason to wave the current zoning.

If we look at other properties in that area, this property will overshadow everything around it. At least the property across the street, which is 3 storys has a set-back at the upper level.

I'm a strong advocate of urban infill, but please, please limit the height and scope of this project.

Please save the neighborhood beauty and charm of this area and stay within the proper zoning.

Thank you,
Anne Robert
owner of
6509 Wheeler St
Oakland, CA 94609

January 22, 2015

RE: Case #CDV10-185

6501 Shattuck Avenue (APN: 016-1428-011-02)

ATTN: Ann Clevenger

We just heard that the plans for the four story building with 18 units at 6501 Shattuck Ave. have been revived. My wife and I own the residential rental properties to the immediate west of that address (718 & 720 65th St. and 6500 & 6502 Whitney St., both duplexes).

We strongly oppose this project and we urge the City of Oakland to do so too. The reasons are as follow:

- Eyesore: It would block all our views east to the hills from our yards and east facing windows. The huge 4-story building does not fit into the neighborhood.
- Sun blocked: It would reduce, if not diminish any morning sun, since the building would go up directly to our east. The variances requested make this even more of a problem.
- Loss of privacy: Instead of views and sunrises, we will have people in 18 apartments staring down at us, all of which are above ground level. Again, the variances requested makes the privacy issue even worse.
- Loss of income: Reduced quality from the above losses equals reduced rents.
- Loss of Equity: This 4-story building would dramatically reduce the value of our property.
- Loss of parking: No doubt this would make the parking situation worse for everyone around the area. Guests visiting the tenants and retail units at the building will make parking a problem.
- Noise and blight: An apartment block of this nature with its emphasis on quantity over quality is bound to bring noise, littering and other nuisances to this area further reducing quality of living and property values.
- Psychological impact: Over the 20 years we have owned the property, we have witnessed with great joy a steady improvement of the general area. Having lived in Oakland ourselves for many years, we are aware of its challenges, but also of its great potential and energy the City has. The revival that we are seeing at Shattuck Ave. – just like other areas- doesn't happen by accident. It was made possible with the combined efforts from homeowners and the City.

I applaud the City for what they have accomplished so far. Good leadership does not go unnoticed. Trust in good leadership is a requirement for homeowners and landlords in order to invest, renovate, and upgrade properties in Oakland. We are seeing a fragile, but positive trend. However, allowing a 4-story 18 unit apartment complex to go up at this location to be built by someone known for building cheap "ghetto like" boxes, would reverse this trend. It would send a signal that the City has lost its vision and is selling out to the developers. This project would damage Oakland's positive trends.

We ask the City to reject this project, not only for our losses, but for the City's losses.

Sincerely,

Siegfried and Claudia Mall
Phone/fax 209-931-0899

Clevenger, Ann

From: Raquel Saunders <raquel.saunders@gmail.com>
Sent: Thursday, January 22, 2015 10:01 PM
To: Clevenger, Ann
Subject: Re: CORRECTION 6501 Shattuck Ave APN 016-1428-011-02

Hi Ann,

Please note the correction in my address below my signature. Thank you,

Raquel

On Jan 22, 2015 9:11 PM, "Raquel Saunders" <raquel.saunders@gmail.com> wrote:

>
> Dear Ann Clevenger,
>
> I am writing to you as a concerned resident of 6525 Shattuck Ave, Oakland Ca. It has been brought to my attention that the owner of the currently vacant lot on 6501 Shattuck Ave, adjoining my current residence, has plans to build a 4 story building. Of particular concern is the size of the proposed building which will directly affect our household and our quality of life in multiple ways.
>
> Our backyard is a community space where neighbors, friends, and family gather often to share meals and stories with each other. A key piece to our gatherings is the garden we have put a lot of effort into building, so that it can feed us and also provide a space for people to gather and children to play. As a student at Merritt College studying in the Landscape Horticulture department, the use and availability of the garden to my education is crucial as well. I am concerned that with a 4-story building with windows that peer directly into our backyard, and walls that will block the sunlight, this space will loose its vale and function. It will be uninviting as there will be no privacy, and gardening will be near impossible with limited sunlight.
>
> Before any building plans get approved, I think it is imperative that the following be accomplished:
>
> - implementation of story poles so that current residents of the neighborhood can visualize the size of the building. It is large and out of proportion to the neighboring buildings.
> - shadow studies be completed and presented so that the impact on solar access can be understood
> - that additional time may be given to completely understand and analyze the impact of the
> -strong consideration that the proposed building follow the current zoning of 3 stories
>
> It is out of care for this neighborhood, and it's people that I object to the approval of this proposal.
>
> Thank you for your attention to this matter,
>
> Raquel Saunders
> 6525 Shattuck Ave, Oakland CA 94609
>

Clevenger, Ann

From: Andrew Stelzer <andrewstelzer@gmail.com>
Sent: Thursday, January 22, 2015 9:43 PM
To: Clevenger, Ann
Cc: kalb@oakland.com
Subject: 6501 Shattuck Avenue-- Case File Number (CDV10165)

Hi there Ms Clevenger, Case File Number (CDV10165)

I'm writing about the proposed construction at 6501 Shattuck. I live at 6525 Shattuck, directly to the North of 6501.

I've lived here in a community informally known as "the Muse" since February 2009. There are 16 of us here, plus 2 two year olds---one of those children is mine. My wife and I decided to have a baby here in part because of the family friendly neighborhood. But the community and environment at the Muse was the most prominent factor.

We have a garden where we grow vegetables and herbs year round, as well as a chicken coop which provides us with eggs. If the 6501 project is built as proposed, our entire garden and chicken coop would be cast in shade for much of the year, preventing us from growing food. With the proposed 4 stories, including decks and windows practically right up against our backyard fence, we would also lose any semblance of privacy in our backyard--that's where our children play every day. Its also where we have BBQ's, house and community gatherings (my wife's baby shower and son's recent 2nd birthday party being two of those gatherings). It's hard to overestimate how drastic a change it would be to lose all the sun in our backyard for much of the year, and lose all of our privacy. I simply don't think that's fair, or legal.

I've read that this developer (Athan Magannas) has been given numerous variances, affecting how close his building can be to ours, and how close his parking lot can be to our backyard. Additionally, the height of the building was somehow grandfathered in 4 years ago, even though his plans clearly violate the spirit and letter of the direction this neighborhood has chosen to go (3 stories instead of 4 would make a major difference). Especially given this developers' track record (being sued for not addressing bedbugs...illegally digging up a gas station tank next door to us, allowing graffiti & trash to remain for months, letting squatters occupy a dangerous abandoned structure, and and leaving a broken down SUV on the lot for more than a year), I cant see how he deserves any special allowances. My fear--warranted given his past as a developer throughout the east bay--is that he won't even honor any agreements he makes with the city, will build what he wants, and simply pay the fines as a "cost of doing business".

My understanding is that shadow studies and story poles are routine in cases like this, as are inspections to observe just how much privacy the neighbors would lose. (there are also neighbors to the west side) And the neighborhood should be given ample time to give input following these studies. Ideally, I'd suggest some compromises could be worked out with the developer, but his track record is such that I don't trust he has our best interests at heart--it seems he simply wants the greatest profit possible.

The building plan is visually very out of character with the rest of the neighborhood, in size and shape. These are not affordable units being proposed. Those are larger community concerns. For myself, my family, and my housemates, the concerns are day-to-day quality of life issues: At the very least, the city should lower this building to the current standard of 3 stories, and require significant setbacks from our property as to provide us with privacy, sunlight and fresh air.

The Muse is the type of community Oakland city leaders say they want to encourage: multi-generational, dense, sharing resources, riding bikes, embracing urban agriculture. To allow this construction at 6501 Shattuck to continue as proposed would signify the city turning its back on what it purports to value. I strongly urge you to take these issues to heart, and ensure this project does not negatively effect my community, and the entire neighborhood.

Please let me know you have received this letter, and if you need any more information.

Thanks,

Andrew Stelzer
6525 Shattuck Avenue
646-341-1554

Clevenger, Ann

From: Jessica Noel Stelzer <linguafranka@gmail.com>
Sent: Thursday, January 22, 2015 9:28 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Proposed building at 6501 Shattuck APN: 016-1428-011-02 Case #CDV10185

To whom it may concern,

I am concerned about the plans for this new building. I live next door and our home could be impacted in very negative ways by a building of this size. Our property houses 16 adults and 2 children, making it quite densely populated, but without infringing on sunlight to our neighbors, or looking down into their bedroom windows.

The proposed building is being "grandfathered" in at 4 stories, a former zoning limit, even though the current zoning is for only 3 stories. The exception was explained as his application had been previously "deemed complete" before the zoning change. But his application lacked the environmental impact section, so it was not complete. And in fact, he then ripped out old gas tanks without (which were not mentioned in his application), without the necessary permits, and this action resulted in a 3 year delay in progress on his site. So, I don't see why his old application should be "deemed complete" when it was missing vital information. The zoning limit of 3 stories should apply to his building. And, 3 stories would satisfy the idea that there should be a gradation between much higher & much shorter buildings in a neighborhood.

The building is proposed to go all the way to the property lines, and straight up 4 stories (plus higher at the north end for a stair tower). This will cast full shade on most of my backyard much of the year. Currently, our families and roommates grow vegetables and enjoy dappled sunlight. Our children play back there. It is a serene and enjoyable environment with sunlight, privacy, and fresh air. If the new building were shorter, or set back a reasonable distance, this would mitigate the impact on our quiet enjoyment of our yard. And since the zoning is shorter anyway, the project should abide by that limit.

I am speculating about the amount of shade cast on our yard. How could we know for sure? The project should submit shade studies and install story poles to visually illustrate the actual height of the project. Immediate neighbors have a right to see these poles and results of any shade studies before public comment period closes. To that end, the comment period should be left open until these studies can be performed and folks have an opportunity to see them.

The project allows for dense development and includes retail downstairs, which could all be very nice, especially so close to BART and bus lines. But the building does not have to be quite this big in order to achieve these ends. There is an artist's rendering displayed on the street showing cute cafe tables on the sidewalk. But if the building is built all the way to the property line, those narrow sidewalks would not accommodate any such tables. That image is impossible unless they step back the walls a few feet from the sidewalk.

The upstairs balconies will also hang directly over the sidewalk, another impact easily mitigated by setting the walls back a bit. It would lessen the total area the building, but it would also create a more pleasant experience for the neighborhood for years to come.

I am also concerned about loss of privacy with 3 stories of residence and an outdoor deck looking directly down into our backyard and bedroom windows. It would feel a lot less intrusive if it were only the top 2 levels (of a 3-story building) and a deck. Especially if they stepped it back a few feet from the property line.

These shade and privacy concerns will affect our home as well as 2 or 3 properties to the west of 6501. I believe we have a right to conserve our privacy, solar access, and fresh air.

Cloth diapers do not dry when you hang them in the shade. Have you ever tried it? It can take 2 days if there's no sun out.

I know this letter is long, but I have had a while to think about all the ways this could go awry. It could be a very nice building that serves the many needs of tenants/residents and our nicely developing neighborhood. Or it could serve only the needs of its owner who wants to make a lot of money, fill space, and eventually go condo. I intend to live here a long time but I will have a really hard time if there is no sun left for my children & my garden.

Please reconsider this developer's plan, especially in light of the dubiousness of his <lacking> original application.

Thank you,
Jessica Stelzer
6525 Shattuck Ave, Oakland CA 94609 - The Muse

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2¢
jessica stelzer

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2¢
jessica stelzer

Clevenger, Ann

From: Raquel Saunders <raquel.saunders@gmail.com>
Sent: Thursday, January 22, 2015 9:12 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave APN 016-1428-011-02

Dear Ann Clevenger,

I am writing to you as a concerned resident of 6525 Shattuck Ave, Oakland Ca. It has been brought to my attention that the owner of the currently vacant lot on 6501 Shattuck Ave, adjoining my current residence, has plans to build a 4 story building. Of particular concern is the size of the proposed building which will directly affect our household and our quality of life in multiple ways.

Our backyard is a community space where neighbors, friends, and family gather often to share meals and stories with each other. A key piece to our gatherings is the garden we have put a lot of effort into building, so that it can feed us and also provide a space for people to gather and children to play. As a student at Merritt College studying in the Landscape Horticulture department, the use and availability of the garden to my education is crucial as well. I am concerned that with a 4-story building with windows that peer directly into our backyard, and walls that will block the sunlight, this space will lose its value and function. It will be uninviting as there will be no privacy, and gardening will be near impossible with limited sunlight.

Before any building plans get approved, I think it is imperative that the following be accomplished:

- implementation of story poles so that current residents of the neighborhood can visualize the size of the building. It is large and out of proportion to the neighboring buildings.
- shadow studies be completed and presented so that the impact on solar access can be understood
- that additional time may be given to completely understand and analyze the impact of the
- strong consideration that the proposed building follow the current zoning of 3 stories

It is out of care for this neighborhood, and it's people that I object to the approval of this proposal.

Thank you for your attention to this matter,

Raquel Saunders
5425 Shattuck Ave, Oakland CA 94609

Clevenger, Ann

From: George Spencer <jazbeaux4@aol.com>
Sent: Thursday, January 22, 2015 8:56 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Proposed 4 story building

Dear Representative and Council Member

I am deeply concerned about the proposed four story building that the city of Oakland is allowing in our neighborhood which is only zoned for three stories. The address is 6501 Shattuck Avenue and the Case File Number is CDV10185. As a 44 year resident at 682-65th street, I have watched the neighborhood go through a number of changes and a number of proposals for changes have been disallowed because they were deemed detrimental to the esthetic of our community. A four story building on the northwest corner would effectively block my view to the west. I can see the sun as it sets from my bedroom and would like to get as much sun as possible during the evening. I see no reason why a variance should be granted for a four story building. I am against this proposal.

George M. Spencer

Clevenger, Ann

From: Rachel Gottfried-Clancy <rgottfried00@gmail.com>
Sent: Thursday, January 22, 2015 11:57 PM
To: Clevenger, Ann; Kalb, Dan
Subject: 6501 Shattuck Ave APN: 016-1428-011-02

I am writing concerning the building plans at 6501 Shattuck. As someone directly impacted by the structure and and Oakland resident deeply concerned with future development. I would like this letter to remain anonymous. (OK per e-mail 1/27/15 ac)

As a resident at 6525 Shattuck, the adjacent property, my daily life will be dramatically impacted by this development. Life at 6525 Shattuck is really quite exceptional-- we share resources, care for the space and create a community. The back yard of the house is central to community. We have weekly community barbeques and spend many afternoons in the garden and and on the play structures with the kids. I also use the yard for exercise, yoga and reading in the sun. I would like to see both the city and developer visit the site to see how the are will be impacted.

The removal of our garden and recreation sunlight is disappointing. However, as someone with depression that is severely increased without sunlight the prospect of a four story building blocking out all of our yard's light frightens me. I moved into this community for a number of reasons, but one main one being the yard that allows for a sunny secluded open space. The height of the building and the public nature of the porches really has the potential to impact my health. I ask that the council conduct a shade study to really understand the effect this construction will have. In addition I ask that the city extend the comment period to really allow people to understand the issues at stake.

As an Oakland constituent I am troubled by the city's support for this type of development, especially by grandfathering in the 4 story limit. I fully support transit orient development and acknowledge that 6501 is a prime spot for increasing density. however I am disappointed that the city is not doing more to support affordable housing, community consultation and development, and mixed use spaces. Our residence, the muse, is a prime example of how high density can be achieved without such obtrusive neighborhood impacts (the muse has only 5 fewer units currently and is only 1 story tall). The current zoning regulations demonstrate that the community does not want large buildings occupying the neighborhood. It should be required that story poles be installed so that neighbors can more easily visualize the dimensions of the proposed structure.

I see this as an opportunity for the developer and the city to work with the neighbors and create something that really benefits the community with out jeopardizing our health and well being.

Thank you,
Rachel Gottfried

Clevenger, Ann

From: Joe Massey <jfmassey1@gmail.com>
Sent: Wednesday, January 21, 2015 10:34 AM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Avenue/Case No. CDV10185

While I am in favor of a building at the corner of 65th and Shattuck Ave., I AM NOT in favor of the scale of the proposed 4-story building. Way out of scale with the neighborhood.

Joseph Massey
640 65th Street
Oakland 94609

Clevenger, Ann

From: GUILLERMO GALINDO <info@galindog.com>
Sent: Wednesday, January 21, 2015 11:45 AM
To: Clevenger, Ann
Subject: 4 story building at 6501 Shattuck avenue file CDV10185

Dear Dan Kalb:

I am writing you this email to let you know what a great mistake it will be for you to approve the construction of a 4 story building at 6501 Shattuck avenue file CDV10185

I live a block from the site and if you are not familiar with this neighborhood, I encourage you to take a walk around and enjoy its beauty and the sense of community that exists here. If you pay enough attention you will also notice that there are no tall buildings of this type anywhere around. The austere look of the neighborhood and the elegant distribution of the family houses and architecture were initially designed promote and facilitate a sense of neighborhood.

The city of Oakland was right when they decided to put in place zoning laws prohibiting the construction of these kind of buildings.

If you ask around I am 100% sure that nobody in this neighborhood supports the building of this monstrosity. It is obvious that the only reason this kind of construction is only meant to make money. Unfortunately, and in general, the people that build this kind of projects have no interest or concerns for the people living around them.

Please think about your constituents before making any decisions. If this project passes it will be just another a monument to government corruption. It will remind me and my neighbors us on how things are done this days.

Please be sensitive and disapprove the construction of this building. Your constituents will appreciate it and I will personally remember you at the ballot.

Sincerely,
Guillermo Galindo
Oakland resident

Clevenger, Ann

From: Rachel Smith <rachel.erin.smith@gmail.com>
Sent: Wednesday, January 21, 2015 7:07 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: against proposed development at 65th & shattuck

Hello,

I live on the corner of Fairview & Shattuck in Oakland, which is one block from the proposed development at 6501 Shattuck Ave (case file # CDV10185). I would like to voice concern about this development. As we have seen with developments such as this in Emeryville it changes the dynamic of the neighborhood both aesthetically and culturally. These types of condo buildings attract young professionals that often do not stay in the neighborhood for very long. Further, they are an eyesore as all other buildings in our neighborhood are a maximum of three stories.

Please consider this project.

Thanks for your time!

Rachel Smith
685 Fairview St.

buildings are
an eyesore as

Clevenger, Ann

From: Mike Mechanic <mmechanic@motherjones.com>
Sent: Wednesday, January 21, 2015 10:10 PM
To: Clevenger, Ann
Cc: dkalb@oakland.net.com
Subject: 6501 Shattuck Avenue

Hi Ann,

I'm writing regarding Case File No. CDV10185/6501 Shattuck Ave.

I live in the neighborhood and would like to register my strong objection to the construction of a four-story building on the site in question. The neighborhood has a three-story limit, and as I understand it the owner submitted an application that was nowhere near complete, which lacked the environmental remediation information required for it to be legally accepted, simply to slip it in by the deadline after which a four story building would not have been considered at all.

I am also concerned about the intentions of the owner, whom I understand has a track record of cutting corners on the maintenance of his properties. From what I've heard from neighbors about his actions in the remediation of this property, a former gas station, I would be concerned about the guy building a woodshed, let alone a residential building too large for its surroundings.

Thank you for taking my concerns into consideration.

Michael Mechanic
434 65th Street
Oakland, CA 94609

Clevenger, Ann

From: Laura Counts <laura.counts@gmail.com>
Sent: Wednesday, January 21, 2015 10:41 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Opposition to 6501 Shattuck Ave project

Dear Ann,

I'm writing in regard to Case File No. CDV10185, a proposed 4-story building at 6501 Shattuck Ave.

I am strongly opposed to this project, which is way out of scale for the neighborhood. I don't understand how the city can even allow a 4-story building in an area zoned for three stories.

All over Oakland, there are buildings that went up before we had strong, consistent zoning rules. Such buildings impact the quality of life for the rest of us. Now that we have rules in place, how can the city continue to allow this to happen? How could someone slip in with a half-baked application and be given a green light damage a neighborhood?

It's heartbreaking to think about yet another sore-thumb building in our city. This 4-story building will overshadow everything around it, just when our neighborhood is on an upswing again.

Please do not allow this project to go forward.

Sincerely,

Laura Counts
434 65th St.

Clevenger, Ann

From: Irv Staats <irvstaats@gmail.com>
Sent: Tuesday, January 20, 2015 12:41 PM
To: Clevenger, Ann
Cc: dkalb@oakland.com
Subject: 6501 proposed building case file cdv10165

Ms. Clevenger,

I am writing about the scale of the proposed building at 6501 Shattuck. A four story building at this location would be quite out of proportion to the rest of the neighborhood. The existing buildings are no more then 3 stories and and it is a residential area with older homes that fit the historic flavor. There seems to be a lot of buzz on this proposal. I hope the city requires story poles so the neighbors can see the actual height and set back from the sidewalk. I have lived in the neighborhood for 30 years and enjoy walking. When I go by this corner I enjoy the sense of open space. I would hope the plans for any new structure would not block a sense of sky and feeling of neighborhood. I would also hope Oakland would show that it can look like a first class city with its planning.

Irv Staats

Clevenger, Ann

From: Margaret Le For <leform89@att.net>
Sent: Tuesday, January 20, 2015 8:45 AM
To: Clevenger, Ann; Kalb, Dan
Subject: 6501 Shattuck Ave, Case File# CDV10185 - Please DO NOT ALLOW these plans to be approved. Thank you.

The proposed building is to tall for my neighborhood.

Margaret Le For
733 65th Street
Oakland, CA 94609

Clevenger, Ann

From: Judi Rich <judirich1@gmail.com>
Sent: Tuesday, January 20, 2015 7:23 AM
To: Clevenger, Ann
Subject: Proposed Four Story Project at 65th & Shattuck

Hi,

In my opinion, this building proposal of four stories may be excessive for this neighborhood given all the surrounding architecture and density and perhaps a project less than four floors may be more appropriate. Will there be a public hearing regarding this?

Thanks and regards,

Judith Rich

Clevenger, Ann

From: Kris Mizutani <kris Mizutani@gmail.com>
Sent: Monday, January 19, 2015 10:52 PM
To: Clevenger, Ann; Dkalb@oakland.com
Subject: Re: 6501 Shattuck concerns / Case # CDV10185

Dear City Councilman Kalb,

Here is a the email I sent to Ann Clevenger today about the proposed development at 6501 Shattuck.

Thank you,
Kristine Mizutani

>
> Dear City Planning Commission c/o Ann Clevenger,
>
> I'm writing to lodge my concerns about the proposed development at 6501 Shattuck Ave, Oakland, CA 94609 (Case File Number CDV10185). They proposed 4-story building would not be appropriate in our neighborhood. It would tower over the buildings adjacent to the proposed development and over nearby buildings and houses. This building would be unsightly as proposed with the current neighborhood. One of the charms of the neighborhood - and of living in this part of Oakland - is that it a mixed-use area with houses, 3-story condominiums, and local businesses. I invite you to walk around our neighborhood and the adjacent blocks to the proposed development to get a better understanding about my concerns for the visual impact of this proposed development.
>
> We all know that housing is limited in the Bay Area, but additionally, I fear allowing a 4 story building in this neighborhood is the start of the condoization of the neighborhood. If you drive around San Francisco, you will note a number of multi-story condos being built along side Victorians and Edwardians. They are unsightly next to these historic buildings. Our area is filled with single-story Craftsmans, and a couple of 3-story condos, and 1 and 2 story apartment complexes. Allowing a 4 story complex would alter our neighborhood. I understand the present zoning allows for only 3 stories. This zoning was created for a reason. Allowing for a 4 story building just because the application for the building was submitted before April 14, 2011 is irrelevant. It is 2015 now, and let's follow 2015 zoning laws.
>
> I support a mixed-use, 3 story building, but am adamantly opposed to a 4 story building.
>
> I also urge you to consider making a portion of these units available as below market rate units, so that we keep the demographics of the neighborhood the same. I believe San Francisco has a law mandating that new residential construction include 20% below market rate units. This should be considered for Oakland. I understand that the planning/zoning division may not be the correct department for this request.
>
> Sincerely,
> Kristine Mizutani
> 6539 Shattuck Avenue
> Oakland, CA 94609

Clevenger, Ann

From: Kris Mizutani <kris Mizutani@gmail.com>
Sent: Monday, January 19, 2015 7:31 PM
To: Clevenger, Ann
Subject: 6501 Shattuck concerns / Case # CDV10185

Dear City Planning Commission c/o Ann Clevenger,

I'm writing to lodge my concerns about the proposed development at 6501 Shattuck Ave, Oakland, CA 94609 (Case File Number CDV10185). They proposed 4-story building would not be appropriate in our neighborhood. It would tower over the buildings adjacent to the proposed development and over nearby buildings and houses. This building would be unsightly as proposed with the current neighborhood. One of the charms of the neighborhood - and of living in this part of Oakland - is that it a mixed-use area with houses, 3-story condominiums, and local businesses. I invite you to walk around our neighborhood and the adjacent blocks to the proposed development to get a better understanding about my concerns for the visual impact of this proposed development.

We all know that housing is limited in the Bay Area, but additionally, I fear allowing a 4 story building in this neighborhood is the start of the condoization of the neighborhood. If you drive around San Francisco, you will note a number of multi-story condos being built along side Victorians and Edwardians. They are unsightly next to these historic buildings. Our area is filled with single-story Craftsmans, and a couple of 3-story condos, and 1 and 2 story apartment complexes. Allowing a 4 story complex would alter our neighborhood. I understand the present zoning allows for only 3 stories. This zoning was created for a reason. Allowing for a 4 story building just because the application for the building was submitted before April 14, 2011 is irrelevant. It is 2015 now, and let's follow 2015 zoning laws.

I support a mixed-use, 3 story building, but am adamantly opposed to a 4 story building.

I also urge you to consider making a portion of these units available as below market rate units, so that we keep the demographics of the neighborhood the same. I believe San Francisco has a law mandating that new residential construction include 20% below market rate units. This should be considered for Oakland. I understand that the planning/zoning division may not be the correct department for this request.

Sincerely,
Kristine Mizutani
6539 Shattuck Avenue
Oakland, CA 94609

Clevenger, Ann

From: Amy Marks <argmarks@yahoo.com>
Sent: Monday, January 19, 2015 6:35 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Objection to proposed building at 6501 65th St (Case file CDV10185)

To Ann Clevenger and whomever else it may concern:

It has just come to my attention that there is a four-story building proposed for 6501 Shattuck Ave, at the corner of Shattuck and 65th St (Case File Number CDV10185).

I am writing to voice my strong objection to this project. As a longstanding resident, homeowner, and taxpayer of 65th Street, I am extremely concerned about the size of the proposed building and the negative impact it will have on our neighborhood - particularly in terms of traffic, noise, view obstruction, and aesthetics. It is entirely too large and too tall of a building for this area and will not fit with the surrounding neighborhood, which is mostly residential with some low-standing businesses along Shattuck Ave. Furthermore, that intersection at 65th and Shattuck experiences traffic congestion as it is - something of this size in that location will only make things worse.

Please let me know if this email will be registered as an objection to this project as currently proposed or if I need to submit a letter in writing. Thank you for your time.

Sincerely,
Amy Marks
775 65th St
Oakland, CA 94609

Clevenger, Ann

From: Wayne K. Vernon <waynekevernon@aol.com>
Sent: Monday, January 19, 2015 2:23 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave - Case #CDV10185
Attachments: 65 and Shattuck.JPG

A new four store building in this area and at the location propose might cause a lot traffic of problems in the area. How many living units will there be? And how will the occupant be at ground level? Parking? I know there are other complex's in the area, because of the coffee shop and auto repair shop there, the intersection has become a problem spot.

Thank you



Clevenger, Ann

From: Robert Boyd <boyd.rw@gmail.com>
Sent: Monday, January 19, 2015 2:10 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave. case file number CDV 10185

This proposed four-story building is too high for this neighborhood... This would set a very unfortunate precedent and this building project should not be allowed to proceed in the current format... Four stories is too much!

This was sent from Bob Boyd's handheld. If you are not the intended recipient, please delete this message and any attached files and do not open any attached files.

Clevenger, Ann

From: gbierner@gmail.com on behalf of Gann Bierner <gann@pobox.com>
Sent: Sunday, January 18, 2015 4:17 PM
To: Clevenger, Ann
Subject: CDV10165 6501 Shattuck Avenue

Dear Ms. Clevenger,

I am very concerned about the 4 story building proposed on this corner. We live very nearby and walk past this lot every day taking our kids to school. The owner of this lot has shown over the years that he has no concern at all for the neighborhood and is only interested in maximizing profits. The place has been a blight on our neighborhood for years and he has only very rarely taken minimal action to clean up graffiti or other problems. Most of the time the fence around the lot is covered with massive tags.

I don't understand why he should be allowed to build a building that is larger than the lot is zoned for. Even without his disregard for his neighbors, this should not be allowed. A four story building is vastly bigger than anything in the area, would appear completely out of place, would increase traffic and parking problems, and would shade the neighbors.

Please do not allow this person to profit at the expense of the neighborhood. By all means, allow him to build an apartment building to the extent that current zoning allows, as is his right. But do not let him build such a ridiculously large building.

Thank you,
Gann Bierner
6554 Whitney St
Oakland, CA 94609

Clevenger, Ann

From: ashlandjane@comcast.net
Sent: Sunday, January 18, 2015 4:11 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

I have been a resident on Fairview Street for nearly 37 years. The size of the proposed building is not in sync with any other building in the area, will cast long shadows and block out our view of the sky as we walk along Shattuck Ave. I urge you to reconsider the approval of this project.

Respectfully
Jane Ashland
642 Fairview Street

Clevenger, Ann

From: Matt Delaneyone1 <delaneyone1@gmail.com>
Sent: Sunday, January 18, 2015 10:20 AM
To: Clevenger, Ann
Cc: dkalb@oakland.com
Subject: (6501 Shattuck Avenue) and the Case Case File Number (CDV10165)

Dear Ann Clevenger,

As I'm sure you are aware Due to a technicality our city of Oakland is proposing to approve the application of a four-story building in my neighborhood. The address is (6501 Shattuck Avenue) and the Case File Number is (CDV10165). My family bought a home around the corner to this site in 2005 and have enjoyed the growing family energy through the years. We were very excited that the zoning for our community changed in 2011 establishing the three story limit.

Over the years we have seen this site outright defy safe building practices to say the least. In some cases they have put our city and our environment in danger. (As I am sure you have been made aware at this point.)

And now in 2015 our city is allowing a four story building to be erected in an area that zoning has already realized is unsuited for four stories.

Please help us in keeping our neighborhood as zoned a three story max neighborhood.

Thank you,

Matthew Delaney
688 Fairview street
Oakland, CA
delaneyone1@gmail.com

Clevenger, Ann

From: julie chang <madameeggs@gmail.com>
Sent: Monday, January 12, 2015 10:51 AM
To: Clevenger, Ann
Subject: CDV10185

Hello Ms. Clevenger,

I'm writing to express my concern over the proposed building for 6501 Shattuck Avenue. I live in the neighborhood and feel the height of this construction is one floor too many. A four story structure would change the neighborhood feel tremendously. There are no other 4 story structures nearby, so it does not fit in. Especially since it is on a corner lot, the size would be oppressive.

Please consider this email an appeal to have the building fit into the current zoning for the area.

Best,
Julie Chang

Clevenger, Ann

From: Alden Jenks <jendoafj@gmail.com>
Sent: Sunday, January 11, 2015 2:11 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck

To whom it may concern:

I am writing concerning the address 6501 Shattuck. For too many years this has been a eyesore of an empty lot, a “dump” in too many senses of the word.

Now I understand that the owner has intentions of building a 4 (!) story building on this place. With the track record of this location alone — and the history of this man’s developments around the area (fines, complaints, shoddy building practices, lawsuits, etc.) — I have to be alarmed at the prospect.

I understand that the current zoning puts a height limit of three stories on new construction, but the owner has managed to get his plans “grandfathered” in — I guess because it took him so long to clean up the empty lot — so that older height limits apply. Whether technically legal or not, this only makes it plain that a four-story building is quite properly regarded by the city as inappropriate for this location. The sheer mass of the building is excessive. It crowds the sidewalk, and it intrudes on the privacy on neighbors behind on Whitney Street. Any gardens they might have will be made useless because of the shadow cast by this monster building (I speak as one whose garden is in fact shadowed for half the day by a three story building).

I also speak as one very much in favor of building in close to local transit. My objections are entirely different.

I protest the approval of this four-story building plan, contrary to current zoning height limits.

I protest the length of the comment period: it should be extended so the neighborhood can be fully informed.

It should be required that storey poles be installed so that neighbors can more easily visualize the dimensions of the proposed structure.

The owner should be required to submit independent shadow studies.

Whatever the final design may be, I feel the construction site should be visited and inspected carefully. The owner’s track record makes it clear that he will skirt regulations or alter his plans wilfully without notification or permits.

Thank you for attention.

Alden Jenks

726 Alcatraz Avenue, Oakland, 94609

Clevenger, Ann

From: Sara Billing <yosarab@gmail.com>
Sent: Friday, January 23, 2015 4:50 PM
To: Clevenger, Ann
Subject: RE: 6501 Shattuck Avenue (CDV10165)

Thank you, Ms. Clevenger. Can information only be viewed in person? Is there no way to review any of the files on line or have them sent via email or a file share site?

Thank you so much for your help,

Sara B.

On Jan 23, 2015 4:37 PM, "Clevenger, Ann" <AClevenger@oaklandnet.com> wrote:

Hello, Ms. Billing,

The file is available for review at the City's Zoning Offices. We're open Mon, Tues, Thrus and Fri, 8-4, and 9:30-4 on Wednesdays.

Thanks, and Best Regards,

Ann Clevenger

Ann Clevenger, Planner III, AICP | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: [\(510\)238-6980](tel:(510)238-6980) | Fax: [\(510\)238-4730](tel:(510)238-4730) | Email: aclevenger@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Sara Billing [<mailto:yosarab@gmail.com>]
Sent: Wednesday, January 21, 2015 5:56 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Avenue (CDV10165)

Good evening, Ms. Clevenger:

According to a post on the NextDoor web site you are the case planner for 6501 Shattuck Avenue (CDV10165). I would like to know the status of the project and see any project details that are available (site plans,

renderings, staff reports, etc.). I was not able to find this information on the City website, if it is available there please let me know how I can find it.

Thank you so much,

Sara Billing
65th Street Resident

I hope story poles will be required and that the public comment period will be extended so all the neighbors will have time to see what is being planned for this corner.

Sincerely,

Felicity O'Meara

--
Felicity O'Meara
home 510-595-1131
cell 415-203-0790
fom901@gmail.com

Clevenger, Ann

From: jaybrownbike1 . <jaybrownbike@gmail.com>
Sent: Monday, January 26, 2015 2:05 PM
To: Clevenger, Ann
Subject: 6501 Shattuck APN: 016-1428-011-02 Case #CDV10185

Dear Ms. Clevenger,

I am writing in regards to the corner lot at 6501 Shattuck Ave. and Mr. Magannas' plans for it. I live right next door at 6525 Shattuck and, like the rest of my housemates, strongly oppose such a massive structure to be built there. Simply put, we would lose much of our sunshine and our privacy would disappear as well. We have a chicken coop with six chickens and a large garden that relies heavily on what little sunshine we currently get. Not only will Athan's building block the sunshine to our gardens but also to our courtyard and bedroom windows.

Many years ago I had a very unpleasant encounter with Mr. Magannas. Without notice or permit he illegally removed the gas containers from his property. In the process, he towed all of the cars that were parked in his way. I got there just before he towed my car but my girlfriend's car had already been towed. He got caught, felt bad, and gave me \$100 to get the car out of impound. It ended up costing over \$800 because the car was registered to my girlfriend's dad and he was out of town for the week. After contacting him with the bill he refused to pay claiming it wasn't his problem.

Please reconsider the size and scope of this building. Mr. Magannas has a history of deceit and shady dealings so please help us keep our neighborhood free of such antics.

Thank you,

Jay Myers

Clevenger, Ann

From: Brian Quakenbush <bquakenbush@gmail.com>
Sent: Monday, January 26, 2015 1:45 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave.; APN: 016-1428-011-02; Case File# CDV10185

My name is Brian Quakenbush. I live at 6525 Shattuck Ave., immediately to the north of a site for a proposed building at 6501 Shattuck Ave. The proposal shows a very large, most out-of-character and imposing building for this neighborhood. A building that is gifted special regulations and oversight. As one of the 18 people in the single story complex next door that would be in its' constant shadow, I must object to the approval of this proposed nuisance.

I am requesting the following actions:

- Story poles be placed to visualize the size of the building.
- Shadow studies to show the impact on solar access.
- A just amount of time to assess the results of the shadow studies and story poles.
- A removal of any 'grandfathered zoning allowances- which would allow the building to be built up to 4 stories and intimidatingly close to the surrounding properties.
- If/when a lawful and responsibly proposed building is approved, the site is strictly monitored, so that Mr. Mogannas criminal history is not repeated here in Oakland.

My reasons for such actions are:

The proposed building would steal a vast majority of our sunlight, thusly devastating our gardens- which feed us year round, it would significantly reduce the number of eggs our chickens produce- the eggs that I feed my daughter, and dramatically destroy the pleasant feeling of sitting in the sun in one's private backyard. Part of what makes our household safe, is that most people don't know what's past our street-side walls (which are respectfully 5'-15' back from the sidewalk). This proposal allows for 4 stories, a stair tower and deck to be perched right over our backyard for all the tenants and their friends to peep into our private lives, eliminating a massive amount of privacy for our household, which includes two toddlers and their safety. I have further concerns for what it would do to our beloved redwood tree, which would not stand much taller than the building proposed. A protected tree, that my daughter and I use as an indicator that we're almost home. A tree that would be dwarfed and hidden from anyone on it's south side by such a monstrous building.

Mr. Magannas has a poor history and a wealth of citations from previous projects. He has proven to be careless, irresponsible, and unhealthy for the communities he affects. His history includes an arrest warrant in Concord for a lack of action against bed bugs, several citations in Berkeley for constructing buildings that are not as they were proposed, and he has had to wait to build at 6501 Shattuck for removing underground gas tanks without any permits or environmental care- which lead to a sickening aroma of gasoline for several months and a pond which incubated millions of flies to infest the surrounding homes. How Mr. Magannas has been given special privileges after his criminal activities is beyond comprehension. Surely the City of Oakland doesn't intend to promote and perpetuate such behavior.

Mr. Magannas has proven to be quite curt and shrewd when approached about the project and seems to have very little, to no, respect for the neighbors or community in large. His building would literally reduce the overall liveliness and livelihood of our home. Which hosts the lives of not just those that live here but their friends, family and neighbors who have come to appreciate the compassionate, multicultural, multigenerational slice of Oakland that we vote for and exist in. Thank your for taking the time to read this email. For further questions or any other assistance on this matter I can be contacted at the following contact info.

Brian Quakenbush
Battle Stache Studios
bquakenbush@gmail.com
208 598 4810

Clevenger, Ann

From: Nicholas Sanzone <nsanzone@hotmail.com>
Sent: Monday, January 26, 2015 1:25 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave - Case File #CDV10185

Dear Ms. Clevenger,

In October 2014, my wife and I purchased our home, located at 735 65th Street, Oakland, CA. We recently learned about the four-story building proposed for 6501 Shattuck Ave, which is located at the corner of Shattuck Ave and 65th St (Case File #: CDV10185), which is within line of sight from our front door. I am writing this letter to express our concern and opposition to this project, as it is currently planned.

We decided to purchase our house because we really appreciated the quaint feel of the neighborhood and thought it would be a great area to raise our two very young children. We are worried that the building being considered for construction will irrevocably and adversely impact the small community directly surrounding the location of the proposed building.

As others who have written you have pointed out, the structure being considered for construction is wildly out of scale and proportion with the existing buildings for an extended area. This contrast in building size is accentuated by the fact that the location sits within a small community and is nearly entirely surrounded by low-standing 1 & 2 story residential buildings.

We are equally troubled that the approval of the building as a four-story structure was done so under questionable, if not outright illegal, circumstances, at a time when the building code allowed for 4-story structures in our area. The limit is now obviously 3-stories for new construction. The rules and regulations pertaining to zoning codes and building permits clearly detail certain items required in all applications for those applications to be considered complete and accepted; and it makes clear that failure to include these items would render any application incomplete and therefore not accepted for review. As we understand it, the application submitted for 6501 Shattuck Ave did not include all of the required items, as dictated by code, and should not have been formally accepted, much less reviewed and accepted. As such, the plan submitted for 4-story construction should not be grandfathered in and any planned construction should adhere to the current 3-story maximum.

And finally, as a resident of Oakland, we are deeply disappointed that our elected officials would consider approving a plan that does not comply with zoning requirements and will require a substantial number of variances to be approved, all of which are against the strong opposition of a vast majority of the local community.

We fully support development efforts in the area, in particular on Shattuck Ave and Adeline St, but only when those efforts are done appropriately; they comply with current building codes, and are planned in a collaborative way, taking the concerns of the local community into consideration. It is clear that the planned construction for 6501 Shattuck Ave does not comply with current code, nor does it have the support of the community, and should therefore not be approved as currently designed.

Sincerely,
Nicholas & Elizabeth Sanzone

725 65th St
Oakland, CA 94609

Clevenger, Ann

From: KateandBlake Jenkins <kateandblake@gmail.com>
Sent: Monday, January 26, 2015 1:22 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Avenue

Hello,

I live about a block away from the corner of Shattuck and 65th, specifically 6501 Shattuck Avenue. Evidently the city of Oakland has issued a permit for a **four** story building at that location (case file number **CDV10185**). The neighborhood is mostly small scale residential with small businesses along the Shattuck retail strip, and it is appropriately zoned for at most three stories. The proposed four story building is obviously too large.

I understand that Oakland may allow this out-of-scale building because of some sort of "technicality". I hope that the issue will be reviewed and the permit revoked.

Sincerely,

Catherine M. Jenkins
2019 Woolsey Street
Berkeley CA 94703
510 367 9484 (cell)

Clevenger, Ann

From: An Hoang <amhoang@gmail.com>
Sent: Monday, January 26, 2015 1:04 PM
To: Clevenger, Ann
Subject: Proposed Building at 6501 Shattuck APN: 016-1428-011-02 Case #CDV10185

Proposed Building at 6501 Shattuck APN: 016-1428-011-02 Case #CDV10185

Dear Ms. Clevenger,

I am writing to you to express deep concerns regarding the impact of the proposed building project located at 6501 Shattuck, as an adjacent neighbor living at 6525 Shattuck Avenue. While this new development would be a drop to meet the much needed increased demand for housing in the Bay Area, both the project itself, and its developer, [] are detrimental to the quality of life in the neighborhood, and especially its most immediate neighbors.

As a resident of a 16-person and 2-child household, we regularly make use of our garden for growing edibles and drying clothes (saves on energy use in a house of 16) which would be greatly impacted by the lack of sun due to a 4 story building that will be built right up to the property line. As a large community in a small space, we are very efficient with the usage space with the garden doubling as a gathering place for many occasions, meetings, barbeques, rehearsals on the deck, a place where the kids play, all of which would be greatly impacted by the lack of privacy from the potential adjacent property.

My most pressing personal concern regards my room which has the benefit of glass sliding doors (which I use regularly) leading to the garden. It faces the proposed project, which would allow anyone on that adjacent property line direct view into my room. Obviously this is a matter of privacy for which I would have none, anytime I choose to use my sliding doors, as well as a matter of security. Anyone could monitor whether or not I were home, and easily see all the contents of my room, unless I chose to completely block off access to the patio and draw the curtains 24/7.

In addition, the developer of the proposed project has had a terrible track record with other projects, and has dealt terribly with the neighborhood. Some such occurrences include illegally having dug up the former gas station, leaving the property a blighted property despite neighborly protestations, allowing pools of water during rainy season to stagnate and breed pests, failing to properly seal off a structure on his property, allowing squatters to take advantage to the property (imagine the security concerns as an adjacent neighbor). He has not taken kindly to the concerns of neighbors most immediately impacted by his negligence, which is reflected all throughout the process of pushing through a permit for construction (despite loud protestations).

Such inconsiderate planning has implications for a community oriented area such as ours. We are a neighborhood of activists, artists, students, families, and people who require affordable housing away from the gentrifying forces engulfing the Bay Area. We are concerned with creating a safe neighborhood (which as I've learned by talking to long time neighbors through neighborhood events, has transformed from a drug-trafficked area into something vastly different) in which we know our neighbors and form a strong community interested in bettering the area, to elevate the quality of life for its residences and to be welcoming to new ones.

The addition of such a massive project would undoubtedly cause so much congestion with doubtless more cars in need of parking spaces around an area that is already saturated, with more individual residences that will require so much more gas/electric/water resources. Of course, the building of this project will impact our

community, which is striving to live more efficiently and green, with shared resources. There are considerably more uses for that lot, some of which can provide more housing AND add much to its surrounding community. Please carefully consider the impact of this project, not just for the short term profit and gains, but long term health of the community.

Sincerely,

An H.

Clevenger, Ann

From: CW Hamilton <chiawhamilton@gmail.com>
Sent: Monday, January 26, 2015 12:20 AM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave. Case File # CDV10185

Dear Ms Cleverenger:

I'm a 30 year resident at 6511 Tremont St, and I have been concerned about the property at 6501 Shattuck for many years.

I do support infill development and want it to be well integrated into the surrounding area.

The proposed building is way too large for both the property and the neighborhood. Even at three stories, building out to the property line would feel invasive.

Bulk needs to be softened by landscaping which requires set back. Additionally, reducing the footprint of the top floor seems appropriate to soften the boxiness.

I have grave concerns about the owner's lack of pride in ownership as displayed by his complete disregard for the appearance of his property during his ownership. It has not been maintained, attracting graffiti, dumping and overgrowth of weeds. People have squatted in the abandon building, and for a long time there was standing water and breeding for mosquitoes and other pests. He is far from being a good neighbor.

One of the published documents refers to the parcel being empty. This is not true. There was an historic building on the property that was removed without a permit.

The other 'work' he performed without benefit of permit were not disclosed on his application to build, so how can said application be deemed complete?

I definitely support the story poles and shadow studies that neighbors have asked for as well as an extension of comment time for the results of these to be contemplated.

Thank you very much for your attention to this matter.
Chia Hamilton

We support infill development in principle and want it to be well integrated into the surrounding context.

Clevenger, Ann

From: Michael Poulton <micoltrane@gmail.com>
Sent: Monday, January 26, 2015 6:59 AM
To: Clevenger, Ann
Subject: 6501 shattuck ave

>
> To whom it may concern,
>
>
> Please reconsider this developer's plan as it will be an immense
> burden on myself and my neighborhood. A massive 4 story building
> allowing many residents to look into my backyard, taking away all
> sunlight from my yard and garden, and clogging up the parking and
> traffic even more than it already is, would be a disaster.
>
> Thank you,
>
> Michael Poulton
> Resident of 6525 Shattuck Ave, Oakland CA 94609

Clevenger, Ann

From: Sara Billing <yosarab@gmail.com>
Sent: Wednesday, January 21, 2015 5:56 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Avenue (CDV10165)

Good evening, Ms. Clevenger:

According to a post on the NextDoor web site you are the case planner for 6501 Shattuck Avenue (CDV10165). I would like to know the status of the project and see any project details that are available (site plans, renderings, staff reports, etc.). I was not able to find this information on the City website, if it is available there please let me know how I can find it.

Thank you so much,

Sara Billing
65th Street Resident

Clevenger, Ann

From: Vibeke Norgaard <vnorgaard@hotmail.com>
Sent: Wednesday, January 21, 2015 3:56 PM
To: Clevenger, Ann
Subject: RE: 6501 Shattuck Ave. - copies

Thanks, Ann. Also, did you get a chance to find some information about what you guys are supposed to put in your project files? Thanks for taking the time to talk yesterday!

Vibeke
(415) 516 6674

Subject: 6501 Shattuck Ave. - copies
Date: Wed, 21 Jan 2015 12:14:15 -0800
From: AClevenger@oaklandnet.com
To: vnorgaard@hotmail.com

Hello, Ms. Norgaard,

I have the copies ready for you to pick up at the Zoning Counter. Please ask anyone at the Counter to retrieve them for you from the Will Call bin.

Thanks.
Ann

Ann Clevenger, Planner III, AICP | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510)238-6980 | Fax: (510) 238-4730 | Email: aclevenger@oaklandnet.com | Website: www.oaklandnet.com/planning

Clevenger, Ann

From: BRENDA KING <bfaysfaye@yahoo.com>
Sent: Monday, January 26, 2015 2:43 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: re: 6501 Shattuck Ave and the Case File Number CDV10185

Re: 6501 Shattuck Ave and the Case File Number CDV10185

This building is too big for our neighborhood. The traffic is already too heavy in the morning and evenings. There would need to be traffic lights on every block from Alcatraz to Woolsey Street.

It is difficult to cross Fairview Street in the a.m. and after 4:00 p.m. as it is. We usually have to take another route.

Thank you for your consideration of this request.

B. King

Clevenger, Ann

From: Brenda Reimer <blreimer@icloud.com>
Sent: Monday, January 26, 2015 2:05 PM
To: Clevenger, Ann
Cc: dkalb@oakland.net
Subject: 6501 Shattuck Avenue - Case File #CDV10185

Dear Ms. Clevenger

I have lived on Whitney Street for the past 5 years and we have a vested interest in the appropriate development of our neighborhood and the surrounding commercial area. The lot at 6501 Shattuck has been an eyesore for as long as I have lived here, so we are in favor of that lot being developed in a manner that will add to our neighborhood.

I am very concerned on many levels about the project and the developer of that parcel. I have seen other properties the developer has created and the quality of construction and upkeep of those properties has been sketchy at best. It is a matter of public record this developer and landlord has a record of violations and unresponsiveness. For those reasons, we are hoping the City of Oakland will enforce the quality of construction and oversee the permitting and inspection of this project stringently and at every step of the development.

The proposed building appears to be completely out of scale and does not "step" down to the neighboring buildings as I believe is required in the building code. We support the appropriate density in this building, but believe it can be achieved by adhering to the setbacks and height requirements. The building appears to have been grandfathered in as a 4 story, when 3 is the actual code. I believe the 4 story application was never completed due to irregularities in the paperwork and also due to the illegal handling of the toxic substances and cleanup due to the land previously being used as a gas station. Our neighbors will lose privacy, sufficient air, and light due to the variances requested and the unnecessary height of this proposed building

We urgently request story poles and a site visit by city planners so they can get an accurate impression of the impact of this grossly oversized building. We also request an extension of the application for permit so adequate site studies, and shadow studies can be performed by 3rd party independent professionals.

It would greatly benefit Oakland and this neighborhood to see a well developed project providing additional housing and density as this area is so close to shopping and public transit. I would also propose that the number of parking spaces be reduced and an on-site Zip Car be offered in order to further promote the use of public transportation. I know the Uptown apartments in downtown Oakland has offered the same type of arrangement and tenants that live there have received it very well.

Another area of concern is the fact that our neighbors who live adjacent to the proposed project will be subjected to balconies that actually look right down into their back yards and bedrooms. These balconies need to be deleted from this plan in order to preserve their privacy. Additionally the areas of the building that "poke out" above the sidewalks will impinge on already very narrow walkways. t

The rendition of the project by the developer is very deceptive and offers up sidewalk cafes. The measurements of the project clearly do not allow for that type of amenities.

Again, we support development and would love to welcome new neighbors to our lovely corner of Oakland and want to see this project proceed as something we can all embrace.

Sincerely

Brenda Reimer
6527 Whitney Street
Oakland, CA 94609
blreimer@me.com

Clevenger, Ann

From: Felicity O'Meara <fom901@gmail.com>
Sent: Monday, January 26, 2015 2:02 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Proposed building at 6501 65th St (CDV10185)

January 26, 2015

Ms. Ann Clevenger

Oakland Planning/Zoning Division

250 Frank H. Ogawa Plaza

Oakland, CA 94612

Re: CDV10185: 6501 Shattuck Avenue

Dear Ms. Clevenger and Planning Staff:

I have lived at 6502 Whitney Street since 2001, in a building that's adjacent to the blighted corner lot at 6501 Shattuck. Numerous times over the past five years my neighbors and I have reported the discarded mattresses, broken furniture, and bags of trash that are continually left on the sidewalk along 65th in front of the lot, and have called Alameda County Vector Control to request treatment of the large breeding ponds for mosquitos in the pits where the fuel tanks were removed.

The owner has been shockingly negligent over the years. The fencing surrounding the lot is inadequate and is always covered with graffiti. The lot is ongoingly filled with vermin-attracting trash. The owner's consistent refusal to responsibly maintain the lot raises the question of whether he will maintain the building he plans to put there.

The planned building itself is clearly too big for that corner. It's completely out of scale. I am strongly in favor of infill housing, but this project completely covers the lot and includes overhangs. Instead of overhangs, it needs setbacks. Also, as I understand it, the building would be the only 4-story building on Shattuck Avenue within 8 miles.

Clevenger, Ann

From: Vibeke Norgaard <vnorgaard@hotmail.com>
Sent: Monday, January 26, 2015 3:28 PM
To: Clevenger, Ann; Miller, Scott
Cc: ian martin; Kalb, Dan
Subject: 6501 Shattuck - Case File CDV10185
Attachments: 6501-LettertoClevenger.docx

Dear Ms. Clevenger and Mr. Miller,
Attached please find our comments regarding the proposed development at 6501 Shattuck Ave. Please confirm that you have received this letter. In case of computer trouble, I have also pasted the letter into the body of this email, although please refer to the attached letter, as the formatting in this email is not fully cooperating. Please also let us know if there is any additional information you require. Thank you.

Ian Martin
Marlene Martin
Vibeke Norgaard
P. O. Box 183
Carmel, CA 93921
(415) 516 6674

January 26, 2015

Ann Clevenger
Steve Miller
City of Oakland
Bureau of Planning - Zoning Division
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Re: Case File No. CDV10185/6501 Shattuck Ave.

Dear Ms. Clevenger and Mr. Miller,

As the owners of the property at 6500 Shattuck (the Nomad Café Building), we are writing to you to request that you deny the application for development proposed at 6501 Shattuck Ave, Case File No. CDV10185 ("the Application"). This Application should be denied on the following grounds:

I. The 3-Story Height Limit Effective 15, 2011 Applies To This Development.

On January 9, 2015 the public received notice that an application to develop 6501 Shattuck Ave filed on July 14, 2010ⁱ⁽¹⁾ had been "deemed complete," thus allowing the project to go forward under the old zoning laws that were in effect prior to April 15, 2011. The effect of this decision is that you appear to be

applying the older 4-story zoning to a building in a neighborhood that is currently zoned for three stories. However, the Application was, and remains, incomplete.

The City of Oakland's ("the City's") decision to deem this Application complete as of April 15, 2011 violates state law, the City's own application process, rules and zoning ordinance. As set forth below, deeming the incomplete application complete is a violation of state law. In fact, under the City's own rules the City should not even have *accepted* the application due to its incompleteness, let alone deemed it complete. And because it was not complete, it cannot fit in under the limited exception to the new zoning. In addition, the submitted Application is rife with outright misrepresentations and omissions. Further, to the extent the Application was deemed complete by operation of law, the new zoning would have to apply.

This Applicant should not be allowed to get in through the backdoor what he could never have got in through the front door when he filed this Application.

(1) The Application Was Incomplete As It Failed to Include Information Required by State Law.

The owner of the property, Mr. Magganas and his architect Moshe Dinar (combined, "the Applicant"), submitted a Basic Application for Development Review to the City of Oakland Planning Department (the City) on or around July 14, 2010 ("the Application"). However, the Application was incomplete.^{ii[2]}

The Application was incomplete because the Applicant left the entire Hazardous Waste and Substance Statement section of the Application blank. (See Application, Section 8, p.6). According to California state law, before the City "accepts" a Basic Application "as complete" the Applicant must consult the state lists of sites affected by hazardous waste and substances, and must "submit a signed statement" to the City indicating whether the project is located on a site that is included on any of the lists. (Cal. Gov. Code §§ 65962.5 (f), 65929). In fact, 6501 Shattuck Avenue, a former gas station with leaking underground tanks, was identified on the state lists as a site affected by hazardous substances. Thus, the Application failed to include information that is required by state law. Because of this omission, the Application was incomplete as of April 11, 2015 and cannot now be "deemed complete."

Conversations with Ann Clevenger suggest that the City may be taking the position that the site at 6501 has since been fully remediated and therefore it is now besides-the-point that the Applicant did not complete this section at the time of the Application. Even though the site may now be remediated, at least as far as Alameda County is concerned, allowing the Applicant to circumvent the process required by state law is not acceptable. Such an approach leaves the public with no assurance that remediation of building sites will occur with proper oversight, and leaves open the possibility that that developments can go ahead despite being on the state hazardous waste list without any special permits.

If the City's position is that the incompleteness of the Application was somehow remedied by subsequent information received, that argument also fails as none of the documents in the City's file (as of a review of it on January 20, 2015) appear to have alerted the City prior to April 15, 2011 that the site was hazardous.

A conclusion by the City that this incomplete Application can nonetheless be "deemed complete" runs an end-run around the state law intended to protect the quality of our environment and our health. Furthermore, regardless of the City's rationale, state law requires all applications to include the Hazardous Waste and Substance Statement. Since the Application fails to include this statement, the City lacks authority to deem the Application complete.

(2) The City Should Not Have Even Accepted the Application Under Its Own Guidelines.

In addition, the City cannot deem this Application complete under its own permit application guidelines. The Applicant did not have all the items that the City requires before it even is able to *accept* the Application, let alone deem it “complete”.

Section 9 of the application form is a checklist of everything required in order for the application to be accepted by the City. It has a large, bolded, bordered and partly capitalized header which notifies applicants of this rule:

“[T]he following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.” (Emphasis in original).

The first item explicitly requires that the Applicant has submitted a “completed” application form “including ... the Hazardous Waste and Substances Statement.” The Applicant represented on his Application that he had submitted this Statement, when, as set forth above, he had not. This inaccuracy likely misled the City into accepting an application that should never even have been accepted.

Further, the Application appears to never have been fully processed by the City. It appears from the Application in the City’s project file that the required Application fee was never paid. The section requiring the City to note the fee received and date it was received is left blank. (See Application, p.1.)

(3) The Application Does Not Fall Within the Limited Exceptions to the Amended Zoning Ordinance.

There is nothing in the Planning Department’s project file on 6501 Shattuck that indicates when or how this Application was “deemed complete.” For example, there is no letter to the Applicant alerting him that his application has been deemed complete, nor any letter from the Applicant demanding that the city deem his application complete.^{iii[3]} On January 20, 2015, Vibeke Norgaard spoke with Ann Clevenger and received no further clarification as to when or exactly how or when it was deemed complete.^{iv[4]}

Oakland City Council’s Ordinance No. 13064 (“the Ordinance”), which amended the zoning laws and changed the zoning for the parcel under consideration, allows for exceptions to the new zoning for some applications that have already been deemed complete but only if they are “deemed complete...as of the date of final passage” of the ordinance. (Oakland City Council’s Ordinance No. 13064, Section 6). If the Application were “deemed complete” after April 15, 2011, the development would thus be subject to the current amended zoning under the Ordinance.

The Ordinance requires that the Application be deemed complete as of April 15, 2011 to fall under the exception. As set forth above, this Application was not complete as of that date because it lacked information required by state law. The city therefore has not authority to deem it complete as of that date. Because it is not encompassed by this exception to the new zoning, this Application falls under the new zoning. (Oakland Planning Code § 17.114.030; see also e.g., *Avco Cmty. Developers, Inc. v. S. Coast Reg’l Com.*, 17 Cal. 3d 785 (1976)).

Furthermore, if the City’s position is that the Application was deemed complete by operation of law 30 days after it was received under the Permit Streamlining Act (Cal. Gov. Code § 65920 et. seq), then

the new zoning also must be applied to this proposed development. The exceptions set forth in section 6 of the City's ordinance only apply to those applications deemed complete "by the City", not those applications deemed complete by operation of law. (Oakland City Council's Ordinance No. 13064, Section 6). It should also be noted that the Permit Streamlining Act was created to protect Applicants from foot-dragging by public officials. It can hardly be a valid use of that Act to allow foot-dragging by Applicants, who only complete half of their applications, to help them be grandfathered into old zoning laws.

(4) The City Should Not Deem This Application Complete Because It Contains Misrepresentations of Fact.

Not only is the Application, as set forth above, incomplete, but it also should not be deemed complete as it contains several outright misrepresentations of fact. As set forth above, the Applicant noted, under penalty of perjury, that he had filled out section 8, when he in fact had not.

In addition, in Section 6 of his Application, which requires an applicant to attest whether there are any existing Protected Trees "anywhere on the subject property or within 10 feet of the proposed construction activities (including neighbor's properties or the adjacent public right-of-way)" this Applicant informed the City there are no such trees. In fact, there is a large 36" diameter redwood on the back corner of the adjacent property, within ten feet of his proposed construction activity. The Applicant's Proposed site plan also does not show the protected Redwood tree.^{v[5]}

For the City to now say this Application has been "deemed complete" means that not only is it acceptable to leave required sections entirely blank, but that actually making outright misrepresentations on an application is acceptable.

(5) Additional Inaccuracies In The Application.

In addition, there were several other aspects of the Application that make it both inaccurate and incomplete: (1) The variance justifications are not updated to reflect the latest design; (2) The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, or lot coverage; (3) There are no photographs of neighboring properties; (4) The elevation drawings do not show adjacent houses; (5) No materials and color board was submitted; (6) The survey is not stamped by a licensed surveyor; (7) The building elevations do not reflect the slope of the site, which slopes over two feet from front to back - this means that the building walls will be taller near neighbors' properties, and will have greater impact than shown; (8) It contains an incorrect rendition of neighboring houses and setbacks: The perspective drawing misleadingly shows the adjacent neighbor on the North (the Muse) as a narrow two-story structure where it is actually a one-story structure on a lot that is wider than the applicant's lot. The site plan does not show the correct configuration and relationship of the site to the neighbor's property on the North (the Muse). The site plan still does not accurately show the neighbors' properties, location on the lot, and setbacks. (9) The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden). This will significantly add to the height and impacts on neighbors, but this aspect of the proposed building is not shown.

(II) The Public Does Not Have Enough Time Or Enough Information To Comment Fully On This Proposed Development.

The neighborhood received only 17 days notice to comment on this proposed development. This is insufficient time for a project of this magnitude.

First, given the proposed four-story height in a neighborhood zoned only for three stories, story polls should be required so that the public can better consider the impact of this massive building on the neighboring community. The public comment period should be extended at least 30 days, once the story poles are installed, so that the public can consider and comment on them to the City.

Second, it has proved impossible during this short time to obtain the information necessary to fully evaluate and comment on this Application. For example, we have attempted in vain to obtain information about the process in which this Application was deemed complete. On January 20, 2015, Vibeke Norgaard went to the Planning Department and requested to see the file on 6501 Shattuck. She was given a very small and very incomplete file. Many pieces of correspondence between neighbors and Ms. Clevenger about this project over the past years were not in the project file. Most notably, nothing in the project file references either the meetings Clevenger referred to, or any other process by which the decision was made to deem the Application complete. When Vibeke Norgaard requested to see such documents, she was directed to file a Public Records Act request. Such a request would, of course have been futile in the short period given to the public to comment on this major development. Ian Martin had, in fact, filed one on January 15th, 2015 (Public Records Act request No. 7559) for certain documents and has to date heard nothing back.

Third, to the extent this project is being analyzed under the old zoning laws from 2010 in its entirety (which is not clear to us based on the public notice) after much searching, we are unable to find those old zoning laws online. It would be necessary to analyze the entire project under those older laws in order to be able to fully comment. We therefore request that the City perform, or require that the Applicant perform, a detailed comparison of the proposed development under old and new zoning.

Fourth, in order to fully comment, the public should be able to see a composite building elevation that shows the proposed building and its relationship to adjacent buildings in order to demonstrate how issues of scale, massing, open space, and privacy are being addressed.

Fifth, we also request that a shadow study be performed in order to understand how our building's solar access will be impacted in the afternoon by the development.

For all of the above reasons, we request that the public notification period be extended.

(III) Additional Concerns About the Design of the Proposed Building.

This proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor, and its massing will be sorely out of context. While we support greater density near transit nodes, this building, as proposed, will work against efforts to bring greater density to our urban areas. In fact, it will serve as a poster child of poorly considered urban planning by people who are against greater density. Increased density cannot be the only guiding design principle, but must be balanced with a proposed buildings' impact on the surrounding community. This building, at three stories with appropriate modifications to break up its massing would be a welcome addition to our neighborhood. As it is proposed now, it is entirely unacceptable.

(a) Size, Massing, Height Transitions, And Set-backs Are Inappropriate For The Neighborhood.

From the west on the residential 65th Street, the proposed building leaps from single-story, single family homes to its full-four-story height, dwarfing them. Under Oakland's General Plan (housing element) Policy N8.2 regarding compatible interfaces between densities, the height of a development

should step down as it nears lower-density residential areas in order to minimize conflicts at the interface between the different types of development. This proposed development does not do that.

The next building to the south (across 65th Street) of the proposed development is a two-story home with substantial setbacks on all sides. The proposed development has no setbacks and, due to the bay windows, jumps immediately to nearly its full height—outside its own property lines and over the narrow right-of-way.

On the north side of the development there is a simple, single-story mid-century modern building adapted to create affordable housing. The proposed development will tower over it when viewed from Shattuck Ave by a full-three stories, and, even higher when the legally-required elevator tower is included.^{vi[6]}

From the east, our Nomad Café building—which is three stories—is tapered down in height from south to north, and the third floor is set back from Shattuck, as well as from the north, in order to reduce its massing. The third floor of our building is clad in cedar on its western elevation, in order to reduce its visual impact when viewed against the Oakland hills when the building is viewed from street level down 65th Street. We incorporated these design elements in order to reduce our building's impact on this neighborhood of predominantly single-family homes and single and two story commercial buildings, as well as to allow the large palms on our property to be seen from the west.

Further, it appears that the massive building profile will shade the street and surrounding sidewalks for most of the day.

(b) The Proposed Bay Windows Exacerbate Massing.

In addition, the bay windows of the proposed building should be eliminated on 65th and Shattuck. The looming nature of the proposed building will be exacerbated by the bay windows that project out over the narrow right of way of the 66'-wide Shattuck Corridor, with its 43'-wide roadway and minimal 6' sidewalks, and the residentially-scaled 65th Street.

While we encourage the Applicant to break up the massing of these four-story walls, this can be done by withdrawing sections of the walls from the property lines on Shattuck and 65th Street, thus providing massing relief to the neighborhood.

(c) The Proposed Development Causes Unnecessary Loss of Views From Our Building.

The bay windows overlooking 65th Street will eliminate our building's view of San Francisco and the Bay Bridge. This would adversely affect the property value and our tenant's enjoyment of our building. The view of the Golden Gate Bridge and San Francisco Bay from our building will be eliminated by the sheer height of the proposed four stories. This violates the spirit of Oakland's General Plan Policy N3.9. ("Residential developments should be encouraged to...avoid[] unreasonably blocking sunlight and views for neighboring buildings".) Removing the bay windows from 65th street will likely save our view of San Francisco and the Bay Bridge, and limiting the building to 3 stories, as required by current zoning, would at least partially save our views of the Golden Gate Bridge and San Francisco Bay.

(d) Variances.

The variances required, for the rear setback, density, and driveway, add to the excessive bulk and adverse impact on the neighborhood as described above. We therefore feel staff is being too generous in designating them as "minor" variances. See Oakland's General Plan Policy N11.3 which states that "variances ... **should not be granted lightly** and 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 of privileges enjoyed by similar properties, **as well as the fact that the variance will not adversely effect the surrounding area nor will it grant special privilege to the property.**" (emphasis added).

Furthermore, as the plans submitted with the Application do not show the legally-required elevator tower, we are concerned that they may also lack other important details. If so, additional variances or use permits may be required.

We respectfully request that the City force the Applicant to take the above concerns into consideration and revise their design accordingly.

(IV) Don't Reward The Applicant's Creation Of An Eyesore.

We would also like to urge the City to not accept the Hobson's choice of approving Applicant's imperfect development project in order to the alleviate the blight Applicant has created over the past four years.

As you are hopefully aware, the Applicant has left his site in disrepair over the past four years. Starting in 2010, neighbors contacted the City about the site's poor condition, requesting that the City do something to force the Applicant to clean up his site. The blight on this property has included graffiti covering the front of buildings, black cloths on the fences flapping into the sidewalk area, trash building up on a regular basis, and mosquitos breeding in the large pits of standing water.^{vii^[7]} Neighbors have for years reported illegal activity and the poor condition of the site. Some neighbors now will put up with anything just to see an end to this blight.

Please do not end the message to developers in Oakland that creating blight and nuisance in any way speeds up the approval process. It is better for the neighborhood that this be a well-maintained vacant lot for another decade than it be developed in a way that is way too big and massive for the narrow Shattuck Corridor.

(V) The City Should Apply Diligent Oversight To This Applicant.

Given the Applicant's history of rule-breaking and shortcut-taking, we urge the City to carefully scrutinize the Applicant's construction process to ensure that he does not deviate from his approved plans.

As documented by the City's own inspectors, ourselves and other neighbors in numerous phone calls, letters and photos over the last five years, the Applicant has shown willful disregard for the rules and procedures of development.^{viii^[8]} Since none of these actions appear in Applicant's project file, they are summarized here: (1) The Applicant demolished a building on the site on 3/17/10 without any permit, without the required public notification and without the asbestos survey required by the Bay Area Air Quality Management District. The City issued a permit for this demolition on 3/27/10 -- *after* the building was demolished; (2) According to a neighbor, Applicant began remediating the underground tanks in the middle of the night; (3) According to a conversation with Oakland Fire Department Inspector,

Keith Matthews, the Applicant pulled the UST tanks with incomplete plans in place, including no dust abatement plan^{ix[9]}; (4) Although, according to the Fire department, Applicant was supposed to stop the tank removal work during high winds the Applicant removed the tanks on an extremely windy day in 2010 causing gasoline smelling dust to blow around the neighborhood: Our family, including our then 5 year old daughter and myself, a then pregnant mother, experienced having particles of this gasoline-infused soil blow around us as we entered and exited our home; (5) Two swimming pool-sized pits, where the underground storage tanks had rested were not lined with plastic and backfilled with clean soil as is normally required, according to a Fire Department Inspector. Although he was ordered by the Oakland Fire Department to backfill the pits on March 4, 2010, as late as July 2011, Applicant had not yet complied; (6) Although once tanks were discovered to have leaked into soil, Applicant was not supposed to further disturb the soil, he did so, on several occasions in 2010; (7) Although the contaminated soil was supposed to be transported through the City in covered dump trucks, we documented the trucks driving away uncovered, with contaminated soil spilling into City streets; (8) Pools of water gathered in the pits, pools most likely filled with hazardous substances because the tanks had leaked into the surrounding soil; (9) An agent of Applicant was seen draining the pools of this water into the back building, where there was a public sewer access, possibly into the public sewer. Although he told neighbors he was draining the toxic water into a tank, which would later be hauled away, he refused to let them see the tank. According to Erica Fisker, the senior environmental consultant for SOMA, the company engaged by Applicant to remediate the site, this siphoning of water was not authorized by SOMA, and she knew nothing about it.

Further, in a lawsuit against the City over fines assessed against him for blight on his property prior to his ownership, a hearing officer found “not credible [Magganas’] claim he was unaware of the existence of violations when he purchased the building.” The hearing officer also found “Magganas had engaged in either subterfuge or studied ignorance in his testimony regarding the continuing existence of code violations” and concluded he was “either ...not genuinely confused about the existence of violations” or “kept his eyes closed to avoid seeing any problems while he was there.” The hearing officer ultimately found that several violations existed, and affirmed the City’s finding that the property constituted a public nuisance. (See Bruder, LLC v. City of Oakland, Case No. A136256, Court of Appeals of California, First District, Division One (Filed August 29, 2013).)

Given this Applicant’s history of acting first and dealing with the consequences later, the City should apply diligent oversight to any construction process they approve.

VI. This Application Should be Denied.

Due to the glaring inaccuracies and omissions on this Application, and all the additional concerns raised above, we respectfully request that you revoke your decision to deem this Application complete, and require that the Applicant submit an accurate and completed Application.

You have the authority to do so. On your own application form, the Applicant was clearly warned that “inaccuracies may result in revocation of planning permits as determined by the Planning Director.” (cite) Therefore, when the Applicant decided to omit and misrepresent on his Application, he was on notice that doing so might mean that any permit he received as a result of the inaccurate and incomplete application could be revoked.

Please also be on notice that given the issues mentioned in this letter, we will appeal any decision to approve this development to the Planning Commission and if necessary, to the Superior Court.

Sincerely,

SEARCHED
SERIALIZED
INDEXED
FILED

i^[1] Despite the statement in the public notice, the exact date on which the City received the Application is unclear. The Application was not date stamped, and the Application fee section not filled out. It was signed by the Applicant on 7/15/2010, but Clevenger notes on the Application it was "rec'd 7/14/2010". In an email dated 7/30/10, Clevenger said it was received on 7/12/2010. On 7/21/2010, Applicant and his architect met with neighbors and led them to believe they had not yet filed a formal application.

ii^[2] It should be noted that the incompleteness of the Application cannot be dismissed as the result of mistakes or ignorance on the part of the Applicant: Mr. Magganas is a seasoned developer with many large developments in Alameda County under his belt.

iii^[3] The Oakland Planning Department's file on this Application was remarkably sparse. Much correspondence that we and other neighbors have had with the Planning department about this site was not in it.

iv^[4] In this conversation between Ms. Clevenger and Vibeke Norgaard, Ms. Clevenger did vaguely indicate there were "some meetings" in which the language of the ordinance was carefully considered and the decision to deem the application complete made. It was not clear when these meetings were held or why there was no indication of them in the public file. If the ordinance was being reviewed when the decision was made, that would strongly suggest the application was deemed complete *after* April 15, 2011.

v^[5] The Applicant's proposal shows a concrete masonry fence, 16-foot tall walls, a paved driveway and parking all within 10 feet of this tree. The Applicant, in an email to Guita Boostani, dated 7/30/2012, threatened legal action against the neighbor if they did not remove this tree.

vi^[6] As set forth above, this elevator is not shown in the Application plans.

vii^[7] Applicant has even gone so far as to blame neighbors for the blighted condition of his own property in an email to Ms. Guita Boostani on December 18, 2013.

viii^[8] As noted above, since the Applicant is a seasoned developer, his ignoring building and remediation rules and regulations cannot be dismissed as the result of mistake or ignorance.

ix^[9] A Public Records Act request was mailed by registered mail in or around early 2012 to the Fire Department in order to obtain more details about the UST removals and whether or not Applicant had a proper permit in place when they were begun. To date we have had no response to this request.

Clevenger, Ann

From: K Craig <craigkathleen@comcast.net>
Sent: Tuesday, January 27, 2015 10:08 AM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave., Oakland, CA

Dear Ms. Clevenger,

My name is Kathleen Craig, and I have been a resident of Oakland for the past thirty years. I am writing to you to express my strong support for the proposed new building at 6501 Shattuck, Oakland, CA.

Getting rid of the old, dilapidated, and toxic gas station is the best thing that could have happened to this intersection, and it is a huge step forward for this community. This new project will be an important anchor in further stabilizing the neighborhood. Having commercial space on the ground floor is a real positive for local businesses, neighbors, and other customers travelling along Shattuck. Oakland desperately needs high quality and safe housing, especially in very close proximity to public transit. This project scores on all points. The design of the building is beautiful and in keeping with the best aspects of its immediate and larger environment. For those of us who are deeply committed to improving Oakland for all of our residents and business owners, this project is a win-win that addresses, once and for all, what has been a blighted and depressing corner. It is most deserving of your and the City's support.

Sincerely,

Kathleen Craig
510-681-7651

Clevenger, Ann

From: 87edrag . <edrag87@gmail.com>
Sent: Monday, January 26, 2015 10:15 PM
To: Clevenger, Ann
Subject: 6501 Shattuck ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of El Cerrito and love the new progress that is being made along the Shattuck corridor. I spend most of my free time with my friends in Oakland I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Erik Dragos

Clevenger, Ann

From: Igor Tregub <itregub@gmail.com>
Sent: Monday, January 26, 2015 4:27 PM
To: Clevenger, Ann
Cc: Kalb, Dan; Bolotina, Olga; Athan Magganas
Subject: 6501 Shattuck Ave Proposal
Attachments: 6501 Shattuck Letter.pdf

Dear Ms. Clevenger,

Please find enclosed a letter in support of staff-level approval of 6501 Shattuck Ave. Please don't hesitate to contact me with any questions. Thank you for your consideration!

Very truly yours,
Igor

Igor Tregub
Charles & Tregub Consulting
Mobile | 510-295-8798

itregub@gmail.com
2015 4:27 PM

itregub@gmail.com
2015 4:27 PM

Ms. Ann Clevenger
City of Oakland Planning Department
250 Frank H Ogawa Plaza
Oakland, CA 94612
cc: Councilmember Dan Kalb, Athan Magganas
January 26, 2015
RE: 6501 Shattuck Ave. Proposal

Dear Ms. Clevenger,

I have recently been retained to represent Mr. Athan Magganas in his bid to receive a favorable recommendation and staff-level approval of the 6501 Shattuck Avenue project.

Over the past month, I have gotten a chance to understand Mr. Magganas's motivation for this proposal as well as speak with some of the adjoining neighbors, property owners, and business owners. Mr. Magganas has taken painstaking efforts to go above and beyond the requirements necessary to rehabilitate this vacant lot that used to be a gas station, provide environmental remediation to the site, and propose to construct a building that fits within all the lot coverage and height requirements of this zoning as they existed at the time of his initial applications.

I have witnessed firsthand his efforts to respond to all the constructive input of the neighbors (short of one neighbor's suggestion to not build the project at all, which would be in contravention to Mr. Magganas's right so long as doing so conforms to the zoning code). The resulting proposal has been scaled back and respects the predominantly mixed-use built environment along Shattuck Ave. as well as the predominantly residential character of the buildings abutting it along 65th St.

In fact, as we were discussing the plans for 6501 Shattuck outside of Nomad Cafe, a neighboring property owner, unsolicited, joined in and provided unsolicited feedback that he approved of the project and that it would fulfill an unmet need in this neighborhood. This is just one example of the predominantly positive feedback that this project has received. They agree that the proposal would provide a much-needed upgrade to this block and complement both the commercial and residential uses along the major thoroughfare of Shattuck Ave.

In addition, the residents of the proposed building would be served by the AC Transit routes along Shattuck, with a stop less than a block away from the proposed residence, and by BART, which is a ten-minute walk from this location. The project would greatly enhance the experience of the pedestrian walking along the block as well as of the neighbors to the immediate east and west of the proposed project, as it would convert the dilapidated remnants of a gas station and garage with a state-of-the-art residential or mixed-use project.

I urge your approval of this project. Please contact me at 510-295-8798 with any questions.

Sincerely,
Igor Tregub
Charles and Tregub Consulting

Clevenger, Ann

From: Sotiris Vlavianos <svlavianos@gmail.com>
Sent: Monday, January 26, 2015 3:44 PM
To: Clevenger, Ann
Subject: Concerning 6501 Shattuck

To Whom It May Concern:

I have been around the neighborhood for several years and it sure needs this building as proposed. Personally, I am against the groups of activists who always oppose any progress in the neighborhood without taking into account the benefits that the neighborhood can get by implementing projects like this.

The City standing, and our security in the neighborhood will surely increase with this new building project.

Best Regards,

Sotirios Vlavianos, LL.M.

--

--
Sotirios Vlavianos
LL.M. 2013
University of California, Berkeley, School of Law

Clevenger, Ann

From: Bryant Williams <bryantpwilliams@gmail.com>
Sent: Monday, January 26, 2015 4:45 PM
To: Clevenger, Ann
Cc: Peter Magganas
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave.

I grew up in the East Bay and love the new progress that is being made along the Shattuck corridor in Berkeley and Oakland.

I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

--
Bryant Williams
925-262-3203

Clevenger, Ann

From: iamsparti@gmail.com on behalf of Atticus Honore <atticus.honore@gmail.com>
Sent: Monday, January 26, 2015 4:23 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Oakland and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Atticus Honore

Clevenger, Ann

From: Daniel Cohen <Daniel.Cohen@dbopartners.com>
Sent: Monday, January 26, 2015 2:46 PM
To: Clevenger, Ann
Subject: In Support of 6501 Shattuck

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave.

I have spent many years in the East Bay Area as a student at Cal and love the new progress that is being made along the Shattuck corridor in Berkeley and Oakland.

I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you,

Daniel

Daniel Cohen
Dean Bradley Osborne
O: 415.367.6023 | C: 240.687.0012
daniel.cohen@dbopartners.com

Clevenger, Ann

From: Marissa Craft <marissacraft@gmail.com>
Sent: Monday, January 26, 2015 2:45 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Avenue

To whom it may concern:

I am writing in support of the project as is proposed at **6501 Shattuck Avenue**.

I've spent quite a bit of time in the Easy Bay Area as my relatives have lived there for many decades- I am thrilled to see the new progress that is being made along the Shattuck corridor in Berkeley and Oakland. I feel that this type of change benefits Oakland by improving the aesthetics of the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is beneficial for the neighborhood and city alike!

Kind regards,

--
Marissa Craft | +1 917 605 0608
marissacraft@gmail.com

Clevenger, Ann

From: Alex Bayman <Alex.Bayman@dbopartners.com>
Sent: Monday, January 26, 2015 2:39 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave.

Since I moved to the west coast I've enjoyed spending time with friends in the East Bay, and have noticed the fantastic progress that is being made along the Shattuck corridor in Berkeley and Oakland.

I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Best,
Alex Bayman

Clevenger, Ann

From: Anastasia Magganas <amagganas@gmail.com>
Sent: Monday, January 26, 2015 2:52 PM
To: Clevenger, Ann
Subject: 6501 Shattuck building

I live down the street at 1130 65th Street
from the proposed 4 story building at 6501 Shattuck Avenue. I am in favor of it.
Please make it happen.
Thank you.

Clevenger, Ann

From: Sarah Clark <sarahnc Clark@gmail.com>
Sent: Monday, January 26, 2015 2:23 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Oakland and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Sarah N. Clark

Clevenger, Ann

From: George Jaber <George.Jaber@dbopartners.com>
Sent: Monday, January 26, 2015 2:34 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Avenue

To whom it may concern,

I am writing in support of the project as proposed at 6501 Shattuck Ave.

I am extremely supportive of the change happening along Shattuck in Berkeley and in Oakland. I am a long-time East Bay resident. I went to high school in Oakland and college in Berkeley and live in the East Bay and the current developments are bringing positive change to the area. More housing to combat the high rental prices is better for everyone, and it is always lovely to clean up the area.

Please pass this project as proposed. It is great for the city and even better for the neighborhood!

All the best,

George Jaber
Dean Bradley Osborne
415.367.6016 office
510.390.3286 cell
One Embarcadero Center, Ste 3700
San Francisco, CA 94111
george.jaber@dbopartners.com

Clevenger, Ann

From: Tyler Nation <tyler.w.nation@gmail.com>
Sent: Monday, January 26, 2015 2:09 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing. As an East Bay native, I can say that I believe the residents are long over due and worthy of seeing their neighborhoods continue to evolve and improve with time.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Clevenger, Ann

From: Alison <smitastic79@yahoo.com>
Sent: Monday, January 26, 2015 2:04 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Project Proposal

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of El Cerrito and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.
Alison Smith

Sent from my iPhone

Clevenger, Ann

From: Zachary Slendebroek <zakariah11@yahoo.com>
Sent: Monday, January 26, 2015 2:04 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave Body

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Oakland and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Zachary Slendebroek

Clevenger, Ann

From: J Lim <jonathan.d.lim@gmail.com>
Sent: Saturday, January 24, 2015 12:38 PM
To: Clevenger, Ann
Subject: Support of Shattuck new development

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Berkeley and love the new progress that is being made along the Shattuck corridor. I spend a significant amount of time in Oakland, I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood, neighboring Berkeley, and city alike.

Thank you.

Jonathan Lim

Clevenger, Ann

From: sylvia forrest <sylviavaforrest@yahoo.com>
Sent: Saturday, January 24, 2015 6:43 PM
To: Clevenger, Ann; Clevenger, Ann
Subject: Re:6501Shattuck ave

OAKLAND PLANNER

REFERENCE: 6501 SHATTUCK AVE.

PLEASE JUST APPROVE IT AS IS
WE HAVE BEEN WAITING FOR YEARS

SINCERELY, Sylvia Forrest.

Clevenger, Ann

From: Adele Schenker <adele.schenker@gmail.com>
Sent: Saturday, January 24, 2015 8:18 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Avenue, Case File #CDV10165

There are 2 four story buildings located on Alcatraz between Raymond and Shattuck. Shattuck Avenue has a bus route.

The location is a few blocks away from BART.

It's a 10 minute walk to Berkeley Bowl for food shopping.

The new Safeway is a 15 minute walk up to College Avenue.

There are cafes & restaurants close by.

I personally see no reason why Oakland shouldn't be able to offer more housing and I am in favor of this building. My only concern is around parking. Will the side streets be inundated with lots of additional cars?

Thank you.

Adele Schenker

Clevenger, Ann

From: Maksim <maksimvb@yahoo.com>
Sent: Saturday, January 24, 2015 10:46 PM
To: Clevenger, Ann
Subject: Lot on Shattuck @ 65th

Dear Ms. Clevenger,

My name is Maksim Obolnikov and I am writing in regards to the property located at 6501 Shattuck Avenue. I've lived down the block for many years and this dilapidated auto repair shop has always been sticking out like a sore thumb in the neighborhood.

Now there is a developer who bought the property and is trying to construct a modern, good-looking building. I request that you approve this construction project as I would really like to see this type of building built and I believe it will help regentrify the neighborhood.

Sincerely,

Maksim Obolnikov.

Clevenger, Ann

From: Ton Chookhare <chookhare@gmail.com>
Sent: Friday, January 23, 2015 8:27 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

Follow Up Flag: Follow up
Flag Status: Completed

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Oakland and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Ton Chookhare

Clevenger, Ann

From: angelin marie mcgowan <abarrios@gmail.com>
Sent: Friday, January 23, 2015 8:43 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Emeryville and frequent visitor of Oakland. I love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

Regards,

Angelin Marie McGowan
(510) 918-5145

Clevenger, Ann

From: Joseph Santini - Santours // Santini Tours <joesantini@gmail.com>
Sent: Saturday, January 24, 2015 10:58 AM
To: Clevenger, Ann
Subject: 6501 SHATTUCK AVENUE

Dear City Planner,

In 2000, 15 years ago, I bought my property located at 6575 Shattuck Avenue, where I now operate my business, Santours - Santini Tours & Tropical Travel. I did a major improvement to my property in order to occupy it.

Over the past 15 years, I have invested heavily in our neighborhood. When I moved my business from Berkeley to Oakland, on our opening day, we found a dead body in a car. Several homicides occurred in the following years.

Several projects were passed and many of the properties have been remodeled, rebuilt and sold. Our area has changed a lot in the last decade. The area has gentrified and crime is way down. No more dead bodies in cars!

I strongly support housing and strongly recommend the city to increase density in the main corridors of our beloved Oakland. We have a tremendous shortage of housing and we have no additional land we can build more units.

We are on Shattuck Avenue, this is not a quiet residential neighborhood and many of the activists who are against new projects do not contribute at all to the improvement of our areas. Mr Magganas has an awful neighbor who has kept her property in dire conditions and have RV parked in the driveway. I have complained about it to them and nothing has been done.

I am requesting a favorable ruling on Mr. Magganas project, so we can continue improving our neighborhood. We need housing, we need more costumers and as a small business in the area, we need them.

If you need any additional input, please contact me.

Joseph Santini

--
Joseph (Joe) Santini - SANTOURS
Santini Tours & Tropical Travel
6575 Shattuck Avenue
Oakland, Ca 94609 - USA
Phone (001-510-652-8600) - fax (001-510-652-8601)
Toll free - USA ONLY 1-800-769-9669

Clevenger, Ann

From: kevin woulfe <kevinwoulfe@gmail.com>
Sent: Saturday, January 24, 2015 11:19 AM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I have lived in Berkeley and Oakland for 31 years and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you,

Kevin Woulfe

Clevenger, Ann

From: Leah mcstocker <leahmcstocker@gmail.com>
Sent: Saturday, January 24, 2015 11:47 AM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Berkeley and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you.

--
Leah McStocker
916.600.5729

Clevenger, Ann

From: Ben Liepman <ben.liepman@gmail.com>
Sent: Saturday, January 24, 2015 1:25 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Oakland and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you,
Ben Liepman

Sent from my iPhone

ben.liepman@gmail.com
1/24/15 1:25 PM

ben.liepman@gmail.com
1/24/15 1:25 PM

Clevenger, Ann

From: Dominic <dthril22@hotmail.com>
Sent: Saturday, January 24, 2015 5:54 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a resident of Oakland and love the new progress that is being made along the Shattuck corridor. I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, as well as addressing the high rental prices with more housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Thank you

Sincerely,
Dominic Mejia

Clevenger, Ann

From: David Greenstein <djgreens07@gmail.com>
Sent: Friday, January 23, 2015 4:56 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I am a former resident of Oakland and currently work in Uptown Oakland as an environmental engineering consultant. I believe the change along the Shattuck corridor is valuable and exemplifies forward thinking that will greatly benefit Oakland by both beautifying the neighborhood and addressing current high rental prices.

Please pass this project as proposed. It will be good for the neighborhood and city alike.

Thank you.

David Greenstein

Clevenger, Ann

From: madeleine mccarthy <masimcc@gmail.com>
Sent: Friday, January 23, 2015 4:17 PM
To: Clevenger, Ann
Subject: 6501 Shattuck Ave

To whom it may concern,

I am writing in support of the project as is proposed at 6501 Shattuck Ave. I have been a resident of Oakland for a long time and I am so excited and love the new progress that is being made along the Shattuck corridor. It is my belief that type of change greatly benefits Oakland by beautifying the neighborhood and helping the the high rental prices with more housing.

Please pass this project as proposed. It is good for both the neighborhood and the city!

Thank you,

Madeleine

Clevenger, Ann

From: Ryan Oliver <ryan.oliver.2007@gmail.com>
Sent: Friday, January 23, 2015 4:08 PM
To: Clevenger, Ann
Subject: Fwd: 6501 Shattuck

To whom it may concern:

I write to express my support for the proposed project at 6501 Shattuck Ave. I am a Cal grad and resident of Oakland and love the progress that is being made along the Shattuck corridor. It's been exciting to see the positive developments and I feel that this type of change greatly benefits Oakland by both beautifying the neighborhood, and providing much needed additional housing.

Please pass this project as proposed. It is good for the neighborhood and city alike.

Best regards,

Ryan

Clevenger, Ann

From: Lorin Hill <lhill@hillarch.com>
Sent: Tuesday, January 20, 2015 5:21 PM
To: Clevenger, Ann
Cc: Jeff Altmann
Subject: support for project at 6501 Shattuck Avenue
Attachments: across from Nomad.JPG

Dear Ms. Clevenger,

As a nearby property owner and business owner I am writing to heartily support the proposed development at 6501 Shattuck Avenue. I am also writing on behalf of our co-tenant and co-building owner, Jeff Altmann of Altmann and Associates, Inc., who is cc'd here.

The subject property has long been a blight on our neighborhood, and the proposed development would be a huge improvement. The design and scale of the project are compatible with recently built projects such as the Nomad Cafe building across the street and the condo project two lots to the north. I am confident that any minor variances or encroachments that have been requested are necessary for the viability of the project.

While I do not know the particulars, it has come to my attention that certain neighbors are vociferously opposing the project. We firmly disagree with any party who tries to block this project on any grounds.

Thank you for your attention to this matter.

Regards,

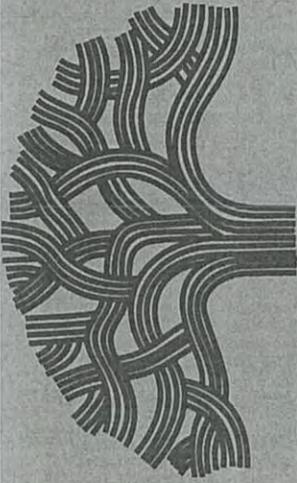
Lorin Hill

--

Lorin Hill | Principal

Lorin Hill, Architect
6573 Shattuck Avenue | Oakland, CA 94609
T 510.654.2552 | F 510.654.2555

lhill@hillarch.com | www.hillarch.com



COMMUNITY AND
ECONOMIC
DEVELOPMENT AGENCY

CITY OF OAKLAND



CITY OF OAKLAND

Bureau of Planning - Zoning Division

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Phone: 510-238-3911 Fax: 510-238-4730

ZONING MANAGER PUBLIC NOTICE

8. Location: 6501 Shattuck Avenue, Oakland, CA 94609 (APN: 016-1428-011-02)
Proposal: To construct a new 4-story mixed-use building, with commercial space and parking on the ground floor, and 18 residential units on the upper 3 floors.

Applicant / Phone Number: Moshe Dinar / (510) 893-8300

Owner: Athan Magannas

Case File Number: CDV10185

Planning Permits Required: Regular Design Review for new construction;

Minor Variance for rear (garage) setback;

Minor Conditional Use Permit for density; and

Minor Conditional Use Permit for driveway within the rear yard setback.

General Plan: Neighborhood Center Mixed Use

Zoning: C-10 (Note: The application was submitted as a C-10 application prior to Zoning changes that became effective on April 14, 2015. The application was changed to the Zoning designation for this property to C-10-3).

Environmental Determination: 15303- New Construction or Conversion of Single-Family Residential Zoning

Exemption: 15183- Projects Consistent with a Community Plan, General Plan or Zoning

Historic Status: Non-Historic Property (vacant parcel)

Service Delivery District: 3

City Council District: 1

Action to be Taken: Pending

Finality of Decision: Applicable to Planning Commission

For Further Information: Contact case Planner Ann Chengler at (510) 238-6980 or by email: achengler@oaklandnet.gov

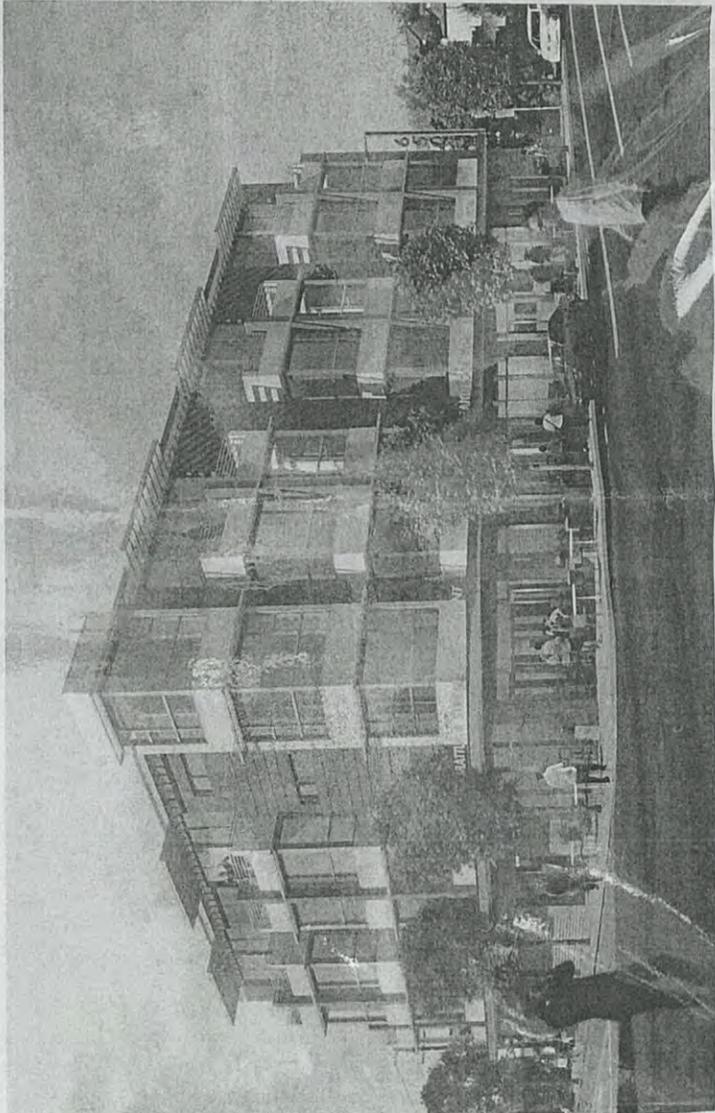
Your comments and questions, if any, should be directed to the Bureau of Planning - Zoning, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031, within 17 calendar days of the posting of this notice. A decision will be made on the application after this date. If you challenge a decision on this case on appeal and/or in court, you will be limited to issues raised in correspondence delivered to the Bureau of Planning - Zoning prior to the close of the public comment period. If you wish to be heard on a decision on this case, please indicate the case number and submit a self-addressed stamped envelope for mail to the Bureau of Planning - Zoning, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031.

Please note that the description of the application, found above is preliminary in nature and that the project and/or such description may change prior to a decision being made. Except where noted, any decision is reached by the Zoning Manager on these cases, they are appealable to the Planning Commission. The Commission's decision is reached by the Zoning Manager on these cases, they are appealable to the Planning Commission's Residential Appeals Committee. Such appeals must be filed within ten (10) calendar days of the date of the decision by the Zoning Manager and by 4:00pm. An appeal shall be on a form provided by the Bureau of Planning - Zoning and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City of Oakland or wherein the decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to file a timely appeal will preclude you from challenging the City's decision in court. The appeal must raise every issue that is contested along with all the arguments and evidence previously entered into the record during the previously mentioned seventeen (17) day public comment period. Failure to do so will preclude you from raising such issues during the appeal hearing and/or in court.

POSTING DATE: January 9, 2015

COMMENTS DUE DATE: January 26, 2015

IT IS UNLAWFUL TO ALTER OR REMOVE THIS NOTICE WHEN POSTED ON SITE



CORNER STREET VI

SIGN NUMBER: _____

IF SIGN OR INSERTS ARE MISSING OR DAMAGED, PLEASE CALL ZONING AT (510) 238-3911. FOR BLIGHT NOTICES, PLEASE CALL (510) 238-6402

Clevenger, Ann

From: Mary Burger <burger.mary@gmail.com>
Sent: Monday, January 19, 2015 4:42 PM
To: Clevenger, Ann; Kalb, Dan
Subject: CDV10185

I'm a longtime north oakland resident and I'm in support of the proposed development #CDV10185 at 65th and Shattuck. I know some people in the neighborhood object to the four-story height. But I support medium-density urban infill near transit in the East Bay, and I believe this project is a long-overdue improvement on the empty lot there now.

Thank you,
Mary Burger

Clevenger, Ann

From: Tommaso Sciortino <sciortino@gmail.com>
Sent: Monday, January 19, 2015 7:41 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: I support the 4 story build at 6501 Shattuck

I own and live in a home on 65th st. one block from the proposed development. I'm precisely the kind of person who would be writing with NIMBY concerns about density "ruining" the character of my neighborhood.

But I'm not.

I support dense urban development for multiple reasons.

- * Because I have many friends in the local arts who have been pushed out of the area because of high rents.
- * Because I believe it's better for us to build up in cities than to increase ecologically destructive urban sprawl.
- * Because I understand that while it may be slightly inconvenient for the character of my neighborhood to change slightly, it is even worse to live in a city starved for housing because veto power is given to parochial interests.
- * Because I walk by that ugly plot of unused land nearly every day and am happy that someone is willing to build on it.

No one has paid me to write this. I have no friends in the development industry. I literally learned about this proposal from the flyer the anti-density group slipped under my door. I work as a software developer and have lived in Oakland for over ten years.

-Tommaso Sciortino

Clevenger, Ann

From: Tommaso Sciortino <sciortino@gmail.com>
Sent: Monday, January 19, 2015 7:49 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: Re: I support the 4 story build at 6501 Shattuck

Oops. I forgot to add: Case File Number: CDV10185

I forgot to add: local density would increase the customer base of local businesses too. So that's another good thing.

-tom

On Mon, Jan 19, 2015 at 7:40 PM, Tommaso Sciortino <sciortino@gmail.com> wrote:

I own and live in a home on 65th st. one block from the proposed development. I'm precisely the kind of person who would be writing with NIMBY concerns about density "ruining" the character of my neighborhood.

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-Tommaso Sciortino

Clevenger, Ann

From: Marla Wilson <dcmarla@gmail.com>
Sent: Friday, January 16, 2015 4:57 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck - SUPPORT

Hi,

My partner and I live right behind the proposed development at 6501 Shattuck (Case file number CDV10185) and I'd like to say I'm fine with the developer building up to 4 stories. Shattuck is a major transit corridor and the site is very close to Ashby BART too, making it an ideal place for compact infill development. Four stories is totally appropriate for this site. The site is contaminated and in the winter, fills with rain and becomes a filthy breeding ground for mosquitos. Graffiti blankets the site. It's a magnet for illegal dumping. It's about time this site gets redeveloped, and the renderings I've seen show an attractive building that would relate well to the Nomad Cafe building across the street.

We support redevelopment of this site and do not want to see the status quo -- an eyesore -- continue forever. Please let this site get redeveloped into an attractive, pedestrian-oriented development with active ground floor uses! Let's get this right. I know this site owner has not always acted responsibly in the past. Please monitor him closely to be sure he follows the rules this time around. But let's make him do right by the neighborhood and clean up this blight.

Thanks,
Marla Wilson

6500 Whitney St., Oakland

415 971 9038

Clevenger, Ann

From: Ozzie <ozv@sonic.net>
Sent: Monday, January 26, 2015 9:42 AM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave

To: Aclevenger@oaklandnet.com
Cc: dkalb@oaklandnet.com
Re: 6501 Shattuck Ave.
Case File # CDV10185

Dear Ms. Clevenger:

Even through I live approximately a block away, I do not want the proposed building in my neighborhood.

Four stories is way too big and tall for this location. The proposed building seems to have approximately same mass or bulk as the Ed Roberts Center on Adeline, and the Sankofa Academy at 581 61st St and Shattuck Avenue. Both of those buildings are essentially two story buildings with extensive setback and adjacent parking lot or front lawn and playgrounds to separate themselves from adjacent housing. The only three story building I can think of is the Lorin station apartment building with offices below on Adeline. It was built to the sidewalk on Adeline, but Adeline in this location is exceptionally wide with slanted parking on both side, 2 lanes in each direction, and a wide median green space. Behind, there is a wider drive in space separating the building from adjacent two story homes.

I have read some of the background history of the location. So far, the developer acts like he is in some 3rd world country where all you have to do is slip some money under the table and everything is forgiven. He seems willing to cut corners in violate of health codes, building codes, zoning regulations, fire department regulations, and environmental regulations, and seems to have no respect for standard procedures and neighbors rights. In other places, this approach results in buildings that pancake and kill hundreds when corners are cut and materials are shorted. He has repeatedly committed both fraud and perjury. Consequently, he should not be given any slack or special consideration whatever such as for variances. If anything, he should be required to submit a list of materials one step up from contractor grade for literally everything used on the job before any approval is given, and then inspected frequently.

Osman Vincent, 1920 Alcatraz, Berkeley, 94703, 510-654-6673, ozv@sonic.net

Clevenger, Ann

From: evan magers <evan_magers@yahoo.com>
Sent: Monday, January 26, 2015 8:37 AM
To: Clevenger, Ann
Cc: caitlin stuart; Kalb, Dan
Subject: Comments on case #CDV10185

Re: Proposed Development at 6501 Shattuck Ave APN 16-1428-11-2, Case File Number: CDV10185

Ms. Clevenger:

We live at 6516-18 Whitney Street, one of the properties which would be in the direct shadow of the proposed development. We are opposed to the height of this development for its certain effect, not only on our own family, but on the lives of all our neighbors.

For ourselves, we would say goodbye to the morning sun (and a vast area of mountain and sky view) forever. Sun and sky have real value, to us as humans and to any property on the market. No amount of home improvement could add back the value taken away by the project as planned. Also, we grow our own vegetables now--what will we be able to grow if this hotel-scale behemoth is constructed?

We are further opposed to the developer's plan because of its effect on other surrounding properties and the neighborhood as a whole. It is inappropriate to put up a 4-story building directly adjacent to two 1-story homes. I can only imagine how many hours of light they will lose, how much privacy they will lose, and how much light pollution they will receive at night. Also, the scale is out of harmony with the entire neighborhood; it will literally tower over, not only our block, but an entire section of Oakland.

Only a few of the residents of this neighborhood have seen the relative scale of the proposed development in model form, thanks to small neighborhood meetings. Many others have not had the benefit of a visual representation, and I believe it would help to bring out a flood of comments on this project. The phrase "four-story mixed-use building" in print seems tidy and smart, but the visual representation shows a menacing and dominating assault on us and those around us for blocks. It is one thing to talk about higher-density development along the "Shattuck corridor" (which brings to mind the broad boulevard over toward downtown Berkeley), but it is a very different thing to look at our modest neighborhood, where Shattuck is a narrow 1-lane street, and propose something so incongruous.

We ask that the window for public comments be extended, and that there be a physical representation on the site of the development that shows the height of the proposed structure at every roof and balcony level. I have seen this type of representation before for a proposed building.

Please do not allow a rushed decision on this development. Whatever is built will be there a very long time.

Thank you.

Caitlin Stuart
Evan Magers
6516 Whitney Street

Clevenger, Ann

From: Corey McCannon <coreydeanmc@yahoo.com>
Sent: Saturday, January 24, 2015 5:55 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Ave.
Attachments: 6501 Shattuck Ave.pdf

Dear Ms. Clevenger,

I have attached my comments on the proposed building at 6501 Shattuck Ave., Case File Number: CDV10185. Would you please confirm when you have received the attachment?

Thank you,
Corey McCannon

at 6501 Shattuck Ave.
attachment?

January 24, 2015
City of Oakland

Oakland, CA 94612

APN: 016-1428-011-02
Case File Number: CDV10185

Dear Ms. Clevenger:

Please accept my comments below on the proposed project at 6501 Shattuck Avenue. The site has great potential. I would like to see the site developed with housing and commercial space. As a landscape architect, I particularly like working on infill projects and think they are one best solutions to housing needs in the Bay Area. However, I have strong concerns for the proposed apartment building. These concerns are described below.

Scale of the Project

The building is strikingly out of scale for the lot size in our neighborhood. Below is a computer model I've created showing the scale of the proposed building and the adjacent surroundings. There are no other buildings of this size along our two-lane stretch of Shattuck Avenue, which extends for many blocks. Our segment of Shattuck Avenue is mostly one- and two-story Craftsman homes with occasional commercial buildings, in contrast to Shattuck Avenue in downtown Berkeley, which has taller buildings on a much wider four-lane road. I understand this application was grandfathered in as zone C-10 which allowed for taller buildings. Since 2011, this part of Shattuck Avenue has been rezoned as CN-3 which places a height limit of three stories. This is much more consistent with our neighborhood character and aligns with the city vision for the neighborhood. A three-story apartment building on this small parcel will still create dense infill.



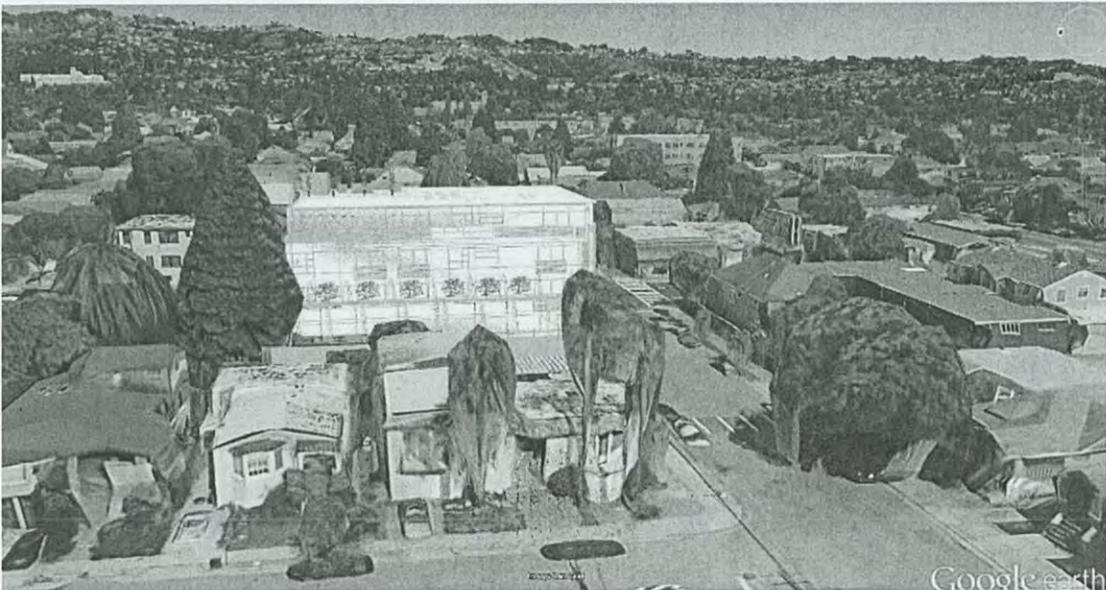
View of project toward the north along Shattuck Avenue



View of project toward the southwest along Shattuck Avenue

Loss of Privacy for Neighbors

The plan reduces privacy for adjacent neighbors. The rear of the property has many windows and outdoor spaces facing directly into neighbors rear yards and houses. The proposed building will also shade the gardens of the adjacent residents. I believe a shade study should be conducted and the rear of the building should to be redesigned to create more privacy for the adjacent properties. Reducing the height to three stories would certainly help provide privacy for the neighbors and improve the chance that current activities can continue on neighboring properties. Computer modelling and streetscape elevations for the block would prove useful for neighbors to understand the size of the proposed structure and allow for more informed comment.



View of the proposed project toward the east



View of the project toward the west

Residual Environmental Concerns

The application received by the city in July 14, 2010, was not complete. The Section 8 hazardous waste and substances statement was not checked and signed. If it had been, the project would have received greater scrutiny for potential environmental impacts from the site. We know the property contained contaminants from its more than half-century use as a gas station and automotive repair facility. Some site cleanup occurred in October 2011. Since the application was not complete in 2010, I believe it should be resubmitted and be made to comply with current zoning codes. Since we do not have reliable information on what automotive-related activities occurred in the remaining structure, it would be reassuring to see an assessment showing that there are no residual environmental impacts as the site is redeveloped.

Project Oversight

The project moved forward in the past without enforcement of safe building practices. This has left behind a blighted property for the last few years. Gas tanks were removed from the site causing pervasive odors of fuel. Grading activity occurred on the property creating dust clouds from the former gas station. All of this was done without a notice to the neighbors. It's my understanding that a grading permit was not issued for the activity and soil removal work and was done without supervision by city officials. Demolition and construction activities have the potential to affect the health and safety of neighbors or future residents. As this project moves forward, increased monitoring would reassure neighbors that no corners are cut during future activities.

Landscape-Related Concerns

The application should have included a landscape plan by a licensed landscape architect. There are many landscape-related issues that need to be addressed. The site plan sheet A-0.1 shows a row of columnar trees at the rear of the property. These trees appear to be on top of a narrow screen wall on the property line. The trees should instead be placed next to the wall. Plus, the section on sheet A-5 shows the columnar tree located between the screen wall and a 6-foot CMU wall. This 6-foot CMU wall will

make the trees hard to maintain and will block the views of the trees for the building occupants. This is counterproductive.

The plans should include a plant palette. It would be extremely useful for the public to see the choice of street trees, screen trees at the rear of the property, and patio trees.

It isn't entirely clear if there are potted plants being installed on the balconies or if that is to be done by future residents. I believe potted shrubs and trees should be installed throughout the project as it's built so planter pots can be provided with adequate drainage. Plus, this will create a unifying plant theme.

Vines are shown on the overhead trellis at the top of the building. Unless there is a soil medium in which they can grow, these should be removed in the interest of depicting the project realistically.

The plan should include a bike rack for people visiting the commercial portion of the property. There currently are only bike racks for the building residents. Shattuck Avenue attracts many cyclists and commercial patrons will benefit from a place to park.

A portion of the parking in the lot should be for employees and patrons of the commercial space. Our neighborhood parking is occasionally very limited due to our close proximity to BART. A small number of off-street parking spaces would help ease the burden that will be placed on our neighborhood streets as a result of the project.

Conclusions

Overall I support developing the site with housing and commercial space. If the height is reduced from the current proposal and is redesigned in response to neighborhood feedback, I could support the project without reservation. Please help us develop our stretch of Shattuck Avenue in a manner consistent with current zoning and help us ensure that the project is built and modified in a safe and thoughtful manner according to current city codes with respect for neighbor concerns.

Thank you,

Corey McCannon, Landscape Architect, LEED/AP
721 65th Street
Oakland, CA 94609

Clevenger, Ann

From: chris hall <christoica@yahoo.com>
Sent: Sunday, January 25, 2015 9:11 AM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck Application

To: Aclevenger@oaklandnet.com
Cc: dkalb@oaklandnet.com
Re: 6501 Shattuck Ave.
Case File # CDV10185

Dear Ms. Clevenger:

I am writing this email to record my concerns regarding the proposed development of 6501 Shattuck Ave. I live in a home that I own with my family at 6512 Whitney St. abutting the western property line of 6501.

We have been in communication with you and other agencies regarding this property since 2009 when work by Bruder LLC initially commenced, and as I believe you are already aware of most of the history I will not go through that.

Our primary concern with the proposed design is that this project, as designed, is out of scale with our neighborhood and would significantly compromise the access to light and privacy of surrounding properties. We see no reason why the proposed development should not be held to current zoning code. It should be limited to three stories in height, and designed to not significantly negatively impact adjacent property. We support infill development in principle and want it to be well integrated into the surrounding context.

This project never reached neighborhood and stakeholder review stage when the application was originally submitted (because of site contamination issues that were not disclosed by the applicant in the initial application). We do not understand how an incomplete application can now be determined to have been complete. Regardless of this, we never had a chance to voice our concerns about these issues last time around. At that time, the Zoning Code and the General Plan for this area were not in agreement with each other regarding allowable height and density. To allow this project to follow a zoning code that is no longer in effect, and even when it was in effect was **not updated and in conformance with the Oakland General Plan**, is beyond frustrating for anyone trying to participate in this and review the design.

We respectfully request the following:

- 1.1 A review of the application history and legal basis for its being complete is established and the version of the zoning from which it is to be evaluated is clear and established.
- 1.2 Story Poles for the current submitted design be erected as soon as possible on the site and left up for neighborhood review for 4-6 weeks.
- 1.3 The applicant should submit a shadow study for public review of the future development based on quarterly intervals of the sun's position. This study should be conducted by a professional and signed, and the neighbors should be able to verify its accuracy.

Specific concerns relating to our shared property line:

- 2.1 A one story masonry bldg current exists on our rear property line, on the NW corner of the 6501 lot. This wall insulates our property from the noise of Shattuck and provides us privacy in our garden. We request at a minimum that this wall be

replaced with a wall of equal height (12') and would ideally want to keep the brick that it is currently constructed with.

2.2 The applicant is proposing a 2nd floor 'public' terrace that is 7.5' from our property line and from which future tenants would presumably look directly into our garden and bedrooms. We request that any habitable portions of new bldgs maintain the min 15' rear yard setback in the zoning code. Additionally, Oakland General Plan (housing element) policy N8.2 states that "...The height of development in higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface..." While the current proposal steps down, we do not feel it respects the spirit of this policy, and the mass of the building in relation to the surrounding buildings is too large and the transition in density too abrupt.

2.3 The applicant is proposing 6 units whose only view is towards our backyard. Oakland General Plan (housing element) policy N3.9 states that "units should be encouraged to face the street and orient to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties..." We request that this policy be enforced by the city, taken into serious consideration by the applicants. The design would need to be revised/refined.

General concerns relating to the project in the context of our neighborhood:

3.1 The buildings mass is out of scale with the surroundings (it would become the largest residential bldg on Shattuck between Dwight and HWY 24, a more than 1.5 mile stretch). The building on Dwight is at a much wider section of Shattuck, and the other is on the block before Hwy 24. Our section of Shattuck is a narrow ROW similar to College ave. If the desire is to densify the area around BART at a level requiring podium style buildings, Adeline or Ashby is the more appropriate street. Our fear is that some people evaluating his application may think Shattuck and see downtown Berkeley. That is not the planning context for this area, nor is it the same ROW width or street design. It is common practice in planning that bldg. heights correspond proportionally to street widths.

3.2 If our stretch of Shattuck is to have thriving neighborhood commercial/retail, which we support, sufficient sidewalk room will need to be allowed for. Not only does this building crowd a relatively narrow sidewalk, it overshadows it with bay encroachments into the public ROW. If the intention is for food service with tables on the street (as shown in the rendering in the application) this situation will not work.

Lastly, if and when a design is approved, given the track record on this project, we expect strict enforcement of all conditions of approval, including adherence to the permit drawing set. This should include absolute respect for setback and height limits (and tearing down and rebuilding anything which does not), and abiding by materials and detail designs shown in the permit drawings. Parameters for substitutions during the construction process should be clearly laid out beforehand and monitored throughout construction. While this previous statement should 'go without saying', precedent has been set for this not being the case, and the applicants have demonstrated lack of conformance with process/codes with previous and ongoing projects they are engaged in.

I am an architect and planner myself and strongly support the right of property owners to develop their properties in a way that is respectful of the surround context, within the parameters of the code, and follows the public process. I also am sympathetic to the city staff and their limitations. We and our neighbors are generally in support of development in our neighborhood and recognize the challenges and opportunities that are presented with infill development on transit and commercial corridors. We look forward to working with you to realize a balanced and appropriate outcome.

Respectfully,

Chris Hall
6512 Whitney St.

January 22, 2015

Ms. Ann Clevenger
Oakland Planning/Zoning Division
250 Frank H. Ogawa Plaza 2nd Floor
Oakland CA 94612

Re: CDV10185: 6501 Shattuck Avenue

Ms Clevenger and Planning/Zoning Staff:

I write as a concerned citizen living and owning property 1 block away from 6501 Shattuck Ave., and also as the Chair of the Shattuck Neighborhood Crime Prevention Council (SNPCPC) which represents residents in Beat 11, roughly from 51st St. to the Berkeley border near Woolsey St., and from Telegraph Ave. to Martin Luther King Jr. Way to the west.

We have been concerned about the blight at that location since the owner Athan Magganas began demolition of the building on the site and removal of the underground fuel tanks in the middle of the night almost 5 years ago. He did that without permits or the environmental reports required to undertake that work, leading the County to require him to perform soil and groundwater tests after the fact. It was not until the spring of 2014 that the County closed the case on 6501, clearing the property for development.

We also attended meetings with interested neighbors when Managgas and his architect Moshe Dinar laid out the plans for the development at 6501 Shattuck. At that time, we expressed our concerns that that the height was too great for that location, and the massiveness of the footprint was out of scale with the neighborhood and unacceptable.

Magganas and Dinar did not address those issues and forged ahead after leaving 6501 as a cesspool of blight, graffiti, squatters, and a pit that was left from the fuel tank removal that became a pond for mosquitoes for nearly 5 years.

Now, today, Magganas wants the city to permit him to construct a 4 story building which does not conform to the current zoning code limiting buildings on this part of the Shattuck Corridor to 3 stories. Your department deems Magganas' application as "submitted and deemed complete prior to Zoning changes that became effective on April 14, 2011".

How could this be possible if Section 8 of the application was blank, and the environmental reports remained unfinished and not accepted by the County Environmental Health Department until mid-2014 ? (see Exhibit A)

Zoning staff needs to revisit the matter of the "deemed complete" 2011 application and investigate whether a serious error was made. On the face of it, it appears that the matter was not handled correctly and that Magganas and associates were given a pass where one was not due.

Staff should also consider the applicant's character and prior behavior, not just in Oakland, but in surrounding communities where he has constantly been cited for illegal and improper behavior associated with his development projects and management of properties that he owns:

- In December 2014, for instance, the City of Concord issued a warrant for his arrest because he had ignored repeated city demands that he abate a bedbug infestation of an apartment house he owns in that city.
- In November 2014, the City of Berkeley issued liens on his property at Adeline and Essex Streets because of illegal, unpermitted building he did there, and after he ignored city notices of violation for more than 6 months and refused to meet with the city inspector.
- In 2013 he sued the City of Oakland over notices of violations and fines at 6501 Shattuck which predated his ownership, but also continued after he bought the property in 2009. The court decided in favor of the city and turned down Magganas' appeal to nullify the fines amounting to \$ 35,000 for code violations and nuisance conditions on the property.
- In 2012, he once again sued the City of Oakland over \$ 53,000 in fines for blight at a property he was developing near the Caldecott Tunnel. The court again found in favor of the city and upheld the fines. Magganas appealed and lost the appeal as well.

Do the Zoning and Code Compliance departments want to deal with this litigious scofflaw again, expecting a different outcome? His track record indicates that he has to be held strictly accountable to all rules and regulations. Cutting him any slack simply leads to additional violations and his demonstrated penchant for ignoring regulations and notices to correct violations. The neighbors near 6501 Shattuck have experienced this over the past 5 years and have every reason to expect continued violations and nuisance conditions at his property however he proceeds in the future.

We ask that any development at 6501 Shattuck be required to adhere to current zoning rules allowing a maximum of 3 stories and require setbacks to the third story on all 4 sides to avoid having a solid wall extend to three stories and create the sense of a massive, monolithic block and cause shadowing to the neighbors' properties to the west and north of 6501. The recent development at 6535-41 Shattuck, 2 parcels to the north of 6501 demonstrates the effectiveness of setbacks to the third story in keeping the building in scale and harmonious with the surrounding buildings. (See Appendix B)

We also ask that story poles be erected on all sides to demonstrate the height and size of the proposed 4 story building. In the same spirit, shadow studies need to be done to show the impact of both a 3 story and 4 story development on the property. Residents and property owners in the area need to understand the impact of a development built to the property lines at 6501.

In view of the need for the story poles and shadow studies, we also ask that the time for public comment and the staff's decision about the application be delayed so that these additional studies can be performed and the effects of the development on the surrounding community understood by concerned citizens in the area. Whatever is built at 6501 will be there for more than a century. The city needs to get it right because of the impact it will have on the future for a very long time.

It is important to remember that there are currently no 4-story buildings on Shattuck Avenue in the 8 mile stretch from Temescal to the intersection of Adeline and Shattuck Ave. at Ward St. in

Berkeley. One at 6501 will stick out like a sore thumb and no others will be built, because of the current zoning regulations and the General Plan.

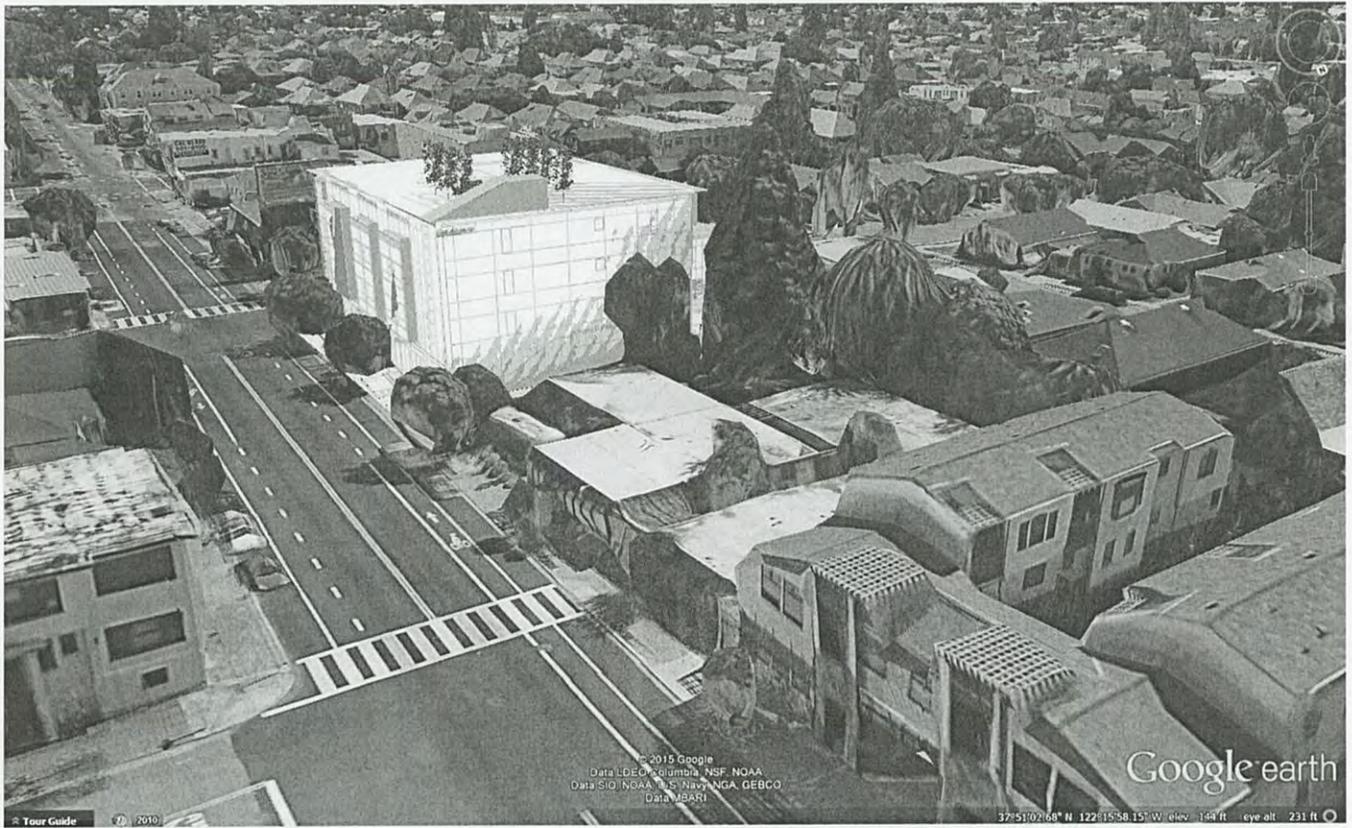
In its discussion of the development of 6501 Shattuck, the Shattuck NCPC did not object to infill development or increased density at 6501. Its concerns were the impact on the surrounding neighborhood, its scale in an area with mostly one and two story buildings, and the developer's demonstrated disregard for his neighbors, for the law, and for city regulations. It has been our experience that a bad player does not change his stripes.

We should mention, too, that if staff persists with its "deemed complete" judgment about the 2011 Application, we will support an Appeal to the Planning Commission, and beyond that, a civil lawsuit against the city in Superior Court to prevent the building of a 4-story building as proposed at 6501 Shattuck Ave.

Sincerely,

Don Link, Chair
Shattuck Neighborhood Crime Prevention Council
6510 Raymond St.
Oakland, CA 94609
Tel. 510-658-8632

Exhibit B 6535-41 in foreground, lower right corner



Clevenger, Ann

From: Frank Grulow <fgrulow@sbcglobal.net>
Sent: Sunday, January 25, 2015 5:37 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: CDV10185: 6501 Shattuck Avenue

A resident of North Oakland since 1975 and a neighbor of 6501 Shattuck Avenue since 1989 (I live 2 blocks from this property).

Since the property was acquired by the current owner it has not been maintained despite the community's numerous expressions of the blight.

I recently learned that the owner is planning to build a large 4-story building on the property despite zoning regulations that, in accordance with the character of the surrounding neighborhood, rightly limit construction to 3 stories. Having send mock-up and drawings of the proposed building, I can only express my shock that we, the residents of North Oakland and the City of Oakland would even consider such a project that by its very nature will impact the character quality of life in the neighborhood by it shear bulk:

1. It abuts properties to the north and west little to no set-back
2. Though Shattuck Avenue at this location is often considered a

thoroughfare, it is much narrower than similar streets in Berkeley and North Oakland where large buildings have been erected: Adeline, Telegraph and Shattuck in down town Berkeley. The adjacent street, 65th, is a rather narrow residential street as are all the other residential streets inn the neighborhood. Therefor, the proposed 4-story building occupying basically the entire lot is out of place and inappropriate for the location. Creating residential housing near public transportation is more appropriate is a good goal. However, it must be done ACCORDING TO LOCAL ZONING REGULATIONS and be appropriately scaled to fit in with the larger community.

3. Because of number 1 above, current residents to the west, north and possibly south will lose significant sunlight during much of the day. Many of thee residence have gardens both decorative and for cultivating food. Therefore, we, the City of Oakland and local residents must insist on an INDEPENDENT SOLAR IMPACT STUDY before we even consider the request for a permit!!! What impact may this have on adjacent residences that rely on solar energy for heat ad or electricity?

4. Because the proposed structure abuts adjacent properties without appropriate setback, the privacy residences must be addressed and an appropriate solution found before any permit is granted.

5. Possible Blight associated with the new construction--Since the property was acquired by the current owner it has not been maintained despite the community's numerous expressions of concern and requests that the blight be eliminated. Given this history why should we ,local residents and the City of Oakland, expect the proposed property to be maintained than differently than it has been? In the absence of concrete evidence that proposed property will be correctly maintained --since its acquisition by the current owner it has not been maintained and has been an eyesore--no permit should be granted, especially for any building, and especially a building that by its shear size and bulk is against zoning rules and is inappropriate for the location: do we want trade a small blighted empty lot for a blighted bulky 4-story building?

A smaller building that is within the existing zoning regulations, which does not adversely affect adjacent properties (shade/privacy), that will not become blighted would be a welcome addition the the neighborhood. What is proposed is not of that ilk!

I hope that our elected representative, the City of Oakland and its Zoning and Planning Board take into consideration the concerns of its citizens in this matter and tht they apply existing zoning regulations regarding building height strictly so as not to adversely affect the character and quality of their city and the lives of its residents!

Frank Grulow
6519 Tremont Street
Oakland, CA 94609

Clevenger, Ann

From: Frank Gruliow <fgruliow@yahoo.com>
Sent: Sunday, January 25, 2015 5:42 PM
To: Clevenger, Ann
Cc: Kalb, Dan; Kalb, Dan; fgruliow@yahoo.com
Subject: CDV10185: 6501 Shattuck Avenue

A resident of North Oakland since 1975 and a neighbor of 6501 Shattuck Avenue since 1989 (I live 2 blocks from this property).

Since the property was acquired by the current owner it has not been maintained despite the community's numerous expressions of the blight.

I recently learned that the owner is planning to build a large 4-story building on the property despite zoning regulations that, in accordance with the character of the surrounding neighborhood, rightly limit construction to 3 stories. Having send mock-up and drawings of the proposed building, I can only express my shock that we, the residents of North Oakland and the City of Oakland would even consider such a project that by its very nature will impact the character quality of life in the neighborhood by it shear bulk:

1. It abuts properties to the north and west little to no set-back
2. Though Shattuck Avenue at this location is often considered a thoroughfare, it is much narrower than similar streets in Berkeley and North Oakland where large buildings have been erected: Adeline, Telegraph and Shattuck in down town Berkeley. The adjacent street, 65th, is a rather narrow residential street as are all the other residential streets inn the neighborhood. Therefor, the proposed 4-story building occupying basically the entire lot is out of place and inappropriate for the location. Creating residential housing near public transportation is more appropriate is a good goal. However, it must be done ACCORDING TO LOCAL ZONING REGULATIONS and be appropriately scaled to fit in with the larger community.

3. Because of number 1 above, current residents to the west, north and possibly south will lose significant sunlight during much of the day. Many of thee residence have gardens both decorative and for cultivating food. Therefore, we, the City of Oakland and local residents must insist on an INDEPENDENT SOLAR IMPACT STUDY before we even consider the request for a permit!!! What impact may this have on adjacent residences that rely on solar energy for heat ad or electricity?

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A smaller building that is within the existing zoning regulations, which does not adversely affect adjacent properties (shade/privacy), that will not become blighted would be a welcome addition to the neighborhood. What is proposed is not of that ilk!

I hope that our elected representative, the City of Oakland and its Zoning and Planning Board take into consideration the concerns of its citizens in this matter and that they apply existing zoning regulations regarding building height strictly so as not to adversely affect the character and quality of their city and the lives of its residents!

Frank Grulio
6519 Tremont Street
Oakland, CA 94609

Frank Grulio
fgrulio@yahoo.com

Clevenger, Ann

From: Catherine Do <boupbe@gmail.com>
Sent: Sunday, January 25, 2015 8:45 PM
To: Clevenger, Ann; Kalb, Dan
Subject: 6501 Shattuck Ave

Dear Mr. Dan Kalb,

My husband and I received a flyer notifying us of the proposed 4 story building at 6501 Shattuck Ave (Case file #: CDV10185)

We understand that the lot is zoned for 3 stories but that the City of Oakland is considering allowing it to be 4 stories.

My husband and I would like to express our concerns over this development. Although, the building looks like it will further modernize our neighborhood, we feel that it is too tall. We would prefer that it be limited to 3 stories since this will still allow it to improve retail space and serve to further gentrify our neighborhood while keeping it in line with the surrounding architecture and feel of the neighborhood. We are also concerned about the congestion which it will bring since Shattuck Ave is already busy during rush hour and since there is no street light at that corner. Limiting the size of the building will thereby limit traffic congestion and improve safety for drivers and pedestrians.

Please let us know if there is anything we can do to be further involved on this issue.

Thank you,
Catherine Do and Dan Chapman
6528 Whitney St.

Clevenger, Ann

From: tamara periconi <gardnertamara@hotmail.com>
Sent: Sunday, January 25, 2015 6:25 PM
To: Clevenger, Ann; dkalb@oakland.com
Subject: 6501 Shattuck Avenue

Hello Ms. Clevenger,

I am writing in regards to the above address, case file CDV10165. I live on 65th and Shattuck and am concerned about the proposed 4-story project. This building is too big for the neighbor and seems to exceed the zoning code. Please do not allow a 4-story building in my neighborhood.

Thank you, Tamara Periconi

Clevenger, Ann

From: jakecummingsconsultant@gmail.com on behalf of Jake Cummings <jac16@cornell.edu>
Sent: Sunday, January 25, 2015 9:29 PM
To: Clevenger, Ann
Cc: Kalb, Dan
Subject: 6501 Shattuck proposal

Re: 6501 Shattuck Avenue, Case File # CDV10185

Dear Ms. Clevenger,

I recently became aware of a proposed development on an empty lot in my neighborhood, at 6501 Shattuck Avenue. I write this letter to you to express my concern and opposition to this project as it stands.

From the plans that I have seen, this project is completely inappropriate to its surrounding context. While I am not an abutter to the property, I am a neighbor and an urban planner with an interest in good urban design as well as smart, deliberate, and legally defensible development in the neighborhood.

The current proposal for 6501 Shattuck Avenue is none of these things.

The height, massing, and setbacks of the proposed building are totally out of line with the current zoning and general plan for neighborhood. The height of the building has been grandfathered in under legally unsupportable circumstances, and the required Variances (requesting even more bulk than what is currently permitted) are also unfounded.

I also understand that the developer of the project, Athan Magganas, is a chronic scofflaw and, therefore, should not be granted any regulatory leeway whatsoever.

As an urban planner, I would be very much interested in new development on the Shattuck corridor -- development that added considerable housing density, active retail spaces, and public amenities. But such development should arise from public participation and should be based on equitable and deliberate planning and urban design principles.

The proposed project for 6501 Shattuck is a step in the opposite direction.

Respectfully,

Jake Cummings
580 66th St
Oakland, CA 94609

Clevenger, Ann

From: Maricela Gutierrez <maricela.gutierrez90@gmail.com>
Sent: Sunday, January 25, 2015 9:34 PM
To: Clevenger, Ann
Subject: Case File Number: CDV10165

Case File Number: CDV10165

Hello Ms. Clevenger,

I live at 6525 Shattuck Ave. Currently there is a giant building being proposed in the 6501 lot. It's supposed to be four-stories tall, and too wide. I have a lot of problems with this huge building and cannot say that I am a welcoming neighbor for quite a few reasons that I wanted to share with you.

To begin, I live in a home with 18 individuals who share a common backyard where we garden, care for chickens, have a compost system and have BBQs and neighborhood events. Having a four-story building while we are merely a one-story building would literally be painful for our community. We would not be able to garden because the sun would be blocked by this gigantic structure. We really enjoy eating our own tomatoes, corn, kale, lettuce and etc. and will not be able to grow it if this building comes up. Also, the proposed building has windows facing the backyard. That would violate our privacy completely. We would feel watched. It honestly makes me anxious just thinking about it. And lastly, our chickens are accustomed to sun and produce more eggs when they get sun. Taking out most of the sun from our backyard would also decrease our egg count. Our food productivity would be significantly reduced if this building were actually built.

I would like to see story poles to see the true impact that this building would have. And to have shadow studies. I already know that it will block our sun almost completely. But, I think that it would be useful information for you to know, so that you can see the great negative impact it would have on our home of 16 adults and two babies (and one baby on its way!).

I know that the landlord, Athan Magannas, got the thumbs up on building a four-story building about four years ago. That is, he got the thumbs up before he endangered his employee's lives and endangering our community by illegally digging out the underground gasoline tanks without the proper care that is legally needed for such a task. I would like to ask you to reevaluate his building proposal that was approved for the 6501 lot. This community no longer allows four-story buildings to be built. The city should, at the very, very least, comply with these valid requests. The city is also permitting Athan Magannas to build really close to our property, and allowing his parking lot to be too close to our backyard. I do not understand why he has been given numerous variances. These should be removed. Again, at the very least. Though, I do hope that the city does more than the very least. I realize that Mr. Magannas is a wealthy, powerful and aggressive person to deal with, who might threaten to sue, but I would hope that the city of Oakland stands up to him.

The final thing that deeply concerns me is that Athan Magannas is being allowed to build a four-story building that he will likely neglect. Take a look at his other properties. He tends to have a rhythm going. He tends to build, often recklessly and illegally, profit, and neglect. Concord, for example, had an arrest warrant against him for ignoring a bedbug infestation. And the city of Berkeley has given him multiple citations for violating proposals and building something differently than what was planned. Because of the evidence in

researching Mr. Magannas and the hostile interactions that other neighbors have had with him, it's apparent that Mr. Magannas is solely a profit-seeking man. He is not a man of the people. He is a man of himself, regardless of the negative externalities that he loads onto different communities. Based on his track record, it is likely that he will build what he wants regardless of what he proposes and will probably pay the fines for his disobedience because he has the money to do so. It's hard to fight someone like Mr. Magannas and that is why I hope that the city of Oakland does! Especially since the individual cannot, on their own. He has yelled at neighbors when they have calmly approached him with questions about certain aspects of his building plans. He has a terrible track record at maintaining livable housing units. I do not want to be stuck next to his unkempt, four-story building. I feel like it's spilling over into my home. Not only in its height, but its width, the noise that accompanies having a parking structure so close by, and all of the problems that accompany Mr. Magannas' housing schemes.

I would be happy having a neighbor that would be willing to have a one-story building. Perhaps if he really wanted a parking structure, it could be underground. And the top floor could be housing or shops, as planned. But, I would like it to be a building that would only be the height of our building. I realize that this landlord wants four-stories, to maximize his profit, as any good, money-hungry, careless landlord would, rather than looking at the community and thinking of the needs of the neighbors. But, that would negatively affect me and my home in so many ways. So much so that I would feel as if I were being displaced. And I love this community, so that is painful to me. Perhaps he can have a high-density housing unit like ours, that houses 18 people and is only one-story. Or perhaps he can sell his lot to someone who cares more about the community. His four-story building is not welcomed.

Thank you so much for taking the time to read this letter and for hearing my concerns. I realize that it is long and angry. I just hope that the city of Oakland stands up to Mr. Magannas for the sake of our community. And that the city recognizes and protects our rights, as we should not have to pay any negative externalities so that Mr. Magannas can make a little more money off another one of his many neglected buildings.

Kindest Regards,
Maricela Gutierrez

(818) 648-3818

Clevenger, Ann

From: David Vartanoff <david@vartanoff.com>
Sent: Sunday, January 25, 2015 9:43 PM
To: Clevenger, Ann; Kalb, Dan
Subject: Case File # CDV10185 aka 6501 Shattuck Ave

While I certainly would favor an improvement of the currently derelict property, the proposed project is not the right one. First off, it is grossly out of scale both in height (one floor greater than current zoning) and bulk--seeking to cover the entire plot and extend into public space over the sidewalks on the upper floors. A three story building with 4 foot set back on all sides would be much more in keeping with the character of the surrounding area.

The applicant has falsely claimed the right to the fourth floor based on having originally applied several years ago. However, that application was incomplete as required sections were not filled out, thus it could not have been considered, let alone approved, until the filing contained all of the required information. In the interim the zoning changed so the applicant is subject to the current height limits. On these grounds the application should be denied outright.

A four story building as proposed is likely to deprive several neighbors of sunlight thus preempting any Solar PV installations as well as permanently shadowing their homes/yards many hours of each day. In light of this potential, I ask that Oakland order a third party study of the exact shadowing effects of both the proposed oversized building and a potentially allowable three story structure. Along with the shadowing study I ask that Oakland order full height "story pole" installation so that all neighbors can judge the size of the building more precisely. Because such installation will take some time, I further request that Oakland extend the time for public comment by 30 days commencing after the city certifies that the story poles are in place and accurately represent the proposed structure.

Given the lower number of potential residents in a three story building, and the availability of convenient bus and rail transit the planned resident parking should be reduced affording greater separation on the rear of the building from the neighboring homes.

In sum, the present application must be rejected, and the applicant ordered to perform the above noted tasks before a revised application can be considered.

As a resident in the immediate neighborhood for over 43 years, I have seen many badly conceived projects proposed. Happily for the city as a whole, the worst of them were turned down and others redesigned giving us more useful and appropriate development.

Thank you for your time and attention

David Vartanoff
6442 Raymond Street

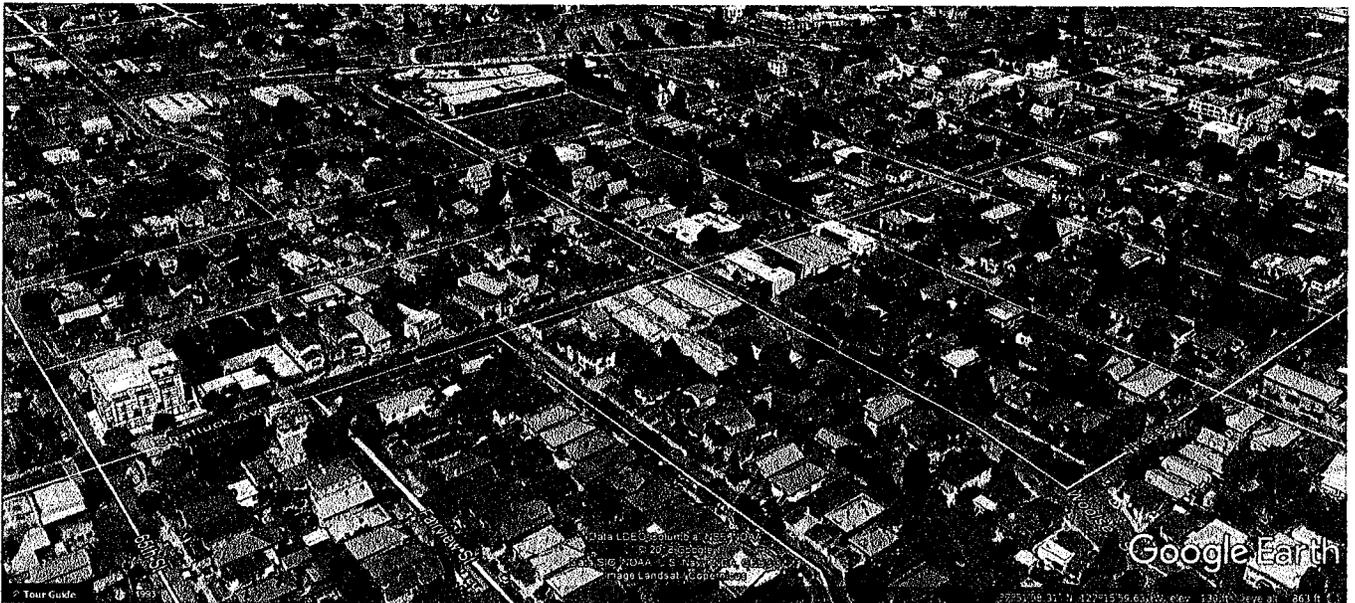
September 18, 2018
City of Oakland
APN: 016-1428-011-02
Case File Number: CDV10185

Dear Mr. Bradley:

Please accept my comments below on the proposed project at 6501 Shattuck Avenue. The site has great potential. I would like to see the site developed with housing and commercial space. As a landscape architect, I particularly like working on infill projects and think they are one of the best solutions to housing needs in the Bay Area. However, I have strong concerns for the proposed apartment building, which are described below.

Scale of the Project

The building is strikingly out of scale for the lot size in our neighborhood. Below is a computer model I created showing the scale of the proposed building and the adjacent surroundings. There are no other buildings of this size along this two-lane stretch of Shattuck Avenue, which extends for many blocks. This segment of Shattuck Avenue is mostly one- and two-story Craftsman homes with occasional commercial buildings, in contrast to Shattuck Avenue in downtown Berkeley, which has taller buildings on a much wider four-lane road. I understand this application was grandfathered as zone C-10 which allowed for taller buildings. Since 2011, this part of Shattuck Avenue has been rezoned as CN-3 which places a height limit of 35 feet (about three stories). This is more consistent with our neighborhood character and aligns with the city vision for the neighborhood. A three-story apartment building on this small parcel will still create dense infill.



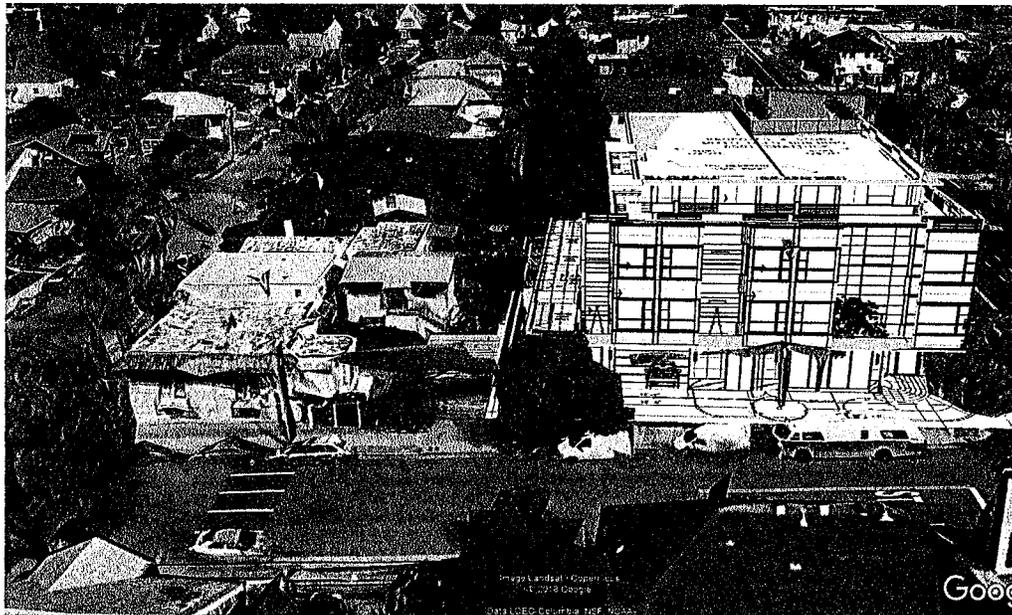
View of project (bottom left) toward the north along Shattuck Avenue



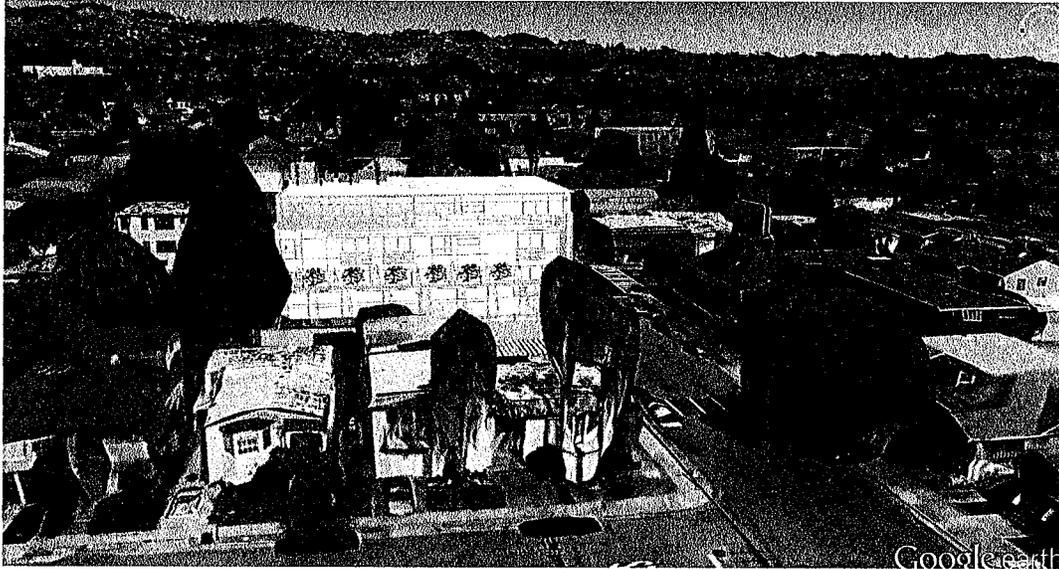
View of project (bottom right) toward the southwest along Shattuck Avenue

Loss of Privacy for Neighbors

The plan reduces privacy for adjacent neighbors. The rear of the property has many windows and outdoor spaces facing directly into neighbors rear yards and houses. The proposed building will also shade the gardens of the adjacent residents. I believe a shade study should be conducted and the rear of the building should be redesigned to create more privacy for the adjacent properties. Reducing the height to three stories would help provide privacy for the neighbors and improve the chance that current activities can continue on neighboring parcels. Computer modeling and streetscape elevations for the block would prove useful for neighbors to understand the size of the proposed structure and allow for more informed comment. The fourth floor of the proposed building will also block the views of the Berkeley Hills from our home.



View of the project facing north



View of the project facing east

Requested Variance

The proposal to build a podium structure within 7.5' of the required 15' rear yard setback is unacceptable. The requested variance adds to the already excessive size of the building. In addition, the variance eliminates the openness between buildings with the 16.5'+/- tall edge (including the guardrail) and leaves little room for appropriate sized mature landscaping between properties and room to maintain them.

Residual Environmental Concerns

The application received by the city in July 14, 2010, was not complete. The Section 8 hazardous waste and substances statement was not checked and signed. If it had been checked, the project would have received greater scrutiny for potential environmental impacts. Since this item wasn't checked the application was not complete. We know the property contained contaminants from its more than a half-century use as a gas station and automotive repair facility. Some site cleanup occurred in October 2011 and beyond. As recently as July 12, 2016, the project architect Moshe Dinar had been in contact in an e-mail with Dilan Roe and Karel Detterman Hazardous Materials Specialist's at Alameda County Environmental Health noting "The City was requesting a letter of confirmation that the environmental remediation and clean-up completed at the above noted property is suitable for mixed use residential and commercial uses, as per submitted Letter of Closure". This information was to go to the former project planner Ann Clevenger and Zoning Administrator Scott Miller. Since the City didn't have this information in July 2016, it did not likely have the information in July 14, 2010, when the original application was submitted.

Since the application was not complete in 2010, it should be resubmitted and be made to comply with current zoning codes.

Project Oversight

The project moved forward in the past without enforcement of safe building practices. This has left behind a blighted property for many years. Gas tanks were removed from the site causing pervasive odors of fuel. Grading activity occurred on the property creating dust clouds from the former gas

station. All of this was done without a notice to the neighbors. It's my understanding that a grading permit was not issued for the activity and soil removal work was done without supervision by city officials. As this project moves forward, increased monitoring would reassure neighbors that no corners are cut during future activities.

Landscape-Related Concerns

The application should have included a landscape plan by a licensed landscape architect. There are many landscape-related issues that need to be addressed. The applicant's site plan shows a row of columnar trees at the rear of the property. These trees appear between a narrow gap inside a fence and a CMU block wall. Trees will not be able to be maintained properly or adequately grow and spread out with these constraints. These trees provide only limited screening since they are spaced with large gaps between them.

The site plan does not show the existing Redwood tree to the immediate north of the property as required in the submittal since the tree is within 10' of proposed construction.

In the project illustration provided by the applicant, the sidewalk in front of the building is shown with sidewalk seating. Seating should be removed where the sidewalk is only 6' wide.

The project illustration also shows awnings that project over the sidewalk and that interfere with street tree placements. I suggest altering the design so the street trees have sufficient room to grow without overhead obstruction.

The plans should include a plant palette. It would be extremely useful for the public to see the choice of street trees, screen trees at the rear of the property, and other shrubs.

It isn't clear if the potted plants shown on the second and fourth floor decks are to be installed by the developer or future residents. I believe potted shrubs and trees should be installed by the builder so the planter pots can be provided with adequate drainage. Plus, this will create a unifying plant theme.

Vines are shown on the overhead trellis at the top of the building. Unless there is a soil medium in which they can grow, these should be removed in the interest of depicting the project realistically.

The plan should include a bike rack for people visiting the commercial portion of the property. There currently are only bike racks for the building residents. Shattuck Avenue attracts many cyclists and commercial patrons will benefit from a place to park.

Conclusions

Overall I support developing the site with housing and commercial space. If the height is reduced from the current proposal, without the requested rear setback variance, and the building is redesigned in response to neighborhood feedback with additional requested exhibits, I could support the project without reservation.

Please help us develop our stretch of Shattuck Avenue in a manner consistent with current zoning and help us ensure that the project is built and modified in a safe and thoughtful manner according to current city codes with respect for neighbor concerns.

Thank you,
Corey McCannon, Landscape Architect, LEED/AP
721 65th Street
Oakland, CA 94609

6501 SHATTUCK AVENUE
Summary of Neighborhood Concerns
Updated on September 17, 2018

(CDV10185)

I. GENERAL COMMENTS

1. **We support the development of affordable housing and density in our neighborhood**, provided it follows current zoning, is appropriate in scale and massing, and creates a more harmonious ratio of building to open space.
2. **We would support a reduction of the number of parking spaces** to reduce building bulk, allow for more open space, and increase opportunities for landscape screening between properties.
3. **We request that the time period for comments be extended** until more accurate drawings and additional information is provided, and the application is complete.
4. **We do not support the grandfathering of this application under the old 4-story rules and challenge the "deemed complete" status of the original 2011 application.** Filing a Zoning application before remediation of the hazardous site was putting the cart before the horse, and the City rescinded its notification as a result.

Per State Government Code Section 65962.5 (f) "Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list."

As stated above, in Section 8 of the Application Form, Hazardous Waste and Substances Statement, the applicant failed to disclose that the property was a toxic remediation site. The City rescinded the public notification and put the application review on hold until remediation of toxic soil was complete. The clean up took five years, mainly due to the owner having started work without permits and environmental oversight; he incurred further delays by routinely trying to cut corners and being forced to go back and remedy his mistakes. Now, after almost eight years since the downzoning, it is unreasonable to apply the old standards to this application.

II. DESIGN AND DEVELOPMENT ISSUES

5. **The design of the proposed 4-story building is too tall for a predominantly two- and three-story neighborhood.** The height limit in this area was lowered seven years ago to align the standards with the charming medium-scale density of this stretch of Shattuck Avenue. In contrast, the proposed design does not scale down its height and towers over the street and the neighbors. Even at four stories, the design could be more harmonious and sculptural in its massing.

The proposed building is 44-feet tall, with a stair tower on the North side at \pm 51-feet tall. As a comparison, the apartment building across from the Muse is 3 stories and approximately 30' tall; the Muse co-housing is approximately 10-13 feet tall; and the houses to the West and South are one- and two-story bungalows.

6. **The building design is bulky and grossly out of scale with the surrounding neighborhood.** The design is too bulky and out of scale for its site. The building footprint covers almost the entire

6501 SHATTUCK AVENUE
Summary of Neighborhood Concerns
Updated on September 17, 2018

(CDV10185)

property and looms over the street and neighboring houses and gardens. The massing is an extruded box, made more bulky by the numerous shallow bay projections that overhang the property line and narrow sidewalk. In addition, the four-story north facade, which will be very visible above the north neighbor's one-story building, remains massive and without any detailing to scale it down.

7. **The variance requested for covering the required rear yard setback adds to the already excessive size of the building, eliminates openness between buildings, and leaves no room for substantial landscaping between properties.** The proposal is to build a podium structure ($\pm 16.5'$ tall including guardrail) that is located within 7.5' of the required rear yard setback (where 15' is required). This reduced setback severely limits the potential for landscape screening if it is expected to reach 30'-40'.
8. **Access to sun and light to neighboring properties and the street is severely impacted** by the tall building massing along the perimeter of the site. The 44 foot tall wall directly abutting the south of the neighbors' yard would completely block the sky from the garden and open space.
9. **Privacy of adjacent neighbors is negatively impacted** by the location of windows, roof deck, upper story decks, and the podium level common open space which will look directly into neighboring properties. The podium is located at the property line to the north (Muse), and within 7.5-feet of neighbors to the west. The floor level of the podium is ± 13 -feet above grade; additionally, the fourth-level decks are located within 18'-1" of the rear property line and are approximately 34-feet above grade.
10. **Landscaping is barely addressed and inappropriately indicated.** There is no landscape plan submitted and the plans show landscape structures and planting that are not functional or possible. A project of this scale needs to have a detailed landscape plan to review at this stage of the process so that
11. **The site plan does not show the protected Redwood tree (40" diameter, 35' diameter dripline) on the neighbor's property to the north (Muse),** as required by Section 6 of the Submittal Requirements. Furthermore, the application form signed by the applicant falsely states that: "There are no existing Protected Trees anywhere on the subject property or within 10 feet of proposed construction activities (including neighbor's properties or the adjacent public right-of-way.)" Construction activity is defined as: any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading or demolition.

Along with the demolition of a building that is on the property line within 5 feet of the tree (with an illegal addition that encroaches into the neighbors property), the extent of new construction in that area will also have extensive impacts. This includes a Concrete Masonry fence, 16.5'-foot tall walls, and paved driveway and parking within 5 feet of the tree. Additionally, the upper floors of the building are too close to the tree's canopy and would require severe and unattractive pruning.

12. **The Variance findings, cannot be made:** There are no unique circumstances that preclude adherence to the 15 foot rear yard setback requirement; strict compliance with setbacks would not

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preclude an effective design; the design severely impacts neighbors; and it would constitute a grant of special privilege that none of the other properties in the area have.

13. **The Conditional Use Permit findings, cannot be made:** The proposal is not in harmony with the character of the neighborhood in terms of scale, bulk, and lot coverage; it will not enhance the neighborhood; and it will have a harmful effect upon desirable neighborhood character.
14. **The Regular Design Review findings cannot be made:** The proposed design will not create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures; and it will not protect, preserve or enhance desirable neighborhood characteristics.
15. **The design is inconsistent with the General Plan provisions for preserving sun, light, air, privacy, and open space, and minimizing impacts on neighbors.**
 - General Plan Policy N3.9 Orienting Residential Development
"Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure"
 - General Plan Policy N8.2 Making Compatible Interfaces Between Densities
"The height of development in urban residential and other higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between the different types of development"
 - General Plan 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 and 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 effect 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."
16. **History of illegal work:** The owner, Athan Maganass of Bruder, LLC, has a history in the Bay Area of doing illegal work, disregarding the health and safety of neighbors, suing municipalities to get out of paying fines, and becoming hostile toward reviewing agencies and neighbors who object. We request that the Zoning Division perform additional inspections during construction to ensure compliance with the conditions of approval and to catch and remedy any violations of those conditions immediately.
17. **History of doing substandard construction:** The owner, Athan Maganass of Bruder, LLC, has a history of doing substandard construction and using low-quality building materials. We request detailed conditions of approval to be imposed, including a requirement for high quality finishes and materials, quality recessed windows, varied siding to break up visual monotony, and NO modifications to be permitted without public notice and review.

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III. MISLEADING AND INCONSISTENT INFORMATION ON DRAWINGS

18. **The latest plans still incorrectly show the configuration and location of neighbors along the North and West sides.** Consequently, the site plan shows neighboring houses having larger footprints, less setbacks and smaller areas of open space than is the case. A correct rendition of the property boundaries and neighboring buildings would show how severely the project is out of context and impacting neighboring properties.
19. **The building elevations do not reflect the slope of the site** (2-feet between the front and the rear property lines) which will result in taller building walls near neighbors toward the rear of the site.
20. **In the architectural rendering, the north neighbor's building is photoshopped** as a two-story building whereas it is only a one-story.
21. **The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden)-** this will significantly add to the height of the building and further impact neighbors on the North.
22. **The renderings show cafe tables on the sidewalks, however, there is actually no room for sidewalk seating.** The rendering misleadingly indicates a wide sidewalk where cafe seating would be possible. However the sidewalk in this area is only six feet (6') wide, and the building sits right on the the property lines, which does not leave enough space for sidewalk seating. In addition, the upper bay projections and awnings would not leave any room for the canopy of street trees.
23. The Ground Floor Plan shows a single 6' fence at the property line but the Building Section shows a double fence.
24. The drawings show a restaurant at the ground floor but with no adequate space for trash cans, and other utilitarian spaces needed for such use.

IV. INCOMPLETE APPLICATION

25. **The variance justifications have not been updated** to reflect the latest design and the applicant fails to justify the requested elimination of rear yard open space.
26. **The Application Form does not reflect the current or previously submitted design**, including number of units, heights, setbacks, lot coverage, etc.
27. **No application for Tree Preservation Permit was submitted** for construction within 10 feet of the protected Redwood tree on the neighbor's property, as required by the Tree Preservation Ordinance. Section 6 of the Submittal Requirements incorrectly indicates that: "There are no existing Protected Trees anywhere on the subject property or within 10 feet of proposed

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construction activities ((including neighbor's properties or the adjacent public right-of-way).

28. **There are no photographs** of neighboring properties to .
29. **The elevation drawings** do not show adjacent houses.
30. **Materials and Color Board** were not submitted. The quality of materials and longevity is important given the owner's track record for using substandard materials.
31. **No landscape plan was submitted.**
32. **The survey is not stamped** by a licensed surveyor.
33. **Section 8 of the Application Form, Hazardous Waste and Substances Statement** (which was never completed in the original application filing) remains blank. According to State law, as well as the instructions on the application form, this section must be completed before an application can be deemed complete. This section has never been, and is still not, completed.

V. INCOMPLETE CITY FILES DURING PUBLIC COMMENT PERIOD

34. **The project file that is made available to neighbors during the comment period is incomplete and does not contain many of the relevant documents** that were generated since the application was initially submitted to the City in 2010, including letters from neighbors, previously rescinded applications on file notice, documentation for putting the previous application on hold; and evidence for deeming the previous application complete.

VI. REQUEST FOR ADDITIONAL INFORMATION TO ASSESS IMPACTS

35. **Story poles** to assess the impacts of such a large building.
36. **Shadow studies** to show the impact on neighboring gardens. (Shadow studies should be done for 9a.m., noon, and 3 p.m. for the following dates: 3/21, 6/21, 9/21, and 12/21.)
37. **Accurate indication of neighboring properties and houses on the site plans and elevations** to demonstrate the relationship of the proposed building to the existing context, and how issues of scale, massing, open space, and privacy are being addressed.

VI. ALTERNATIVE DESIGN SOLUTIONS

38. The site is too small for a concrete podium structure. The expense associated with this type of construction generally preclude sites of this size. This is apparent by the developer's desire for a variance to offset costs. A more appropriate design solution for this site would employ less intensive construction methods.

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39. Ground floor retail space is not feasible given that there are many vacant commercial spaces already in the area, as well as little space for deliveries and trash / recycling areas.
40. Eliminate parking spaces or have parking lifts - dedicate the area to open space and at-grade units.
41. Stepping back the fourth floor along the streets is a good step; this needs to be done on all sides of the building.

Ian Martin
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Vibeke Norgaard
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(415) 516 6674

January 26, 2015

Ann Clevenger
Steve Miller
City of Oakland
Bureau of Planning – Zoning Division
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Re: Case File No. CDV10185/6501 Shattuck Ave.

Dear Ms. Clevenger and Mr. Miller,

As the owners of the property at 6500 Shattuck (the Nomad Café Building), we are writing to you to request that you deny the application for development proposed at 6501 Shattuck Ave, Case File No. CDV10185 (“the Application”). This Application should be denied on the following grounds:

I. The 3-Story Height Limit Effective 15, 2011 Applies To This Development.

On January 9, 2015 the public received notice that an application to develop 6501 Shattuck Ave filed on July 14, 2010¹ had been “deemed complete,” thus allowing the project to go forward under the old zoning laws that were in effect prior to April 15, 2011. The effect of this decision is that you appear to be applying the older 4-story

¹ Despite the statement in the public notice, the exact date on which the City received the Application is unclear. The Application was not date stamped, and the Application fee section not filled out. It was signed by the Applicant on 7/15/2010, but Clevenger notes on the Application it was “rec’d 7/14/2010”. In an email dated 7/30/10, Clevenger said it was received on 7/12/2010. On 7/21/2010, Applicant and his architect met with neighbors and led them to believe they had not yet filed a formal application.

zoning to a building in a neighborhood that is currently zoned for three stories. However, the Application was, and remains, incomplete.

The City of Oakland's ("the City's") decision to deem this Application complete as of April 15, 2011 violates state law, the City's own application process, rules and zoning ordinance. As set forth below, deeming the incomplete application complete is a violation of state law. In fact, under the City's own rules the City should not even have *accepted* the application due to its incompleteness, let alone deemed it complete. And because it was not complete, it cannot fit in under the limited exception to the new zoning. In addition, the submitted Application is rife with outright misrepresentations and omissions. Further, to the extent the Application was deemed complete by operation of law, the new zoning would have to apply.

This Applicant should not be allowed to get in through the backdoor what he could never have got in through the front door when he filed this Application.

(1) The Application Was Incomplete As It Failed to Include Information Required by State Law.

The owner of the property, Mr. Magganas and his architect Moshe Dinar (combined, "the Applicant"), submitted a Basic Application for Development Review to the City of Oakland Planning Department (the City) on or around July 14, 2010 ("the Application"). However, the Application was incomplete.²

The Application was incomplete because the Applicant left the entire Hazardous Waste and Substance Statement section of the Application blank. (See Application, Section 8, p.6). According to California state law, before the City "accepts" a Basic Application "as complete" the Applicant must consult the state lists of sites affected by hazardous waste and substances, and must "submit a signed statement" to the City indicating whether the project is located on a site that is included on any of the lists. (Cal. Gov. Code §§ 65962.5 (f), 65929). In fact, 6501 Shattuck Avenue, a former gas station with leaking underground tanks, was identified on the state lists as a site affected by hazardous substances. Thus, the Application failed to include information that is required by state law. Because of this omission, the Application was incomplete as of April 11, 2015 and cannot now be "deemed complete."

² It should be noted that the incompleteness of the Application cannot be dismissed as the result of mistakes or ignorance on the part of the Applicant: Mr. Magganas is a seasoned developer with many large developments in Alameda County under his belt.

Conversations with Ann Clevenger suggest that the City may be taking the position that the site at 6501 has since been fully remediated and therefore it is now besides-the-point that the Applicant did not complete this section at the time of the Application. Even though the site may now be remediated, at least as far as Alameda County is concerned, allowing the Applicant to circumvent the process required by state law is not acceptable. Such an approach leaves the public with no assurance that remediation of building sites will occur with proper oversight, and leaves open the possibility that that developments can go ahead despite being on the state hazardous waste list without any special permits.

If the City's position is that the incompleteness of the Application was somehow remedied by subsequent information received, that argument also fails as none of the documents in the City's file (as of a review of it on January 20, 2015) appear to have alerted the City prior to April 15, 2011 that the site was hazardous.

A conclusion by the City that this incomplete Application can nonetheless be "deemed complete" runs an end-run around the state law intended to protect the quality of our environment and our health. Furthermore, regardless of the City's rationale, state law requires all applications to include the Hazardous Waste and Substance Statement. Since the Application fails to include this statement, the City lacks authority to deem the Application complete.

(2) The City Should Not Have Even Accepted the Application Under Its Own Guidelines.

In addition, the City cannot deem this Application complete under its own permit application guidelines. The Applicant did not have all the items that the City requires before it even is able to *accept* the Application, let alone deem it "complete".

Section 9 of the application form is a checklist of everything required in order for the application to be accepted by the City. It has a large, bolded, bordered and partly capitalized header which notifies applicants of this rule:

"[T]he following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED." (Emphasis in original).

The first item explicitly requires that the Applicant has submitted a "completed" application form "including ... the Hazardous Waste and Substances Statement." The Applicant represented on his Application that he had submitted this Statement, when, as set forth above, he had not. This inaccuracy likely misled the City into accepting an application that should never even have been accepted.

Further, the Application appears to never have been fully processed by the City. It appears from the Application in the City's project file that the required Application fee was never paid. The section requiring the City to note the fee received and date it was received is left blank. (See Application, p.1.)

(3) The Application Does Not Fall Within the Limited Exceptions to the Amended Zoning Ordinance.

There is nothing in the Planning Department's project file on 6501 Shattuck that indicates when or how this Application was "deemed complete." For example, there is no letter to the Applicant alerting him that his application has been deemed complete, nor any letter from the Applicant demanding that the city deem his application complete.³ On January 20, 2015, Vibeke Norgaard spoke with Ann Clevenger and received no further clarification as to when or exactly how or when it was deemed complete.⁴

Oakland City Council's Ordinance No. 13064 ("the Ordinance"), which amended the zoning laws and changed the zoning for the parcel under consideration, allows for exceptions to the new zoning for some applications that have already been deemed complete but only if they are "deemed complete...as of the date of final passage" of the ordinance. (Oakland City Council's Ordinance No. 13064, Section 6). If the Application were "deemed complete" after April 15, 2011, the development would thus be subject to the current amended zoning under the Ordinance.

The Ordinance requires that the Application be deemed complete as of April 15, 2011 to fall under the exception. As set forth above, this Application was not complete as of that date because it lacked information required by state law. The city therefore has not authority to deem it complete as of that date. Because it is not encompassed by this exception to the new zoning, this Application falls under the new zoning. (Oakland

³ The Oakland Planning Department's file on this Application was remarkably sparse. Much correspondence that we and other neighbors have had with the Planning department about this site was not in it.

⁴ In this conversation between Ms. Clevenger and Vibeke Norgaard, Ms. Clevenger did vaguely indicate there were "some meetings" in which the language of the ordinance was carefully considered and the decision to deem the application complete made. It was not clear when these meetings were held or why there was no indication of them in the public file. If the ordinance was being reviewed when the decision was made, that would strongly suggest the application was deemed complete *after* April 15, 2011.

Planning Code § 17.114.030; see also e.g., *Avco Cmty. Developers, Inc. v. S. Coast Reg'l Com.*, 17 Cal. 3d 785 (1976)).

Furthermore, if the City's position is that the Application was deemed complete by operation of law 30 days after it was received under the Permit Streamlining Act (Cal. Gov. Code § 65920 et. seq), then the new zoning also must be applied to this proposed development. The exceptions set forth in section 6 of the City's ordinance only apply to those applications deemed complete "by the City", not those applications deemed complete by operation of law. (Oakland City Council's Ordinance No. 13064, Section 6). It should also be noted that the Permit Streamlining Act was created to protect Applicants from foot-dragging by public officials. It can hardly be a valid use of that Act to allow foot-dragging by Applicants, who only complete half of their applications, to help them be grandfathered into old zoning laws.

(4) The City Should Not Deem This Application Complete Because It Contains Misrepresentations of Fact.

Not only is the Application, as set forth above, incomplete, but it also should not be deemed complete as it contains several outright misrepresentations of fact. As set forth above, the Applicant noted, under penalty of perjury, that he had filled out section 8, when he in fact had not.

In addition, in Section 6 of his Application, which requires an applicant to attest whether there are any existing Protected Trees "anywhere on the subject property or within 10 feet of the proposed construction activities (including neighbor's properties or the adjacent public right-of-way)" this Applicant informed the City there are no such trees. In fact, there is a large 36" diameter redwood on the back corner of the adjacent property, within ten feet of his proposed construction activity. The Applicant's Proposed site plan also does not show the protected Redwood tree.⁵

For the City to now say this Application has been "deemed complete" means that not only is it acceptable to leave required sections entirely blank, but that actually making outright misrepresentations on an application is acceptable.

(5) Additional Inaccuracies In The Application.

⁵ The Applicant's proposal shows a concrete masonry fence, 16-foot tall walls, a paved driveway and parking all within 10 feet of this tree. The Applicant, in an email to Guita Boostani, dated 7/30/2012, threatened legal action against the neighbor if they did not remove this tree.

In addition, there were several other aspects of the Application that make it both inaccurate and incomplete: (1) The variance justifications are not updated to reflect the latest design; (2) The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, or lot coverage; (3) There are no photographs of neighboring properties; (4) The elevation drawings do not show adjacent houses; (5) No materials and color board was submitted; (6) The survey is not stamped by a licensed surveyor; (7) The building elevations do not reflect the slope of the site, which slopes over two feet from front to back - this means that the building walls will be taller near neighbors' properties, and will have greater impact than shown; (8) It contains an incorrect rendition of neighboring houses and setbacks: The perspective drawing misleadingly shows the adjacent neighbor on the North (the Muse) as a narrow two-story structure where it is actually a one-story structure on a lot that is wider than the applicant's lot. The site plan does not show the correct configuration and relationship of the site to the neighbor's property on the North (the Muse). The site plan still does not accurately show the neighbors' properties, location on the lot, and setbacks. (9) The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden). This will significantly add to the height and impacts on neighbors, but this aspect of the proposed building is not shown.

(II) The Public Does Not Have Enough Time Or Enough Information To Comment Fully On This Proposed Development.

The neighborhood received only 17 days notice to comment on this proposed development. This is insufficient time for a project of this magnitude.

First, given the proposed four-story height in a neighborhood zoned only for three stories, story polls should be required so that the public can better consider the impact of this massive building on the neighboring community. The public comment period should be extended at least 30 days, once the story poles are installed, so that the public can consider and comment on them to the City.

Second, it has proved impossible during this short time to obtain the information necessary to fully evaluate and comment on this Application. For example, we have attempted in vain to obtain information about the process in which this Application was deemed complete. On January 20, 2015, Vibeke Norgaard went to the Planning Department and requested to see the file on 6501 Shattuck. She was given a very small and very incomplete file. Many pieces of correspondence between neighbors and Ms. Clevenger about this project over the past years were not in the project file. Most notably, nothing in the project file references either the meetings Clevenger referred to, or any other process by which the decision was made to deem the Application complete. When Vibeke Norgaard requested to see such documents, she was directed to file a Public Records Act request. Such a request would, of course have been futile in the short period given to the public to comment on this major development. Ian Martin had, in fact, filed

one on January 15th, 2015 (Public Records Act request No. 7559) for certain documents and has to date heard nothing back.

Third, to the extent this project is being analyzed under the old zoning laws from 2010 in its entirety (which is not clear to us based on the public notice) after much searching, we are unable to find those old zoning laws online. It would be necessary to analyze the entire project under those older laws in order to be able to fully comment. We therefore request that the City perform, or require that the Applicant perform, a detailed comparison of the proposed development under old and new zoning.

Fourth, in order to fully comment, the public should be able to see a composite building elevation that shows the proposed building and its relationship to adjacent buildings in order to demonstrate how issues of scale, massing, open space, and privacy are being addressed.

Fifth, we also request that a shadow study be performed in order to understand how our building's solar access will be impacted in the afternoon by the development.

For all of the above reasons, we request that the public notification period be extended.

(III) Additional Concerns About the Design of the Proposed Building.

This proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor, and its massing will be sorely out of context. While we support greater density near transit nodes, this building, as proposed, will work against efforts to bring greater density to our urban areas. In fact, it will serve as a poster child of poorly considered urban planning by people who are against greater density. Increased density cannot be the only guiding design principle, but must be balanced with a proposed buildings' impact on the surrounding community. This building, at three stories with appropriate modifications to break up its massing would be a welcome addition to our neighborhood. As it is proposed now, it is entirely unacceptable.

(a) Size, Massing, Height Transitions, And Set-backs Are Inappropriate For The Neighborhood.

From the west on the residential 65th Street, the proposed building leaps from single-story, single family homes to its full-four-story height, dwarfing them. Under Oakland's General Plan (housing element) Policy N8.2 regarding compatible interfaces between densities, the height of a development should step down as it nears lower-density residential areas in order to minimize conflicts at the interface between the different types of development. This proposed development does not do that.

The next building to the south (across 65th Street) of the proposed development is a two-story home with substantial setbacks on all sides. The proposed development has no setbacks and, due to the bay windows, jumps immediately to nearly its full height—outside its own property lines and over the narrow right-of-way.

On the north side of the development there is a simple, single-story mid-century modern building adapted to create affordable housing. The proposed development will tower over it when viewed from Shattuck Ave by a full-three stories, and, even higher when the legally-required elevator tower is included.⁶

From the east, our Nomad Café building—which is three stories—is tapered down in height from south to north, and the third floor is set back from Shattuck, as well as from the north, in order to reduce its massing. The third floor of our building is clad in cedar on its western elevation, in order to reduce its visual impact when viewed against the Oakland hills when the building is viewed from street level down 65th Street. We incorporated these design elements in order to reduce our building's impact on this neighborhood of predominantly single-family homes and single and two story commercial buildings, as well as to allow the large palms on our property to be seen from the west.

Further, it appears that the massive building profile will shade the street and surrounding sidewalks for most of the day.

(b) The Proposed Bay Windows Exacerbate Massing.

In addition, the bay windows of the proposed building should be eliminated on 65th and Shattuck. The looming nature of the proposed building will be exacerbated by the bay windows that project out over the narrow right of way of the 66'-wide Shattuck Corridor, with its 43'-wide roadway and minimal 6' sidewalks, and the residentially-scaled 65th Street.

While we encourage the Applicant to break up the massing of these four-story walls, this can be done by withdrawing sections of the walls from the property lines on Shattuck and 65th Street, thus providing massing relief to the neighborhood.

(c) The Proposed Development Causes Unnecessary Loss of Views From Our Building.

The bay windows overlooking 65th Street will eliminate our building's view of San Francisco and the Bay Bridge. This would adversely affect the property value and

⁶ As set forth above, this elevator is not shown in the Application plans.



our tenant's enjoyment of our building. The view of the Golden Gate Bridge and San Francisco Bay from our building will be eliminated by the sheer height of the proposed four stories. This violates the spirit of Oakland's General Plan Policy N3.9. ("Residential developments should be encouraged to...avoid[] unreasonably blocking sunlight and views for neighboring buildings".) Removing the bay windows from 65th street will likely save our view of San Francisco and the Bay Bridge, and limiting the building to 3 stories, as required by current zoning, would at least partially save our views of the Golden Gate Bridge and San Francisco Bay.

(d) Variances.

The variances required, for the rear setback, density, and driveway, add to the excessive bulk and adverse impact on the neighborhood as described above. We therefore feel staff is being too generous in designating them as "minor" variances. See Oakland's General Plan Policy N11.3 which states that "variances ... **should not be granted lightly** and 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 of privileges enjoyed by similar properties, **as well as the fact that the variance will not adversely effect the surrounding area nor will it grant special privilege to the property.**" (emphasis added).

Furthermore, as the plans submitted with the Application do not show the legally-required elevator tower, we are concerned that they may also lack other important details. If so, additional variances or use permits may be required.

We respectfully request that the City force the Applicant to take the above concerns into consideration and revise their design accordingly.

(IV) Don't Reward The Applicant's Creation Of An Eyesore.

We would also like to urge the City to not accept the Hobson's choice of approving Applicant's imperfect development project in order to the alleviate the blight Applicant has created over the past four years.

As you are hopefully aware, the Applicant has left his site in disrepair over the past four years. Starting in 2010, neighbors contacted the City about the site's poor condition, requesting that the City do something to force the Applicant to clean up his site. The blight on this property has included graffiti covering the front of buildings, black cloths on the fences flapping into the sidewalk area, trash building up on a regular

basis, and mosquitos breeding in the large pits of standing water.⁷ Neighbors have for years reported illegal activity and the poor condition of the site. Some neighbors now will put up with anything just to see an end to this blight.

Please do not end the message to developers in Oakland that creating blight and nuisance in any way speeds up the approval process. It is better for the neighborhood that this be a well-maintained vacant lot for another decade than it be developed in a way that is way too big and massive for the narrow Shattuck Corridor.

(V) The City Should Apply Diligent Oversight To This Applicant.

Given the Applicant's history of rule-breaking and shortcut-taking, we urge the City to carefully scrutinize the Applicant's construction process to ensure that he does not deviate from his approved plans.

As documented by the City's own inspectors, ourselves and other neighbors in numerous phone calls, letters and photos over the last five years, the Applicant has shown willful disregard for the rules and procedures of development.⁸ Since none of these actions appear in Applicant's project file, they are summarized here: (1) The Applicant demolished a building on the site on 3/17/10 without any permit, without the required public notification and without the asbestos survey required by the Bay Area Air Quality Management District. The City issued a permit for this demolition on 3/27/10 -- *after* the building was demolished; (2) According to a neighbor, Applicant began remediating the underground tanks in the middle of the night; (3) According to a conversation with Oakland Fire Department Inspector, Keith Matthews, the Applicant pulled the UST tanks with incomplete plans in place, including no dust abatement plan⁹; (4) Although, according to the Fire department, Applicant was supposed to stop the tank removal work during high winds the Applicant removed the tanks on an extremely windy day in 2010 causing gasoline smelling dust to blow around the neighborhood: Our family, including

⁷ Applicant has even gone so far as to blame neighbors for the blighted condition of his own property in an email to Ms. Guita Boostani on December 18, 2013.

⁸ As noted above, since the Applicant is a seasoned developer, his ignoring building and remediation rules and regulations cannot be dismissed as the result of mistake or ignorance.

⁹ A Public Records Act request was mailed by registered mail in or around early 2012 to the Fire Department in order to obtain more details about the UST removals and whether or not Applicant had a proper permit in place when they were begun. To date we have had no response to this request.

our then 5 year old daughter and myself, a then pregnant mother, experienced having particles of this gasoline-infused soil blow around us as we entered and exited our home; (5) Two swimming pool-sized pits, where the underground storage tanks had rested were not lined with plastic and backfilled with clean soil as is normally required, according to a Fire Department Inspector. Although he was ordered by the Oakland Fire Department to backfill the pits on March 4, 2010, as late as July 2011, Applicant had not yet complied; (6) Although once tanks were discovered to have leaked into soil, Applicant was not supposed to further disturb the soil, he did so, on several occasions in 2010; (7) Although the contaminated soil was supposed to be transported through the City in covered dump trucks, we documented the trucks driving away uncovered, with contaminated soil spilling into City streets; (8) Pools of water gathered in the pits, pools most likely filled with hazardous substances because the tanks had leaked into the surrounding soil; (9) An agent of Applicant was seen draining the pools of this water into the back building, where there was a public sewer access, possibly into the public sewer. Although he told neighbors he was draining the toxic water into a tank, which would later be hauled away, he refused to let them see the tank. According to Erica Fisker, the senior environmental consultant for SOMA, the company engaged by Applicant to remediate the site, this siphoning of water was not authorized by SOMA, and she knew nothing about it.

Further, in a lawsuit against the City over fines assessed against him for blight on his property prior to his ownership, a hearing officer found “not credible [Magganas’] claim he was unaware of the existence of violations when he purchased the building.” The hearing officer also found “Magganas had engaged in either subterfuge or studied ignorance in his testimony regarding the continuing existence of code violations” and concluded he was “either ...not genuinely confused about the existence of violations” or “kept his eyes closed to avoid seeing any problems while he was there.” The hearing officer ultimately found that several violations existed, and affirmed the City's finding that the property constituted a public nuisance. (See *Bruder, LLC v. City of Oakland*, Case No. A136256, Court of Appeals of California, First District, Division One (Filed August 29, 2013).)

Given this Applicant’s history of acting first and dealing with the consequences later, the City should apply diligent oversight to any construction process they approve.

VI. This Application Should be Denied.

Due to the glaring inaccuracies and omissions on this Application, and all the additional concerns raised above, we respectfully request that you revoke your decision to deem this Application complete, and require that the Applicant submit an accurate and completed Application.

You have the authority to do so. On your own application form, the Applicant was clearly warned that "inaccuracies may result in revocation of planning permits as determined by the Planning Director." (cite) Therefore, when the Applicant decided to omit and misrepresent on his Application, he was on notice that doing so might mean that any permit he received as a result of the inaccurate and incomplete application could be revoked.

Please also be on notice that given the issues mentioned in this letter, we will appeal any decision to approve this development to the Planning Commission and if necessary, to the Superior Court.

Sincerely,

Ian Martin, Marlene Martin and Vibeke Norgaard

6501 SHATTUCK AVE.

Case #:CDV10-185

Project Status and Timeline

Applicant: Moshe Dinar

Owner: Athan Magannas

Proposal: 4-story mixed-use building, with commercial/retail & parking at ground level and 18 residential units in 3 stories above.

Location: 8,334 s.f. corner lot, at the northwest corner of Shattuck Ave. and 65th St.

Zone (in effect at filing, July, 2010)*: C-10 (backs to R-40) / GP: Neighborhood Commercial

Zone (effective with April, 2011 code update): CN-3 (backs to RM-2)

History

- 3/8/10 – Pre-Application filed (ZP10-0010)
- 7/12/10 – Application filed (CMDV10-185*, changed to CDV10-185 – major DR not applicable)

NOTE: This application was submitted and deemed complete prior to Zoning changes that became effective on April 14, 2011. At that time, the application was considered complete for purposes of Zoning and it was determined the C-10 Zone would continue to apply.

- 7/22/11 – Public Notice (AOF) posted/mailed. This Notice was subsequently pulled due to outstanding HazMat remediation issues (see documentation in file).

(HazMat remediation ongoing)

- 4/30/14 - Applicant sent an e-mail to Staff with a copy of a permit (Water Resources Well Permit) obtained by the owner to decommission all the monitoring wells in the property, which (he states) is the final step prior to obtaining a Closure Letter from Alameda County. The Applicant further stated that the Owner does not intend to commence construction until the Closure Letter is issued, and requested that Planning resumes the Public Notification and Project Review process in the meantime to prevent further delays.
- 7/2/14 – Staff received e-mail from Applicant with attached Closure Letter from Alameda County Health Care Services, dated 6/26/14.
- 1/9/15 – Public Notice (AOF) posted/mailed. Comment deadline January 26th, 2015.
- 1/30/15 – Ann & Scott met with applicant to discuss comments and issues.

- NOTICE →
- 5/8/15 - Revisions submitted. Shows recessing of 4th floor 30" back from edge of lot at Shattuck Ave, and
 - 6/11/15 - Ann 6' back from lot at 65th St. met w/ Ken Lau (see e-mail)

Comments/Feedback (from first Notice in July, 2011):

Comment Letter from Guita Boostani, dated July 21, 2011, asserts that there are inaccuracies, insufficient information, and problems with the Project plans, including:

- Clarify lot lines and existing structures on the adjacent property to the north (6525 Shttuck Ave.)
- Rooftop garden open space “requires a second stair”, which would add mass to the project and result in more shading to the abutting property.
- Expects that any revived project will be subject to the new regulations (reiterating that the original plans were incomplete).

Status of HazMat Issue:

The Water Resources Well Permit attached to the Applicant’s e-mail shows an approval date of April 30, 2014. The

CODE ANALYSIS:

C-10 Zone / Neighborhood Commercial General Plan Land Use Area

Activity:

The proposed activity types (Permanent Residential and several Commercial Activity types including General Retail Sales, General Food Sales, etc.) are permitted in both the C-10 Zone and Neighborhood Commercial General Plan area.

Density:

Proposed density (18 units) exceeds that permitted by the C-10 (= R-50) Zone (Lots >4,000 sf: 2 units; or w/CUP, Lots 7,000-8,499 sf: 5 units). However, the proposed density is within the allowed “Neighborhood Commercial” General Plan density (1 unit / 261 sf lot area = 31.93). Therefore, and Interim Conditional Use Permit is required. (Note: Does not meet “Best Fit” zone determination; therefore, next step in process is to file Interim CUP application, along with Design Review and any other applicable permit types. Project must also meet FAR requirements:

FAR Maximum: Non-Residential = 4.0; Residential = N/A – (only Density provisions apply)

FAR Proposed: Non-Residential FAR = 1,975 sf / 8334 sf lot = .24

Maximum Height

Max. height = 45’*

*(see further restrictions when abutting R-10 through R-50 Zones. See 17.108.010: Building height is limited to 30’ unless each portion above that height is set back from the minimum rear yard line (**15’ setback, per below**) an additional 1 foot for each 1 foot by which it extends above that height (up to a max. ht. of 45’).

Minimum Yards (setbacks):

- Front = N/A (only applies when part of frontage on same side of block is in a residential zone)

CODE ANALYSIS:

CN-3 (backs to RM-2)

Activity:

The proposed activity types (Permanent Residential and several Commercial Activity types including General Retail Sales, General Food Sales, etc.) are permitted in the CN-3 Zone. Residential limitations apply to Residential Care and ground floor residential uses only, which are not applicable here.

Density:

Maximum residential density is determined by height area. In Height Area 35, the maximum density is 1:550 = 15 units.

The proposed density (18 units) exceeds that permitted by the CN-3 Zone. However, the proposed density is within the allowed "Neighborhood Commercial" General Plan density (1 unit / 261 sf lot area = 31.93). Therefore, an Interim Conditional Use Permit is required. (Note: Does not meet "Best Fit" zone determination; therefore, next step in process is to file Interim CUP application, along with Design Review and any other applicable permit types. Project must also meet FAR requirements:

FAR Maximum: Non-Residential = 2.0; Residential = N/A – (only Density provisions apply)

FAR Proposed: Non-Residential FAR = 1,975 sf / 8334 sf lot = .24

Maximum # of Stories: The maximum number of stories in Height Area 35 is 3. The proposed building therefore exceeds this limit with 4 stories.

Maximum Height (Height Area = 35)

Max. height = 35' (30' at the rear setback line adjacent to the RM-2 Zone, stepping back/away an additional 1 foot for each 1 foot by which it extends above that height (up to a max. ht. of 35').

Minimum Yards (setbacks):

- Front = 0'
- Side = (min. side yd. only applies when opposite living room windows, or if on certain zone boundaries)
- Corner Side = N/A (only applies to key lot situations)
- Rear Yard = 10' (for lot depth 100' or less)

Other:

- Min. Ground Floor Non-Residential Façade Transparency (on principal street only) = 65%
- Min. Ground Floor Height = 12'
- Parking & Driveway access shall not be from a principal street – OK.
- Ground Floor Active Space Requirement: ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within 30' from the front of the principal building except for incidental entrances to such activities elsewhere in the building. Exceptions may be permitted by the Planning Director for utilities and trash enclosures that cannot be feasibly placed in other locations of the building.
- Group Open Space – 150sf/unit (30 sf/unit when Private Open Space is substituted, at a 2:1 ratio).

17.108.130 Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six (6) feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

All required space shall conform to the standards for required usable open space in Chapter 17.126. (See excerpt attached).

<p>K. Detached garages and sheds; detached or attached carports, <u>parking podiums</u> and other detached or attached accessory structures not provided for elsewhere by this Section; and portions of principal Nonresidential Facilities not provided for elsewhere nearby.</p>	<p>Anywhere in above yards, provided that:</p> <ol style="list-style-type: none">1. The facility is within thirty-five (35) feet of the rear lot line; and2. <u>The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade</u> and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and3. The facility itself does not contain any residential living quarters; and4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and5. The affected side yard, if any, is not one required by <u>Section 17.102.240</u> or <u>17.28.150.C.1.</u> <p>But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Subsection <u>17.110.040.C.</u></p>
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- Side = (min. side yd. only applies when opposite living room windows, or if on certain zone boundaries)
- Corner Side = N/A (only applies to key lot situations)
- Rear Yard = **15' min.** (per 17.108.100, applies to when rear yards abutting residential zones). See also 17.108.130 below:

17.108.130 Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty (50) percent of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

Parking Setback

Parking must be setback 75' min. from front property line, or a CUP is required.

Open Space

Usable open space shall be provided for the residential units in accordance with the R-50 Zone requirements in 17.24.160:

Group open space shall be provided for such facilities in the minimum amount of two hundred (200) square feet per dwelling unit.

Private open space may be substituted for such group space in the ratio prescribed in Section 17.126.020, except that actual group space shall be provided in the minimum amount of seventy-five (75) square feet per dwelling unit.

All required space shall conform to the standards for required usable open space in Chapter 17.126. (See excerpt attached).

Required Forms:

- Basic Application Form
- Conditional Use Permit
- Variance (?)

Preliminary Comments:

- The project involves permitted activities, but the Zoning density is exceeded. The density is permitted by the General Plan; therefore, and Interim Conditional Use Permit is required.
- Aspects of this proposal do not meet technical Planning Code requirements, such as setbacks, open space, etc. This will require plan revisions to meet the applicable codes, and may result in a reduction in the number of residential units. Note that it will be difficult to justify the higher density when there are code issues.

- Staff notes that there are balconies projecting into the public right-of-way, which should be verified with the Building Division for code conformance (e.g., these are represented on the plans as extensions at the floor level, but may be required to be window seats to meet code).

4/14/10 – Staff Comments:

- DENSITY - The General Plan density provides for a maximum of 23 residential units. The proposed density of 18 units is within that limit; however, an Interim CUP is needed in order to exceed the Zoning Density of 2 units (or 8 units w/CUP). In this case, the CUP is a Minor, i.e., Administrative type.
- REAR YARD -The rear yard coverage limitation of 50% applies to this project; i.e., no structures exceeding 6' are allowed to cover more than 50% of the required rear yard. As previously stated, the rear yard setback is 15'. My co-workers who have processed similar types of projects have suggested that the most common solution is to have the garage podium structure held back to half the rear yard requirement, in this case 7.5'. Usually a landscaped walkway is developed along that rear open area. Further, the covered garage podium structure may encroach into the 15' rear yard, up to the 7.5' line, but must meet the exceptions to rear yard setback rules. Specifically, this structure may not exceed 9' maximum height. Neither the 50% openness requirement nor the 15' rear yard setback requirement is likely to be waived and will therefore design revisions to address these requirements will present some challenges. This is an area that may well result in reduction of the number of residential units, i.e., if the required parking spaces cannot be accommodated. When considered in combination with required Group/Private Open Space requirements and building setback & height limitations (30' max. at the 15' setback line, and then 1' additional setback for each 1' of height increase beyond the 15' setback), which are also not likely to be waived with variances, it seems very unlikely that 21 units can be achieved.
- PARKING SETBACK – The requirement for a 75' setback from front property line for the parking spaces applies; however, it can be waived with the granting of a Conditional Use Permit. In this case, it is likely to be considered due to the existing lot depth and other constraints.
- ENCROACHMENTS OVER PUBLIC RIGHT-OF-WAY: See Building Code Chapter 32, Section 3202 – Encroachments (attached).
- DESIGN: Preliminary analysis of the approved mixed-use development on the abutting property at 6525 Shattuck Ave. shows that there are no encroachments over the public right-of-way, and the front elevation is well-articulated and stepped back such that it does not present the full four stories on either the front or the rear elevation. The maximum number of units for that ^{approved} development is 15, and the lot area is 10,450 s.f., whereas the subject project proposes to create 18 units on a lot with an area of 8,334 s.f. Staff notes that an appeal was filed for that abutting development, and major issues included its scale and fit along the streetscape. Closer analysis of these scale, bulk, streetscape and contextual issues will be conducted when the plans are revised and formal application is submitted.

OPPOSED

4 stories; zoned for 3-stories only. Too big.

Questionable developer. History of illegal work, violations related to HazMat clean-up on this site (even before development plans were submitted to the City), and other issues elsewhere

It's not even the same application any more. The original application from 2010 was taken in as a Planning Commission case and now it is an administrative case. ... we never got the opportunity to comment on the completeness of the application... Now it is deemed complete.

Apart from issues of scale and design, it will NOT provide affordable housing.

Too tall in a predominantly two- and three-story neighborhood. Houses in the rear are one- and two-story bungalows that are about 22 feet tall at their highest peak.

Scale and bulk are out of context w/surrounding neighborhood. Covers almost the entire property north façade remains massive and without any detailing to scale it down.

Variance for covering required rear yard setback adds to the already excessive size of the building, eliminates openness between buildings, and leave no room for substantial landscaping between properties.

Negative street experience by locating four-story walls at the property lines, and with projections over sidewalk.

Site plan does not show existing redwood tree on neighbor's property within 10' of subject site. (as required per Submittal requirements).

No unique circumstances to make the variance findings. Strict compliance w/setbacks would not preclude an effective design, the design severely impacts neighbors and would constitute a grant of special privilege that none of the other properties in the area have.

The CUP findings cannot be made. Proposal is not in harmony with the character of the neighborhood in terms of scale, bulk, and lot coverage; it will not enhance the neighborhood; and it will have a harmful effect upon desirable neighborhood character.

The Regular Design Review findings cannot be made. Will not create a building or set of buildings that are well related to the surrounding area... will not protect preserve or enhance desirable neighborhood characteristics.

Inconsistent with the General Plan... sun, light, air privacy, open space, minimizing impacts on neighbors. N3.9, N8.2, N11.3.

Owner history of using low quality building materials. Request detailed COA's, requiring high quality materials and finishes, quality recessed windows, varied siding, no modifications without public notice and review.

Based on history of illegal work, etc., request that Zoning Division perform additional inspections during construction to ensure compliance and catch any issues immediately.

Latest plans still incorrectly show various information (see Guita's letter, points 14-21).

Challenge the "deemed complete" status. (see Guita's letter, point 22)

Want to see affordable housing and unit density provided it is appropriate in scale and massing, etc.

Would support a reduction in parking spaces to reduce building bulk, allow more open space, and increased landscape screening between properties.

Request:

- Extension of the time period for comments, until more information and a complete application are provided.
- Story poles
- Shadow studies to show impact on neighboring gardens.
- Elevations and site plans to show neighboring properties and building to demonstrate relationships...

Incompleteness:

- Variance justifications
- Application form not up to date
- No photos of neighboring properties
- Neighboring buildings not shown on elevations
- Materials & Color board not submitted
- Survey not stamped by a licensed surveyor
- Hazardous Waste/Substances statement on Application Form not completed

Files made available to the public during this comment period were not complete

Traffic is already too heavy in the mornings and evenings. There would need to be traffic lights on every block from Alcatraz to Woolsey St.

Suggest Zip Car system.

Balconies look right down into neighbor's backyards and bedrooms.

Will block sunlight to chicken coop, 6 chickens and garden area on adjacent property

Balconies projecting over sidewalks – impact street experience.

Precedent of allowing a 4-story building

From: [Ian Martin](#)
To: [Klein, Heather](#); [Merkamp, Robert](#)
Subject: [EXTERNAL] Forward to Michael Bradley please
Date: Friday, September 20, 2019 5:18:02 PM

CAUTION: This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello,

Mr. Bradley's email is bouncing. Can you please make sure he receives the email below?

Thank you,

Ian Martin

----- Forwarded message -----

From: **Ian Martin** <ian@ianmartinphotography.com>
Date: Fri, Sep 20, 2019 at 4:19 PM
Subject: Re: Neighborhood meeting about 6501 Shattuck Ave
To: gerald green <gerald_g_green@yahoo.com>
CC: ATHAN MAGGANAS <magganas@prodigy.net>, Chris Hall <christoica@gmail.com>, Corey McCannon <coreydeanmc@yahoo.com>, Don Link <don-link@comcast.net>, Evan Magers <evan_magers@yahoo.com>, Guita Boostani <guita@boostani.com>, <HKlein@oaklandca.gov>, <MBradley@oaklandca.gov>, <RMerkamp@oaklandca.gov>, <david@vartanoff.com>, <dkalb@oaklandca.gov>, <hotdogge@pacbell.net>, <ljacobs@oaklandca.gov>, <siegfriedmall@yahoo.com>

Dear Mr. Green,

Thank you for writing. We met previously with Mr. Magganas and extended a welcoming hand to him while praising the prospect of a new building at 6501 Shattuck Avenue. Through his actions, Mr. Magganas demonstrated that our good will was, unfortunately, highly misplaced. Instead of listening to our feedback, Mr. Magganas belittled our concerns and derided our observations. In light of the disrespectful way our opinions have been taken, we will pass on an additional meeting with Mr. Magganas and his consultant. Instead, we will make our case directly at the appeal hearing in hopes that the City of Oakland will listen to the concerns which Mr. Magganas aggressively dismissed.

Sincerely and in consultation with the other appellants,

Ian Martin

On Wed, Sep 18, 2019 at 3:54 PM gerald green <gerald_g_green@yahoo.com> wrote:

Dear Neighbor,

I'm working with Athan Magganas and the owners in the development of 6501 Shattuck Ave. As you know, an appeal by numerous neighbors was filed in January 2019 on the

approval of Design Review, Minor Conditional Use and Minor Variance(CDV10185)to construct a 4 story mixed use building containing ground floor commercial and 18 residential units. Since that approval no further actions have been carried out by the City Planning Department; no public hearing dates have been scheduled, but the APPEAL hearing is forthcoming. In view of the upcoming appeal hearing, Athan and Architect Moshe Dinar have taken time to consider the issues raised by neighbors, and alternative scenarios in developing 6501 Shattuck Ave.

We'd like to talk with our neighbors to have a dialogue about your concerns and discuss what the implications are for the few alternatives to implementing the City's authorization of the design for 6501 Shattuck Ave.

To begin the dialogue we ask each of you to suggest dates/times in the coming weeks that you can meet with Mr Magganas and the design team. For convenience we suggest a single meeting date be chosen among the group and we'll arrange a location near the project and come ready to communicate.

If there is no consensus or we don't hear back, we'll organize a date/time and notify you. We would appreciate your participation to make this work.

LOOKING FORWARD TO YOUR RESPONSE

Gerald Green

[Sent from Yahoo Mail for iPad](#)

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From: [Vibeke Norgaard](#)
To: [Parker, Barbara](#)
Cc: [Patel, Bijal](#); [Bradley, Michael](#)
Subject: 6501 Shattuck - Case File CDV10185
Date: Tuesday, September 25, 2018 12:09:14 PM
Attachments: [6501-LettertoClevenger.docx](#)

Dear Ms. Parker,

I am a co-owner of the property at 6500 Shattuck Avenue in Oakland. In 2015, the attached letter was sent to your planning department and was re-submitted during the public comment period for 6501 Shattuck Avenue (Case File CDV10185) which ended yesterday 9/24/18.

The neighbors to the property and myself understand that the planning department forwarded this letter to your office in 2015, but we have never received a response, or any explanation whatsoever, from the City of Oakland regarding how this application could have been "deemed complete" in 2011 in light of the facts set forth in the attached letter.

We are now once again notified that the application has been "deemed complete" effective 2011. I am hoping for an explanation from your office how this application could possibly have been deemed complete in 2011-- a decision which could have the effect of grandfathering 6501 Shattuck in under a previous set of zoning requirements.

Thank you for your time,

Vibeke

Vibeke Norgaard
Attorney
vibeke@vnorgaardlaw.com
Phone: (415) 516-6674

From: [Stephen](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave
Date: Monday, September 24, 2018 2:55:30 PM

Hi Michael - in response to the city request for comments regarding the proposed project at 6501 Shattuck Ave., please consider the following :

1. Although I strongly support responsible development and density, the proposed project fails on almost every count and indicates the unfortunate influence the developer has over informed architecture and appropriate scale.
2. First and foremost, I oppose any variance or conditional use permits, especially considering the valid objections to the original "deemed approved application" of many years ago. There is much hubris, if not a degree of fraud, in slipping applications past counter staff and then applying for additional concessions and benefits. Long a classic play of dubious developers, this "go in with a massive bulging box and then slightly downsize, feign suppression, and blame the neighbors to gain as much sloppy volume as possible" approach continues to yield sympathetic ears. The 4th floor, the bay windows projecting over the property line, the 'common outdoor spaces with egress paths running through them, the variances, and the decks & rooftop decks directly on property lines exemplify this approach. Please resist.
3. The current design incorporates a significant parking area directly adjacent to the usable outdoor garden and open areas of adjacent neighbors. In turn, considerably more attention needs to be paid to the effects of noise pollution from the constant flow of cars, light pollution from 24 hr. general lighting, and plain old pollution from the vehicles themselves. Mechanical ventilation via fans and exhaust stacks is even worse, so I would support no parking at all, more bike parking, more open space, articulated stepped back 3 stories with only, if at all, a significantly setback 4th story on all sides.
4. The podium level is an intrusion by any account. The 13' tall podium at the north and west property line, with a railing overlooking the neighbors, severely compromises the neighbor's privacy, sun, and access to light. Significant improvements to the current design are needed to insure that these issues are addressed.
5. The north facade is a nearly 45 foot tall wall of unarticulated 2 tone stucco. (Even taller at the stair tower). Significant setbacks, varied materials, and even a modicum of architecture and delight should be a minimum requirement to meet the standards of development and the intent of the city general plan.

In general, the current proposal is bloated, mundane, and egregious in its attempt to maximize volume and profit at the expense of neighborhood scale and livability. Considering not only the current mediocrity of the proposal, but also the developer's flagrant past disregard for the process as evidenced by the the lack of permits obtained during the demolition and tank removal, I strongly urge the city to hold the developer accountable to a very high standard, refuse all variances, and help steer the proposed development towards a graceful resolution.

Thank you for your consideration
Stephen Glaudemans

From: [Ian Martin](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave CDV10185
Date: Monday, September 24, 2018 4:00:59 PM
Attachments: [attachment 1.pdf](#)

Dear Mr. Bradley,

I'm writing to register my concerns and objections regarding the proposal for 6501 Shattuck Avenue, CDV10185.

I am the owner and builder of 6500 Shattuck Avenue, also known as the Nomad Cafe Building, directly across the street from 6501 Shattuck.

The City of Oakland should require story poles for the 6501 Shattuck proposal so that the neighborhood can properly understand the impacts of what will be *the largest, most prominent building* in the area for many blocks in any direction. Once the story poles are erected, the City should allow for a reasonable public comment period.

As it is, it very much appears that the building proposed for 6501 Shattuck Avenue is grossly out of scale with the surrounding neighborhood. This building should be capped at three stories so that it does not tower over its two and three story surroundings. Its massing needs to be broken up to reduce its blocky, monolithic appearance. The protrusions that extend out over the property line do nothing to make this building feel less imposing since they hang out over the sidewalk.

The Nomad Cafe Building added housing and increased density to this neighborhood by replacing a much smaller single-story building. Because it was much larger than what was there previously, minimizing its massing and demonstrating a sensitivity to the smaller neighboring homes and buildings was a driving design priority. I personally spent a great deal of time soliciting input from the neighbors. Only one neighbor actually wrote in to the City. Based on his concern, I lowered the overall height of my building by tapering it down from its peak height, which is at least a dozen or so feet shorter than the height of the proposed building.

There are many other design features to break up the height and massing of the Nomad Cafe Building as well. In a stark contrast, the proposed building is much taller, and it pushes out beyond its property lines to loom over the public right of way. The Nomad Cafe Building has only one such protuberance, and it is significantly smaller than the multiple ones proposed for the 6501 Shattuck building.

Another concern relates to how the City will apply the zoning laws when considering this proposal. The City was erroneous when it "deemed complete" this application in 2011. The applicant did not indicate that this site was an unremediated former gas station with leaking tanks when the applicant applied under the old zoning laws. Because of that omission, state law negates the "deemed complete" status. This is further explained under points number four and 33 of the attached list of concerns and objections compiled by 6501 Shattuck's neighbors. I share many of the concerns and objections stated on this list, which is why I have attached it to this email.

Number 11 is another issue, relating to the redwood tree. This beautiful tree softens the urban

view from multiple vantage points from my building, and it is alarming that no apparent consideration to the preservation and protection of this significant tree has been made by the applicant. See also point 27. Given the current proposed design, it appears that this tree would have to be eliminated, which is unacceptable.*

As for points 12 through 15, these findings simply cannot be made due to the outsized bulk and height of the proposed building, qualities that are highly incongruous with the surrounding neighborhood.

Point 17 is also very important. Given the sheer size and prominence of the proposed building, all modifications should be reviewed and high quality construction values should be insisted upon. Poor construction values will lead to a really big, highly visible eyesore that will be the detriment to everyone near this building.

Point 34 relates to this as well. Given the gaps in the City's record keeping of this property, it concerns me greatly that the City might not give the actual construction the attention that such a large, impactful development deserves. Sufficient oversight of the construction of this building by the City is critical.

As per section III of the list, revised plans that correct all inconsistencies should be submitted so that neighborhood and the City have a complete understanding of exactly what is being proposed. The City should then provide a reasonable period of time for public comment once these gaps in the documentation have been filled. This also speaks to the need for acknowledging the presence of the significant redwood tree in point number 11, and the need for story poles.

The design modifications made to help the Nomad Cafe Building harmonize with its neighbors came at a significant cost. Nonetheless, my building has shown itself to be a good investment, not only because it is a better building architecturally, but because it enhances the neighborhood as a whole by harmonizing with it. There is no reason that 6501 Shattuck can't add needed housing to this community, be a good investment for its developer, and, while at the same time, demonstrate a sensitivity and respect to the surrounding neighborhood.

I urge the City of Oakland's planners to give the concerns stated here and in the attached list their close attention when reviewing the proposed building for 6501 Shattuck Avenue.

Thank you for your consideration,

Ian Martin
(510) 654-7634

*Trees in general are important to me. I personally planted or helped cause to be planted many of the trees along this section of the Shattuck corridor.

From: [Charles Wang](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave Info
Date: Saturday, October 27, 2018 2:48:20 PM

Hi Michael,

I'm writing to let you know I support and look forward to this new construction! I believe high density mixed commercial and residential spaces will make neighborhoods more enjoyable to live in and help the housing crisis in the Bay Area.

- Do you know if the residential areas will be for rent or purchase? How do I acquire a spot in either case?
- When is the construction expected to finish?
- What else can I do to show my support for this project and others like it?

Best,
Charles

From: [Charles Wang](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave Info
Date: Saturday, October 27, 2018 2:48:20 PM

Hi Michael,

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- When is the construction expected to finish?
- What else can I do to show my support for this project and others like it?

Best,
Charles

From: [Chia Hamilton](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave
Date: Monday, September 24, 2018 12:54:53 PM

September 24, 2018

Mr Michael Bradley
City of Oakland
Planning Department
Oakland, CA 94612

APN: 016-1428-011-02

Dear Mr Bradley,

As a longtime neighbor of this site, I'm writing in support of Corey McCannon's letter of September 18, 2018, concerning this property.

I believe he has done an excellent job of studying, evaluating and commenting, with suggestions for improving the proposal for 6501 Shattuck.

As I don't see other points that I could add, I write in agreement with Mr McCannon.

Thank you
Chia Hamilton
6511 Tremont St
Oakland, CA 94609

From: [Guita Boostani](#)
To: [Bradley, Michael](#)
Cc: [Stephen Claudemans](#)
Subject: 6501 Shattuck Ave. List of Issue
Date: Thursday, September 20, 2018 2:59:26 PM
Attachments: [6501 Summary of Issues Sept. 2018.pdf](#)

Hello Michael,

Please find attached a list of comments about the project proposal at 6501 Shattuck Avenue.

We will return on October 12th and look forward to meeting with you and Heather soon after that.

Sincerely,

Guita Boostani
6525 Shattuck Ave.

From: [Maricela Gutierrez](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave.
Date: Monday, September 24, 2018 12:53:54 PM
Attachments: [Maricela Gutierrez"s Letter.docx](#)

Dear Michael Bradley,

Please see my letter regarding the 6501 Shattuck Ave. property. It's case file: CDV10185.

In case you have trouble opening it, here it is below as well:

Maricela Gutierrez
6525 Shattuck Ave.
Oakland CA 94609
09/24/18

Case File # CDV10185

Dear Michael Bradley,

I live at 6525 Shattuck Ave. right next to the proposed 4-story building on the 6501 lot. I would like to request a few changes to the plan.

To begin, I live in a home with 12 individuals who share a common backyard where we garden and have BBQs and neighborhood events. Many of us are people of color who are living together in a co-op because we like communal living, and because Oakland is expensive to live in. We enjoy having the sun in our backyard because it helps our food grow in our garden, and because it adds lights into each of our bedrooms.

Here are the changes I would like to see:

1. Please limit the building to 2 stories max. If you look at the surrounding neighborhood, this building doesn't fit in. I know that Oakland is seeking to create more housing but this would directly negatively impact a low-income group home of 12. A 4-story building that blocks the sun of adjunct property is not the way to increase housing in Oakland!
2. Please push the building back, further away from our property, by at least 10 feet. It's currently right next to our lot, and we would like it pushed back further. This will help with getting us to have more sunlight throughout the day.
3. The windows that the building has facing our backyard should be raised up (not at eye level, but closer to the ceiling) so that the people living in each unit cannot look into our backyard. It's a privacy issue for us. We want to have our BBQ's in peace without so many stories of people being able to peek at us.
4. Can we ask for affordable housing? I'd like Oakland to grow! But, I think that we need it to keep the people who are from Oakland within Oakland. This building will attract a lot of people who work in San Francisco, who only want to live here because it's close to Ashby BART. Gentrification is a real issue. This whole block has changed to mostly white folks in the last 10 years. Can we request that the buildings be for affordable housing? don't know the landlord, Athan Magannas, personally. However, from what I have read of his lawsuits in other neighboring cities, this is a man who

care about profit over people.

5. No variances please.

6. The Conditional Use Permit findings for this building being in harmony with the surrounding neighborhood cannot be made. It's not in harmony! It's going to be devastating for my house, our garden, our privacy, and our daily sunlight. No harmony coming from 6525 Shattuck.

7. The final thing that deeply concerns me is that Athan Magannas is being allowed to build a four-story building that he will likely neglect. Take a look at his other properties. He tends to build, often recklessly and illegally, profit, and neglect. Concord, for example, had an arrest warrant against him for ignoring a bedbug infestation. And the city of Berkeley has given him multiple citations for violating proposals and building something differently than what was planned. Because of the evidence in researching Mr. Magannas and the hostile interactions that other neighbors have had with him, it's apparent that Mr. Magannas is solely a profit-seeking man. He is not a man of the people. He is a man of himself, regardless of the negative externalities that he gives different communities. Based on his track record, it is likely that he will build what he wants regardless of what he proposes and will probably pay the fines for his disobedience because he has the money to do so. It's hard to fight someone like Mr. Magannas and that is why I hope that the city of Oakland does!

Thank you so much for taking the time to read this letter and for hearing my concerns. I hope that the city of Oakland stands up to Mr. Magannas for the sake of our community. And that the city recognizes and protects our rights, as we should not have to pay any negative externalities so that Mr. Magannas can make a little more money off another one of his many neglected buildings.

Kindest,

Maricela Gutierrez

(818)648-3818

Maricela.gutierrez90@gmail.com

From: [Kaitlin Duffey](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Ave.
Date: Monday, September 24, 2018 2:19:04 PM
Attachments: [6501 Shattuck Ave.pdf](#)

Re: 6501 Shattuck Ave.

Case file : CDV10185

Dear Mr. Bradley,

I would like to express several concerns about the proposed construction of the 4-story building at 6501 Shattuck Avenue. I live adjacent to this site at 6525 Shattuck Avenue, and both my home and my neighborhood would be negatively impacted by this development.

Zoning in our neighborhood limits the height of buildings to three stories. This 4-story building would completely deprive our vegetable gardens of sunlight as well as compromise our privacy by allowing its tenants a full line of sight into our home.

In addition, the traffic on Shattuck Avenue is already bumper-to-bumper during commute times, and adding 40+ new residents and a parking garage to our block would exacerbate the problem.

Mr. Magganas has a documented history of ignoring blight, bedbugs, and building code violations at his properties, which raises worry.

Finally, I would much prefer to see a low-income housing development on my block. Space is limited in Oakland and there are many people already here who need an affordable place to live.

Thank you for taking the time to read my letter. I hope that you will take these concerns into consideration.

Sincerely,

Kaitlin Duffey

From: [Dale Williams](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Avenue, Oakland CA 94609
Date: Tuesday, September 18, 2018 6:14:02 PM

Hi Michael. As a neighbor, I want to express my strong support for the current proposal to construct a 4 story mixed-use building as proposed. (CFN: CDV10185) As you are aware, this location has been long blighted and the level of density is appropriate given the close proximity to transit and grocery stores, cafes etc. Anything you can do to expedite this approval would be greatly appreciated.

Sincerely,

Dale Williams

(Owner of 6510 Shattuck Avenue)

From: [Corey McCannon](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Avenue, Oakland, CA 94609
Date: Wednesday, September 19, 2018 6:18:02 AM
Attachments: [6501 Shattuck Ave-comments.pdf](#)

Dear Mr. Bradley,

Please see my attached comments for the proposed development at 6501 Shattuck Avenue. Case Number CDV10185.

Thank you,
Corey McCannon
721 65th Street
Oakland, CA 94609

From: [Linda Katz](#)
To: [Bradley, Michael](#); [Bradley, Michael](#)
Subject: 6501 Shattuck Avenue
Date: Sunday, September 23, 2018 10:27:44 AM

Dear Mr. Bradley,

I am writing to provide my support for the proposed project at 6501 Shattuck Avenue. I have lived around the corner, on Whitney Street between 65th and Woolsey, for nearly 25 years. That property has been a blight on the neighborhood during the entire time I have lived here. My understanding is that past efforts to develop the property have been met by neighborhood opposition, on the basis of increased traffic and parking problems.

I believe that smart development calls for urban infill, which is preferable to endless sprawl. High density residential construction close to public transit will help to alleviate, rather than increase, traffic problems. I would greatly prefer a multi-story buildings around the corner to seeing new developments in what were previously open space areas. New mixed use commercial/residential properties that are designed attractively are beneficial to the neighborhood. I hope that construction of this multi-story building can begin soon.

Thank you,

Linda Katz
6546 Whitney Street, Oakland

From: [Chris Hall](#)
To: [Bradley, Michael](#)
Subject: 6501 Shattuck Pending Application for Mixed Use Bldg with Variance
Date: Saturday, September 8, 2018 11:06:52 AM

Hi Michael,

I am writing about the public notice and application posted at 6501 Shattuck behind my house. I live at 6512 Whitney St and share a rear property line with the project.

I have reviewed the plans/designs that are posted online along with the CEQA exempt determination report done by Stantec.

As the rear neighbor as you might imagine i am most concerned about the applicants request for a variance that would allow them to encroach further into the rear yard then the zoning allows for with a raised concrete public terrace that would be a gathering area for the building residents. Obviously the zoning is written that way (required 15' rear yard setback) to protect the adjacent residential zone from exactly the impact that such an encroachment would create (noise, visual privacy, etc). I dont see how the project meets the traditional three part test for a variance either (the property has to have a hardship (it doesnt), not negatively impact adjacent properties (it would be) and not single this property out for special privileges adjacent properties of the same zoning dont have. Anyway, i dont know how the city of Oakland traditionally determines this, or what the process is for approving or appealing these variances, but i would like to get a chance to be heard before the project is approved.

If the issue is fulfilling the need for usable open space (also presumably required under zoning), i think that the public space can be adequately provided for in an expanded roof deck where it would not negatively impact the adjacent properties in as substantial a manner.

I would be happy to discuss this with you by phone or email.
I also know all the other neighbors and could potentially include them in a discussion.

It would be nice if this can be settled without having to go through a drawn out public process, appeal to Planning Commission, etc.

We are reasonable people and in favor of additional housing in our neighborhood, we just want the housing to follow the zoning rules and not significantly and adversely impact our property.

Chris Hall + Family
6512 Whitney St
415 658 1723

From: [Kris Mizutani](#)
To: [Klein, Heather](#)
Subject: 6501 Shattuck
Date: Wednesday, February 12, 2020 12:28:19 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Heather,

Thanks for calling me back a couple of times. I live at 6539 Shattuck, two buildings away.

I understand from your voice mail some of the neighbor concerns are around height/bulk of the proposed building. What can I do to put in my two cents that I don't want a building that is larger/taller than the existing buildings on the block/area?

Thanks very much,
Kris

From: [rolando roblero](#)
To: [Bradley, Michael](#)
Cc: [Bradley, Michael](#)
Subject: 6501 SHATTUCK
Date: Thursday, September 13, 2018 10:21:22 AM

It's about time this project gets going we've been waiting about 10 years.

This empty lot is a sight for sore eyes for the neighborhood

Thank you
Rolando Roblero

From: [Tommaso Sciortino](#)
To: [Klein, Heather](#)
Subject: Approve building at 6501 Shattuck Ave.
Date: Monday, February 3, 2020 8:16:37 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I bought my home at 744 65th St, ten years ago and the 6501 plot which is only a block away has been an eyesore and a waste of space the entire time. We desperately need more housing, especially near transit and this is the perfect place to build it. My only complaint is that it should probably be taller than 4 stories.

I'm a board member of East bay For Everyone and the issue of housing is very close to my heart. Thank you for supporting housing near transit!

Tommaso Sciortino

From: [Linda Katz](#)
To: [Klein, Heather](#)
Subject: Case Number CDV10185 - 6501 Shattuck Avenue
Date: Monday, February 3, 2020 9:04:09 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Klein,

I am writing in support of the proposed project at 6501 Shattuck Avenue. I have lived around the corner from this lot since I bought my house on Whitney Street over 25 years ago. It has been a blighted property the entire time I have lived here.

I strongly support the development of high density housing in this location, especially since it is so close to excellent modes of public transit, including buses and BART. It is incredibly frustrating that every proposal for this site has faced opposition from neighbors, who seem to prefer the ongoing blight and wasted potential of this prime location.

Smart urban planning calls for high density development, especially near transit. The alternative is endless sprawl, with people having to drive further to get to work, adding to our collective carbon footprint. I see this at my job in San Francisco, where people commute from as far away as Stockton and Sacramento every day.

It's time to replace the blight on this property with a well-designed 4-story building, and welcome new people and businesses to the neighborhood.

Very truly yours,

Linda Katz
6546 Whitney Street, Oakland
510-499-1317

From: [Claudia Mall](#)
To: [Bradley, Michael](#)
Subject: CDV10185
Date: Friday, September 21, 2018 11:15:51 AM
Attachments: [Shattuck 18 units comments from Mall.docx](#)

Dear Mr. Bradley,

Please see the attached letter regarding our comments on Case CDV10185. We would like to be notified of any decisions regarding this case.

Thank you,

Siegfried and Claudia Mall

From: [Ian Martin](#)
To: [Bradley, Michael](#)
Subject: Fwd: 6501 Shattuck - Case File CDV10185
Date: Monday, September 24, 2018 5:02:15 PM
Attachments: [6501-LettertoClevenger.docx](#)

Dear Mr. Bradley,

In addition to the other email I just sent you regarding my concerns about 6501 Shattuck Avenue, CDV10185, I am forwarding this email I sent to your predecessors regarding the property in question back in January, 2015. Please take the following into consideration as well when considering the proposal for 6501 Shattuck.

Thank you,

Ian Martin
(510) 654-7634

I. The 3-Story Height Limit Effective 15, 2011 Applies To This Development.

On January 9, 2015 the public received notice that an application to develop 6501 Shattuck Ave filed on July 14, 2010^[1] had been “deemed complete,” thus allowing the project to go forward under the old zoning laws that were in effect prior to April 15, 2011. The effect of this decision is that you appear to be applying the older 4-story zoning to a building in a neighborhood that is currently zoned for three stories. However, the Application was, and remains, incomplete.

The City of Oakland’s (“the City’s”) decision to deem this Application complete as of April 15, 2011 violates state law, the City’s own application process, rules and zoning ordinance. As set forth below, deeming the incomplete application complete is a violation of state law. In fact, under the City’s own rules the City should not even have *accepted* the application due to its incompleteness, let alone deemed it complete. And because it was not complete, it cannot fit in under the limited exception to the new zoning. In addition, the submitted Application is rife with outright misrepresentations and omissions. Further, to the extent the Application was deemed complete by operation of law, the new zoning would have to apply.

This Applicant should not be allowed to get in through the backdoor what he could never have got in through the front door when he filed this Application.

(1) The Application Was Incomplete As It Failed to Include Information Required by State Law.

The owner of the property, Mr. Magganas and his architect Moshe Dinar (combined, “the Applicant”), submitted a Basic Application for Development Review to the City of Oakland Planning Department (the City) on or around July 14, 2010 (“the Application”). However, the Application was incomplete.

The Application was incomplete because the Applicant left the entire Hazardous Waste and Substance Statement section of the Application blank. (See Application, Section 8, p.6). According to California state law, before the City “accepts” a Basic Application “as complete” the Applicant must consult the state lists of sites affected by hazardous waste and substances, and must “submit a signed statement” to the City indicating whether the project is located on a site that is included on any of the lists. (Cal. Gov. Code §§ 65962.5 (f), 65929). In fact, 6501 Shattuck Avenue, a former gas station with leaking underground tanks, was identified on the state lists as a site affected by hazardous substances. Thus, the Application failed to include information that is required by state law. Because of this omission, the Application was incomplete as of April 11, 2015 and cannot now be “deemed complete.”

Conversations with Ann Clevenger suggest that the City may be taking the position that the site at 6501 has since been fully remediated and therefore it is now besides-the-point that the Applicant did not complete this section at the time of the Application. Even though the site may now be remediated, at least as far as Alameda County is concerned, allowing the Applicant to circumvent the process required by state law is not acceptable. Such an approach leaves the public with no assurance that remediation of building sites will occur with proper oversight, and leaves open the possibility that that developments can go ahead despite being on the state hazardous waste list without any special permits.

If the City’s position is that the incompleteness of the Application was somehow remedied by subsequent information received, that argument also fails as none of the documents in the City’s file (as of a review of it on January 20, 2015) appear to have alerted the City prior to April 15, 2011 that the site was hazardous.

A conclusion by the City that this incomplete Application can nonetheless be “deemed complete” runs an end-run around the state law intended to protect the quality of our environment and our health. Furthermore, regardless of the City’s rationale, state law requires all applications to include the Hazardous Waste and Substance Statement. Since the Application fails to include this statement, the City lacks authority to deem the Application complete.

(2) The City Should Not Have Even Accepted the Application Under Its Own Guidelines.

In addition, the City cannot deem this Application complete under its own permit application guidelines. The Applicant did not have all the items that the City requires before it even is able to *accept* the Application, let alone deem it “complete”.

Section 9 of the application form is a checklist of everything required in order for the application to be accepted by the City. It has a large, bolded, bordered and partly capitalized header which notifies applicants of this rule:

“[T]he following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.”
(Emphasis in original).

The first item explicitly requires that the Applicant has submitted a “completed” application form “including ... the Hazardous Waste and Substances Statement.” The Applicant represented on his Application that he had submitted this Statement, when, as set forth above, he had not. This inaccuracy likely misled the City into accepting an application that should never even have been accepted.

Further, the Application appears to never have been fully processed by the City. It appears from the Application in the City’s project file that the required Application fee was never paid. The section requiring the City to note the fee received and date it was received is left blank. (See Application, p.1.)

(3) The Application Does Not Fall Within the Limited Exceptions to the Amended Zoning Ordinance.

There is nothing in the Planning Department’s project file on 6501 Shattuck that indicates when or how this Application was “deemed complete.” For example, there is no letter to the Applicant alerting him that his application has been deemed complete, nor any letter from the Applicant demanding that the city deem his application complete.^[3] On January 20, 2015, Vibeke Norgaard spoke with Ann Clevenger and received no further clarification as to when or exactly how or when it was deemed complete. ^[4]

Oakland City Council's Ordinance No. 13064 ("the Ordinance"), which amended the zoning laws and changed the zoning for the parcel under consideration, allows for exceptions to the new zoning for some applications that have already been deemed complete but only if they are "deemed complete...as of the date of final passage" of the ordinance. (Oakland City Council's Ordinance No. 13064, Section 6). If the Application were "deemed complete" after April 15, 2011, the development would thus be subject to the current amended zoning under the Ordinance.

The Ordinance requires that the Application be deemed complete as of April 15, 2011 to fall under the exception. As set forth above, this Application was not complete as of that date because it lacked information required by state law. The city therefore has not authority to deem it complete as of that date. Because it is not encompassed by this exception to the new zoning, this Application falls under the new zoning. (Oakland Planning Code § 17.114.030; see also e.g., *Avco Cmty. Developers, Inc. v. S. Coast Reg'l Com.*, 17 Cal. 3d 785 (1976)).

Furthermore, if the City's position is that the Application was deemed complete by operation of law 30 days after it was received under the Permit Streamlining Act (Cal. Gov. Code § 65920 et. seq), then the new zoning also must be applied to this proposed development. The exceptions set forth in section 6 of the City's ordinance only apply to those applications deemed complete "by the City", not those applications deemed complete by operation of law. (Oakland City Council's Ordinance No. 13064, Section 6). It should also be noted that the Permit Streamlining Act was created to protect Applicants from foot-dragging by public officials. It can hardly be a valid use of that Act to allow foot-dragging by Applicants, who only complete half of their applications, to help them be grandfathered into old zoning laws.

(4) The City Should Not Deem This Application Complete Because It Contains Misrepresentations of Fact.

Not only is the Application, as set forth above, incomplete, but it also should not be deemed complete as it contains several outright misrepresentations of fact. As set forth above, the Applicant noted, under penalty of perjury, that he had filled out section 8, when he in fact had not.

In addition, in Section 6 of his Application, which requires an applicant to attest whether there are any existing Protected Trees "anywhere on the subject property or within 10 feet of the proposed construction activities (including neighbor's properties or the adjacent public right-of-way)" this Applicant informed the City there are no such trees. In fact, there is a large 36" diameter redwood on the back corner of the adjacent property, within ten feet of his proposed construction activity. The Applicant's Proposed site plan also does not show the

protected Redwood tree.[\[5\]](#)

For the City to now say this Application has been “deemed complete” means that not only is it acceptable to leave required sections entirely blank, but that actually making outright misrepresentations on an application is acceptable.

(5) Additional Inaccuracies In The Application.

In addition, there were several other aspects of the Application that make it both inaccurate and incomplete: (1) The variance justifications are not updated to reflect the latest design; (2) The Application Form does not reflect the current or previously submitted design, including number of units, heights, setbacks, or lot coverage; (3) There are no photographs of neighboring properties; (4) The elevation drawings do not show adjacent houses; (5) No materials and color board was submitted; (6) The survey is not stamped by a licensed surveyor; (7) The building elevations do not reflect the slope of the site, which slopes over two feet from front to back - this means that the building walls will be taller near neighbors’ properties, and will have greater impact than shown; (8) It contains an incorrect rendition of neighboring houses and setbacks: The perspective drawing misleadingly shows the adjacent neighbor on the North (the Muse) as a narrow two-story structure where it is actually a one-story structure on a lot that is wider than the applicant’s lot. The site plan does not show the correct configuration and relationship of the site to the neighbor’s property on the North (the Muse). The site plan still does not accurately show the neighbors’ properties, location on the lot, and setbacks. (9) The elevator is not shown going to the roof (as required by equal accessibility codes for the required open space at the rooftop garden). This will significantly add to the height and impacts on neighbors, but this aspect of the proposed building is not shown.

(II) The Public Does Not Have Enough Time Or Enough Information To Comment Fully On This Proposed Development.

The neighborhood received only 17 days notice to comment on this proposed development. This is insufficient time for a project of this magnitude.

First, given the proposed four-story height in a neighborhood zoned only for three stories, story polls should be required so that the public can better consider the impact of this massive building on the neighboring community. The public comment period should be extended at least 30 days, once the story poles are installed, so that the public can consider and comment on them to the City.

Second, it has proved impossible during this short time to obtain the information necessary to fully evaluate and comment on this Application. For example, we have attempted in vain to obtain information about the process in which this Application was deemed complete. On January 20, 2015, Vibeke Norgaard went to the Planning Department and requested to see the file on 6501 Shattuck. She was given a very small and very incomplete file. Many pieces of correspondence between neighbors and Ms. Clevenger about this project over the past years were not in the project file. Most notably, nothing in the project file references either the meetings Clevenger referred to, or any other process by which the decision was made to deem the Application complete. When Vibeke Norgaard requested to see such documents, she was directed to file a Public Records Act request. Such a request would, of course have been futile in the short period given to the public to comment on this major development. Ian Martin had, in fact, filed one on January 15th, 2015 (Public Records Act request No. 7559) for certain documents and has to date heard nothing back.

Third, to the extent this project is being analyzed under the old zoning laws from 2010 in its entirety (which is not clear to us based on the public notice) after much searching, we are unable to find those old zoning laws online. It would be necessary to analyze the entire project under those older laws in order to be able to fully comment. We therefore request that the City perform, or require that the Applicant perform, a detailed comparison of the proposed development under old and new zoning.

Fourth, in order to fully comment, the public should be able to see a composite building elevation that shows the proposed building and its relationship to adjacent buildings in order to demonstrate how issues of scale, massing, open space, and privacy are being addressed.

Fifth, we also request that a shadow study be performed in order to understand how our building's solar access will be impacted in the afternoon by the development.

For all of the above reasons, we request that the public notification period be extended.

(III) Additional Concerns About the Design of the Proposed Building.

This proposed development will be the tallest building between downtown Berkeley and Temescal on the Shattuck Corridor, and its massing will be sorely out of context. While we support greater density near transit nodes, this building, as proposed, will work against efforts to bring greater density to our urban areas. In fact, it will serve as a poster child of poorly considered urban planning by people who are against greater density. Increased

density cannot be the only guiding design principle, but must be balanced with a proposed buildings' impact on the surrounding community. This building, at three stories with appropriate modifications to break up its massing would be a welcome addition to our neighborhood. As it is proposed now, it is entirely unacceptable.

(a) Size, Massing, Height Transitions, And Set-backs Are Inappropriate For The Neighborhood.

From the west on the residential 65th Street, the proposed building leaps from single-story, single family homes to its full-four-story height, dwarfing them. Under Oakland's General Plan (housing element) Policy N8.2 regarding compatible interfaces between densities, the height of a development should step down as it nears lower-density residential areas in order to minimize conflicts at the interface between the different types of development. This proposed development does not do that.

The next building to the south (across 65th Street) of the proposed development is a two-story home with substantial setbacks on all sides. The proposed development has no setbacks and, due to the bay windows, jumps immediately to nearly its full height—outside its own property lines and over the narrow right -of-way.

On the north side of the development there is a simple, single-story mid-century modern building adapted to create affordable housing. The proposed development will tower over it when viewed from Shattuck Ave by a full-three stories, and, even higher when the legally-required elevator tower is included.[\[6\]](#)

From the east, our Nomad Café building—which is three stories— is tapered down in height from south to north, and the third floor is set back from Shattuck, as well as from the north, in order to reduce its massing. The third floor of our building is clad in cedar on its western elevation, in order to reduce its visual impact when viewed against the Oakland hills when the building is viewed from street level down 65th Street. We incorporated these design elements in order to reduce our building's impact on this neighborhood of predominantly single-family homes and single and two story commercial buildings, as well as to allow the large palms on our property to be seen from the west.

Further, it appears that the massive building profile will shade the street and surrounding sidewalks for most of the day.

(b) The Proposed Bay Windows Exacerbate Massing.

In addition, the bay windows of the proposed building should be eliminated on 65th and Shattuck. The looming nature of the proposed building will be exacerbated by the bay windows that project out over the narrow right of way of the 66'-wide Shattuck Corridor, with its 43'-wide roadway and minimal 6' sidewalks, and the residentially-scaled 65th Street.

While we encourage the Applicant to break up the massing of these four-story walls, this can be done by withdrawing sections of the walls from the property lines on Shattuck and 65th Street, thus providing massing relief to the neighborhood.

(c) The Proposed Development Causes Unnecessary Loss of Views From Our Building.

The bay windows overlooking 65th Street will eliminate our building's view of San Francisco and the Bay Bridge. This would adversely affect the property value and our tenant's enjoyment of our building. The view of the Golden Gate Bridge and San Francisco Bay from our building will be eliminated by the sheer height of the proposed four stories. This violates the spirit of Oakland's General Plan Policy N3.9. ("Residential developments should be encouraged to...avoid[] unreasonably blocking sunlight and views for neighboring buildings".) Removing the bay windows from 65th street will likely save our view of San Francisco and the Bay Bridge, and limiting the building to 3 stories, as required by current zoning, would at least partially save our views of the Golden Gate Bridge and San Francisco Bay.

(d) Variances.

The variances required, for the rear setback, density, and driveway, add to the excessive bulk and adverse impact on the neighborhood as described above. We therefore feel staff is being too generous in designating them as "minor" variances. See Oakland's General Plan Policy N11.3 which states that "variances ... **should not be granted lightly** and 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 of privileges enjoyed by similar properties, **as well as the fact that the variance will not adversely effect the surrounding area nor will it grant special privilege to the property.**" (emphasis

added).

Furthermore, as the plans submitted with the Application do not show the legally-required elevator tower, we are concerned that they may also lack other important details. If so, additional variances or use permits may be required.

We respectfully request that the City force the Applicant to take the above concerns into consideration and revise their design accordingly.

(IV) Don't Reward The Applicant's Creation Of An Eyesore.

We would also like to urge the City to not accept the Hobson's choice of approving Applicant's imperfect development project in order to the alleviate the blight Applicant has created over the past four years.

As you are hopefully aware, the Applicant has left his site in disrepair over the past four years. Starting in 2010, neighbors contacted the City about the site's poor condition, requesting that the City do something to force the Applicant to clean up his site. The blight on this property has included graffiti covering the front of buildings, black cloths on the fences flapping into the sidewalk area, trash building up on a regular basis, and mosquitos breeding in the large pits of standing water.^[7] Neighbors have for years reported illegal activity and the poor condition of the site. Some neighbors now will put up with anything just to see an end to this blight.

Please do not end the message to developers in Oakland that creating blight and nuisance in any way speeds up the approval process. It is better for the neighborhood that this be a well-maintained vacant lot for another decade than it be developed in a way that is way too big and massive for the narrow Shattuck Corridor.

(V) The City Should Apply Diligent Oversight To This Applicant.

Given the Applicant's history of rule-breaking and shortcut-taking, we urge the City to carefully scrutinize the Applicant's construction process to ensure that he does not deviate from his approved plans.

As documented by the City's own inspectors, ourselves and other neighbors in numerous phone calls, letters and photos over the last five years, the Applicant has shown willful disregard for the rules and procedures of development.^[8] Since none of these actions appear in Applicant's project file, they are summarized here: (1) The Applicant demolished a building on the site on 3/17/10 without any permit, without the required public notification and without the asbestos survey required by the Bay Area Air Quality Management District. The City issued a permit for this demolition on 3/27/10 -- *after* the building was demolished; (2) According to a neighbor, Applicant began remediating the underground tanks in the middle of the night; (3) According to a conversation with Oakland Fire Department Inspector, Keith Matthews, the Applicant pulled the UST tanks with incomplete plans in place, including no dust abatement plan^[9]; (4) Although, according to the Fire department, Applicant was supposed to stop the tank removal work during high winds the Applicant removed the tanks on an extremely windy day in 2010 causing gasoline smelling dust to blow around the neighborhood: Our family, including our then 5 year old daughter and myself, a then pregnant mother, experienced having particles of this gasoline-infused soil blow around us as we entered and exited our home; (5) Two swimming pool-sized pits, where the underground storage tanks had rested were not lined with plastic and backfilled with clean soil as is normally required, according to a Fire Department Inspector. Although he was ordered by the Oakland Fire Department to backfill the pits on March 4, 2010, as late as July 2011, Applicant had not yet complied; (6) Although once tanks were discovered to have leaked into soil, Applicant was not supposed to further disturb the soil, he did so, on several occasions in 2010; (7) Although the contaminated soil was supposed to be transported through the City in covered dump trucks, we documented the trucks driving away uncovered, with contaminated soil spilling into City streets; (8) Pools of water gathered in the pits, pools most likely filled with hazardous substances because the tanks had leaked into the surrounding soil; (9) An agent of Applicant was seen draining the pools of this water into the back building, where there was a public sewer access, possibly into the public sewer. Although he told neighbors he was draining the toxic water into a tank, which would later be hauled away, he refused to let them see the tank. According to Erica Fisker, the senior environmental consultant for SOMA, the company engaged by Applicant to remediate the site, this siphoning of water was not authorized by SOMA, and she knew nothing about it.

Further, in a lawsuit against the City over fines assessed against him for blight on his property prior to his ownership, a hearing officer found "not credible [Magganas'] claim he was unaware of the existence of violations when he purchased the building." The hearing officer also found "Magganas had engaged in either subterfuge or studied ignorance in his testimony regarding the continuing existence of code violations" and concluded he was "either ...not genuinely confused about the existence of violations" or "kept his eyes closed to avoid seeing any problems while he was there." The hearing officer ultimately found that several violations existed, and affirmed the City's finding that the property constituted a public nuisance. (See *Bruder, LLC v. City of Oakland*, Case No. A136256, Court of Appeals of California, First District, Division One (Filed August 29, 2013).)

Given this Applicant's history of acting first and dealing with the consequences later,

the City should apply diligent oversight to any construction process they approve.

VI. This Application Should be Denied.

Due to the glaring inaccuracies and omissions on this Application, and all the additional concerns raised above, we respectfully request that you revoke your decision to deem this Application complete, and require that the Applicant submit an accurate and completed Application.

You have the authority to do so. On your own application form, the Applicant was clearly warned that “inaccuracies may result in revocation of planning permits as determined by the Planning Director.” (cite) Therefore, when the Applicant decided to omit and misrepresent on his Application, he was on notice that doing so might mean that any permit he received as a result of the inaccurate and incomplete application could be revoked.

Please also be on notice that given the issues mentioned in this letter, we will appeal any decision to approve this development to the Planning Commission and if necessary, to the Superior Court.

Sincerely,

Ian Martin, Marlene Martin and Vibeke Norgaard

[1] Despite the statement in the public notice, the exact date on which the City received the Application is unclear. The Application was not date stamped, and the Application fee section not filled out. It was signed by the Applicant on 7/15/2010, but Clevenger notes on the Application it was “rec’d 7/14/2010”. In an email dated 7/30/10, Clevenger said it was received on 7/12/2010. On 7/21/2010, Applicant and his architect met with neighbors and led them to believe they had not yet filed a formal application.

[2] It should be noted that the incompleteness of the Application cannot be dismissed as the result of mistakes or ignorance on the part of the Applicant: Mr. Magganis is a seasoned developer with many large developments in Alameda County under his belt.

[3] The Oakland Planning Department’s file on this Application was remarkably sparse. Much correspondence that we and other neighbors have had with the Planning department about this site was not in it.

[4] In this conversation between Ms. Clevenger and Vibeke Norgaard, Ms. Clevenger did vaguely indicate there were “some meetings” in which the language of the ordinance was carefully considered and the decision to deem the application complete made. It was not clear when these meetings were held or why there was no indication of them in the public file. If the ordinance was being reviewed when the decision was made, that would strongly suggest the application was deemed complete *after* April 15, 2011.

[5] The Applicant’s proposal shows a concrete masonry fence, 16-foot tall walls, a paved driveway and parking all within 10 feet of this tree. The Applicant, in an email to Guita Boostani, dated 7/30/2012, threatened legal action against the neighbor if they did not remove this tree.

[6] As set forth above, this elevator is not shown in the Application plans.

[7] Applicant has even gone so far as to blame neighbors for the blighted condition of his own property in an email to Ms. Guita Boostani on December 18, 2013.

[8] As noted above, since the Applicant is a seasoned developer, his ignoring building and remediation rules and regulations cannot be dismissed as the result of mistake or ignorance.

[9] A Public Records Act request was mailed by registered mail in or around early 2012 to the Fire Department in order to obtain more details about the UST removals and whether or not Applicant had a proper permit in place when they were begun. To date we have had no response to this request.

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You received this message because you are subscribed to the Google Groups "6501 Shattuck Watch" group.

To unsubscribe from this group and stop receiving emails from it, send an email to 6501-shattuck-watch+unsubscribe@googlegroups.com.

To post to this group, send email to 6501-shattuck-watch@googlegroups.com.

Visit this group at <http://groups.google.com/group/6501-shattuck-watch>.

For more options, visit <https://groups.google.com/d/optout>.

From: [Ian Martin](#)
To: [Bradley, Michael](#)
Subject: Fwd: 6501 Shattuck Pls. Review letter Case File CDV10185
Date: Monday, September 24, 2018 10:46:39 PM
Attachments: [6501-LettertoClevenger.docx](#)

Hi again Mr. Bradley,

Please see below, and please include this message, the email below, and the attachment with the public comments for CDV10185, 6501 Shattuck Ave.

I've been reviewing old emails and documentation regarding 6501 Shattuck, and I see that your predecessor Scott Miller asked the City Attorney's office to review the question of the "deemed complete" matter in 2015. Do you have any records of their response?

The email from 2015 below demonstrates that the attached letter, referenced by Mr. Glaudemans, was sent to both Ann Clevenger and Scott Miller back in 2015. Mr. Glaudemans requested that that letter also be forwarded on to the City Attorney's office as well. (The contents of the letter is the same as the email I sent you earlier today, and the letter was attached to that email too. Due to email formatting reasons, it might be easier to read it in the form of the attachment.)

Thank you again for your attention,

Ian Martin

----- Forwarded message -----

From: **Stephen Glaudemans** <stephen@boostani.com>
Date: Thu, Apr 2, 2015 at 10:05 AM
Subject: Re: 6501 Shattuck Pls. Review letter w/ CAO - Case File CDV10185
To: Miller, Scott <SMiller@oaklandnet.com>
Cc: Vibeke Norgaard <vnorgaard@hotmail.com>, Don Link <don-link@comcast.net>, Kalb, Dan <DKalb@oaklandnet.com>, Bolotina, Olga <OBolotina@oaklandnet.com>, Ian Martin <ianmartinphotography@gmail.com>, 6501-shattuck-watch@googlegroups.com <6501-shattuck-watch@googlegroups.com>, Clevenger, Ann <AClevenger@oaklandnet.com>

Hi Scott,

It's good to hear from you. Thanks for understanding the dilemma and addressing matters in a logical order.

We look forward to hearing what the City Attorney's office has to say and would encourage them to carefully consider the letter from Vibeke Norgaard and Ian Martin (attached below) as they review everything.

Sincerely,

Stephen Glaudemans

From: [Janet Laughlin](#)
To: [Bradley, Michael](#)
Subject: Interested neighbor in 6501 Shattuck Ave., APN 016 142801102
Date: Sunday, September 23, 2018 9:04:13 PM

Dear Mr. Micheal Bradley,

Case# CDV10185

My name is Janet Laughlin and I live just 1/2 a block from the 6501 Shattuck Ave. location in Oakland. The City is in error if it allows the proposal by owner LLC, Bruner to go ahead with the current proposal for APN 016 14281102 as it stands. The proposed project encroaches upon the neighboring properties; by almost half of the required setback (7' of the 15' setback). It will largely negatively impact the morning light and sense of openness for any neighbors unfortunate enough to be on the back or side of this structure. The project is too bulky for the street / block of predominantly 1 and 2 story buildings. The structure may only have 18 residential units; where more is allowed is a general plan, but the ground floor will be used for commercial space and it will require more heavy usage. The parking is often at capacity, and the traffic at that corner is backed up every day for 2 to three blocks during commute hours. A building of this type will add to an existing problem area for the cities of Oakland and Berkeley on this corridor street.

As a concerned home owner in a close proximity to this project, I am expressing my hope that the city will guide the developer/owner of 6501 Shattuck to a smaller, lighter and softer structure and shaping of the surroundings of this proposed mixed use building.

Thank you for a more wholistic consideration of a correct and permit-able use of the lot at 6501 Shattuck Ave. Oakland Ca.

Respectfully,
Janet Laughlin
6527 Whitney St
Oakland Ca
Jalaugh2001@yahoo.com

Edmund Mills
6525 Shattuck Ave.
Oakland, CA 9609
720-365-7362

9.24.18

Michael Bradley
re: 6501 Shattuck Ave.
case file : CDV10185

Dear Mr. Bradley,

I am a resident of 6525 Shattuck Ave. I am writing to express concern about the proposed apartment complex next door.

My primary concern is privacy - the complex would overlook our backyard, and much of our property would be directly visible from windows and decks. This would significantly impact how comfortable I feel in my own home on a daily basis. In addition, this building would almost eliminate the sunlight that we currently receive. Setting the complex back from the fence and reducing the number of floors to three would significantly mitigate these concerns.

Even so, had this been a proposal for low income housing, I would fully support it regardless of its impact on our privacy and sunlight.

Sincerely,
Edmund Mills

From: [Jeffrey G. Jensen](#)
To: [Bradley, Michael](#)
Subject: Public Comments: CDV10185; 6501 Shattuck Avenue, Oakland, CA; Objection to Proposed Development
Date: Monday, September 24, 2018 5:02:25 PM
Attachments: [09-24-2018 CDV10185 JJensen Comments.pdf](#)

Dear Mr. Bradley:

I am writing to express my significant concerns and objections regarding the proposed development at 6501 Shattuck Avenue, Oakland, CA 94609, considered under CDV10185. Please see my list of concerns which are provided in the attachment, 09/24/2018.

As a property owner on Tremont Street and the former chair of the East Lorin Neighborhood Association, I am acutely aware that the community has worked diligently over the years to ensure community development that is appropriate and respectful of the neighborhood scale, while taking advantage of its proximity to important transportation corridors and BART. This is reflected in such developments as the Nomad Building and the Ed Roberts Compus at the Ashby Bart Station.

While I am supportive of mixed used development along major transportation corridors that provides for much needed housing and neighborhood serving retail uses, the proposed development at 6501 Shattuck Avenue is entirely out of scale with the adjacent commercial uses and residential neighborhoods. Both its height and bulk are serious design defects that require material revisions. The current proposal would make this the tallest and bulkiest building along the Shattuck corridor north of Temescal. The height should be capped at 3 stories as required under the current zoning.

The attempt to max out the site development by requesting variances to extend into the rear yard setback is indicative of the development's lack of respect for adjacent uses and the neighborhood. I do not believe the City can make the appropriate legal findings for a variance as there are no significant defects, such as topography, or lot line configurations, that would require a variance to develop the site.

This property should not be "deemed complete" under the old 4-story rules as the property owner filed a zoning application before remediating the hazardous materials onsite and the owner failed to properly disclose that the property was a toxic remediation site. The property owner undertook remediation work without proper permits and CEQA clearance and demolished what was likely a historic building. It is patently unreasonable, and likely illegal, for the City to apply the old standards to this application after eight years since the downzoning.

The owner, Athan Maganass, has a history of doing illegal work without appropriate permits and environmental clearance, has demonstrated hostility in working with the neighborhood and has a history of substandard construction and materials that quickly become eyesores for the community.

I believe the community is supportive of mixed-used developments that are of appropriate scale and height and that respect adjacent land uses. We urge you to carefully evaluate this proposal to ensure all legal findings are based on material and substantial evidence in the record and meet all legal definitions. In prior years, such as with the ill-fated Nick Nack Liquor Store, the Community has worked to ensure the City upholds all legal appropriate legal standards. We are committed to ensuring this site meets all legal requirements.

Best regards,

Jeffrey Jensen

From: [Kris M](#)
To: [Bradley, Michael](#)
Subject: Re: 6501 Shattuck (Public Comments)
Date: Thursday, September 20, 2018 11:42:32 AM

Hi Michael,

Thank you for patiently answering my questions on the phone today. I live at 6539 Shattuck, in a three story condo. Four or five years ago I spearheaded the effort to get Shattuck included in the "I" residential permit parking zone. It took us over two years to get the City to approve our petition. Shattuck is a busy one lane road, and residents on Shattuck couldn't park in front of their own home for more than 2 hours. Finally, the City approved the permit request and our block of Shattuck from 65th Street to the Berkeley border is included in the permit zone. As this is a mixed residential and commercial area, it can be difficult to find parking. If you've ever driven down Shattuck in rush hour, you know it can take 10 minutes to go less than a mile from 65th to 51st to get onto the freeway.

The proposed development at 6501 Shattuck would bring more traffic, and have an impact on parking in the area. Since Shattuck (ending at 65th) are now included in the permit zone, would it be possible to have that building be excluded from receiving "I" residential permits? I know the building has parking proposed for residents, but some residents may have more than one car and try to park on the street instead. Or at the very minimum, cap them from getting more than 1 residential parking permit should they apply?

Second, my larger concern is the height of the building. I understand the development was approved according to previous code that allows them to build up to four stories high. I saw the architectural drawing on the City's website. It appears the plan has it at 45 feet high. I oppose a building of this height in this neighborhood. Could you consider having the developer either put the parking garage as a subterranean garage, so that the other stories could be decreased instead of having parking at street level? Or, please consider approving only a 3 story building. A four story building is inconsistent with the homes and buildings nearby; it would be replacing one eye-sore (abandoned gas station), and replacing it with another (a behemoth that sticks out).

If parking and height concerns can be addressed, I look forward to the new complex. If these concerns cannot be addressed, I oppose the project.

Sincerely,
Kristine Mizutani
6539 Shattuck Avenue
Oakland, CA 94609
415-596-8525

PS - here's the link to the City's residential parking zones: <http://oakgis.maps.arcgis.com/apps/View/index.html?appid=25e2591b5f2447c9af13685f646e038c>

and

<https://www.oaklandca.gov/services/apply-renew-residential-parking-permit>

From: [Nicholas Sanzone](#)
To: [Bradley, Michael](#)
Subject: Re: 6501 Shattuck Ave CDV10185
Date: Monday, September 24, 2018 4:19:10 PM

Mr. Bradley,

I agree with all of Mr. Martin's points and also implore the City of Oakland to review the proposed plan and ensure any project complies with all current zoning regulations, prior to approval.

At this time, I am strongly opposed to the proposed project, as it is currently planned.

Thank you,
Nicholas Sanzone
725 65th St
Oakland, CA

On Sep 24, 2018, at 3:57 PM, Ian Martin <ian@ianmartinphotography.com> wrote:

Dear Mr. Bradley,

I'm writing to register my concerns and objections regarding the proposal for 6501 Shattuck Avenue, CDV10185.

I am the owner and builder of 6500 Shattuck Avenue, also known as the Nomad Cafe Building, directly across the street from 6501 Shattuck.

The City of Oakland should require story poles for the 6501 Shattuck proposal so that the neighborhood can properly understand the impacts of what will be *the largest, most prominent building* in the area for many blocks in any direction. Once the story poles are erected, the City should allow for a reasonable public comment period.

As it is, it very much appears that the building proposed for 6501 Shattuck Avenue is grossly out of scale with the surrounding neighborhood. This building should be capped at three stories so that it does not tower over its two and three story surroundings. Its massing needs to be broken up to reduce its blocky, monolithic appearance. The protrusions that extend out over the property line do nothing to make this building feel less imposing since they hang out over the sidewalk.

The Nomad Cafe Building added housing and increased density to this neighborhood by replacing a much smaller single-story building. Because it was much larger than what was there previously, minimizing its massing and demonstrating a sensitivity to the smaller neighboring homes and buildings was a driving design priority. I personally spent a great deal of time soliciting input from the neighbors. Only one neighbor actually wrote in to the City. Based on his concern, I lowered the overall height of my building by tapering it down from its peak height, which is at least a dozen or so feet shorter than the height of the

proposed building.

There are many other design features to break up the height and massing of the Nomad Cafe Building as well. In a stark contrast, the proposed building is much taller, and it pushes out beyond its property lines to loom over the public right of way. The Nomad Cafe Building has only one such protuberance, and it is significantly smaller than the multiple ones proposed for the 6501 Shattuck building.

Another concern relates to how the City will apply the zoning laws when considering this proposal. The City was erroneous when it "deemed complete" this application in 2011. The applicant did not indicate that this site was an unremediated former gas station with leaking tanks when the applicant applied under the old zoning laws. Because of that omission, state law negates the "deemed complete" status. This is further explained under points number four and 33 of the attached list of concerns and objections compiled by 6501 Shattuck's neighbors. I share many of the concerns and objections stated on this list, which is why I have attached it to this email.

Number 11 is another issue, relating to the redwood tree. This beautiful tree softens the urban view from multiple vantage points from my building, and it is alarming that no apparent consideration to the preservation and protection of this significant tree has been made by the applicant. See also point 27. Given the current proposed design, it appears that this tree would have to be eliminated, which is unacceptable.*

As for points 12 through 15, these findings simply cannot be made due to the outsized bulk and height of the proposed building, qualities that are highly incongruous with the surrounding neighborhood.

Point 17 is also very important. Given the sheer size and prominence of the proposed building, all modifications should be reviewed and high quality construction values should be insisted upon. Poor construction values will lead to a really big, highly visible eyesore that will be the detriment to everyone near this building.

Point 34 relates to this as well. Given the gaps in the City's record keeping of this property, it concerns me greatly that the City might not give the actual construction the attention that such a large, impactful development deserves. Sufficient oversight of the construction of this building by the City is critical.

As per section III of the list, revised plans that correct all inconsistencies should be submitted so that neighborhood and the City have a complete understanding of exactly what is being proposed. The City should then provide a reasonable period of time for public comment once these gaps in the documentation have been filled. This also speaks to the need for acknowledging the presence of the significant redwood tree in point number 11, and the need for story poles.

The design modifications made to help the Nomad Cafe Building harmonize with its neighbors came at a significant cost. Nonetheless, my building has shown itself

to be a good investment, not only because it is a better building architecturally, but because it enhances the neighborhood as a whole by harmonizing with it. There is no reason that 6501 Shattuck can't add needed housing to this community, be a good investment for its developer, and, while at the same time, demonstrate a sensitivity and respect to the surrounding neighborhood.

I urge the City of Oakland's planners to give the concerns stated here and in the attached list their close attention when reviewing the proposed building for 6501 Shattuck Avenue.

Thank you for your consideration,

Ian Martin
(510) 654-7634

*Trees in general are important to me. I personally planted or helped cause to be planted many of the trees along this section of the Shattuck corridor.

<attachment 1.pdf>

From: [Risa Pedzewick](#)
To: [Bradley, Michael](#)
Subject: re: 6501 Shattuck Ave. case file : CDV10185
Date: Monday, September 24, 2018 10:37:01 PM

Risa Pedzewick
6525 Shattuck Ave.
Oakland, CA 9609
978-500-2082

To Whom It May Concern,

re: 6501 Shattuck Ave. case file : CDV10185

My name is Risa Pedzewick and I lived at 6525 Shattuck ave, directly to the North of where the proposed 4-story complex is being built.

We are a one-story collective with a garden in our back-yard where we grow food. The size and placement of the complex would completely block the sun for the entire property. Not only that, but where the windows and decks would be would overlook into our home and destroy ur privacy. Additionally I am concerned about the noise nuisance the proximity of this structure would create. At least push the building back by ten feet from our fence, and create a 3 story structure.

Apparently, this is not the first time that Mr. Athan has tried to build this complex. I am asking, as one of the tenants of the 13 person property, that this plan not proceed. There has been numerous input from other tenants and neighbors to this property that all agree how detrimental this building would be to the neighborhood.

Finally, I am concerned about how this would not be a low-income housing rental, but instead be a luxury apartment complex. Seems to me like another developer trying to take advantage of the housing crisis, but this building will not detract from this crisis. It will just be another building to gentrify the neighborhood.

Thank you for taking our requests into consideration,

Risa Pedzewick

--

Please excuse any typos

From: [Chris Hall](#)
To: [Bradley, Michael](#)
Subject: Re: 6501 Shattuck Ave. CDV10185
Date: Monday, September 24, 2018 9:52:51 AM
Attachments: [6501 Shattuck CDV10185 Chris Hall Letter.pdf](#)

Thank you for your response Michael.
Please see that my attached letter is added to the file.

Thank you!

On Fri, Sep 21, 2018 at 2:00 PM Bradley, Michael <MBradley@oaklandca.gov> wrote:

Dear Chris Hall,

Thank you for your comments regarding the project. The City of Oakland Bureau of Planning is reviewing the proposed project. Attached is a zip file of the plans for further review.

Once a decision has been reached on the project, you will be notified of the status of the application.

Best regards,

Michael Casey Bradley | Planner III | City Of Oakland | Bureau of Planning | 250 Frank H.
Ogawa Plaza, Suite 2114 | Oakland, CA 94612 | Phone:(510)238-6935 | Email:
MBradley@oaklandca.gov | website: <https://bit.ly/2LEQt1S>

From: [Evan Magers](#)
To: [Klein, Heather](#)
Subject: Re: 6501 Shattuck
Date: Monday, February 17, 2020 9:22:52 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Ms. Klein:

We were a little confused by the notice we received, but our understanding is that Planning staff will be reviewing these permits in isolation.

The Conditional Use issue is not of concern to us, but the Open Space variance is something we strongly object to.

The developer has, throughout the history of this project, shown a disrespect for the neighboring residents' customary rights to light, air and privacy. The rooftop projections required for such a large roof deck push us even further into a canyon of darkness, and the new development's "open space" will be a perch that stares down into our bedrooms and private yards.

Once the developer passed the 3-story mark in their ambitions, they already threatened the context of this neighborhood of one- and two-story residences. The plan to offload required open space to the roof is one that will take this project well over four stories. We support increased density, but we hope planners do not think compatibility with the scale of existing residential development, and respect for neighboring residents, are not valid design requirements.

Thank you for your consideration.

Evan Magers
Caitlin Stuart
6516-6518 Whitney St

On Thursday, January 30, 2020, 3:40:29 PM PST, Klein, Heather <hklein@oaklandca.gov> wrote:

Appellants of 6501 Shattuck,

Staff has begun working on your appeal of 6501 Shattuck as we received word that the parties are not interested in trying to come to a resolution outside of the appeal process. In preparing the draft report, staff noticed that two permits are required for the project that were not originally noticed to the public nor findings made. These two permits include a Minor Conditional Use Permit for a multi-family facility in the C-10 Zone and a Minor Variance for over 20% of the required group open space on the roof of the building.

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If you have any questions feel to contact me.

Best,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 |Oakland, CA 94612 | Phone: (510)238-3659| Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

From: [Ian Martin](#)
To: [Klein, Heather](#)
Cc: [christoica@gmail.com](#); [guita@boostani.com](#); [coreydeanmc@yahoo.com](#); [evan_magers@yahoo.com](#); [siegfriedmall@yahoo.com](#); [david@varatanoff.com](#); [hotdogge@pacbell.net](#); [Don](#); [Merkamp, Robert](#); [Kalb, Dan](#); [Mulry, Brian](#)
Subject: Re: 6501 Shattuck
Date: Thursday, February 6, 2020 8:23:30 PM
Attachments: [6501-Letter.pdf](#)

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Dear Ms. Klein,

In addition to the matter of the clouded title that Ms. Boostani points out, there remains the problem of "grandfathering" the application in under the obsolete zoning codes. On various occasions over the last several years, we have asked the City what their basis was for "deeming complete" the application in light of the fact that California law requires that a key section of the application be filled out before the City can deem an application complete. That form, the Hazardous Waste and Substance Statement, was blank when the application was turned in. By the time the full application was submitted, the zoning code had changed.

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Can you please provide an explanation for us? I see that Brian Mulry of the city attorney's office is cc'd on your email.

Mr. Mulry, perhaps you can offer an explanation to us?

Thank you,

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P.S.

I too, ask that the City rescind its latest re-notification as the ownership of 6501 Shattuck is in doubt.

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To: [Klein, Heather](#)
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Subject: Re: 6501 Shattuck
Date: Monday, February 17, 2020 11:16:15 AM

Hello Heather,

Thank you for your responses to my additional request for justifications.

I believe the need for yet another open space variance underscores how ill-suited the current design is for the available space.

I appreciate the information regarding the staff report and 17-day notice for the hearing.

Sincerely,

Corey McCannon

On Thursday, February 13, 2020, 12:17:30 PM PST, Klein, Heather <hklein@oaklandca.gov> wrote:

Corey,

The Zoning Manager has already determined that a new application, supporting documents (like the applicant submitted Findings), and additional fees are not being required as this was a staff error in review. Furthermore, we don't require that an applicant "justify" the reasons for the entitlements.

The plans clearly showed a multi-family facility and the density/ number of units requested. The plans also clearly show the open space areas including those on the roof. As such, staff has adequate information to review and make a decision on the two new permits. Our decision is based on conformance with the Findings only— not an applicant justification. We believe that you also have enough information to provide comments on the permits. If you want to review the file, I can make that available to you.

The comment period for the two permits will end on February 18th. After which staff will make decision , again based on the Findings, for those permits. The decision letter on the two permits will be sent to the applicant, you and all interested parties. This decision is appealable to the Planning Commission. If these permits are appealed, then staff will consider those appeal arguments with the appeal we have already received.

To date, we have not scheduled the project for a Planning Commission hearing. We will contact both Appellants and the Applicant on a date to make sure that all parties can attend once. Interested parties will be entitled to a 17-day notice of the hearing, and the staff report will be publicly available the Friday before the hearing.

Best,

Heather

From: Corey McCannon <coreydeanmc@yahoo.com>
Sent: Tuesday, February 11, 2020 4:52 PM
To: Klein, Heather <HKlein@oaklandca.gov>
Cc: christoica@gmail.com; guita@boostani.com; evan_magers@yahoo.com; siegfriedmall@yahoo.com; david@varatanoff.com; hotdogge@pacbell.net; [Don <don-link@comcast.net>](mailto:Don-link@comcast.net); [Merkamp, Robert <RMerkamp@oaklandca.gov>](mailto:RMerkamp@oaklandca.gov); [Kalb, Dan <DKalb@oaklandca.gov>](mailto:DKalb@oaklandca.gov); [Mulry, Brian <BMulry@oaklandcityattorney.org>](mailto:BMulry@oaklandcityattorney.org); [Stephen Boostani <stephen@boostani.com>](mailto:stephen@boostani.com); [Ian Martin <ian@ianmartinphotography.com>](mailto:ian@ianmartinphotography.com)
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support these exceptions to the City's requirements.

Without these justifications, it is difficult for the community members with an interest in this project's outcome to submit informed comments.

Sincerely,

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Also, I expect to complete the appeal process this spring.

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If you click record info, you can download all the appeal documents including your letters.

Best,

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From: [Kris Mizutani](#)
To: [Klein, Heather](#)
Subject: Re: 6501 Shattuck
Date: Friday, February 14, 2020 6:13:17 PM

Thanks Heather, I would like to be added to the interested parties list. And thanks for the update on parking. I'm glad that there's already the thought that a portion of the parking should be for employees and customers.

Thanks,
Kris

On Fri, Feb 14, 2020 at 9:14 AM Klein, Heather <HKlein@oaklandca.gov> wrote:

Kris,

The project is providing a 1 to 1 parking ratio for the proposed units. The commercial space does not require parking. The only part of the appeal that addresses parking is the following which we will be responded to in the staff report.

A portion of the parking lot should be for employees and patrons of the commercial space as parking is very limited.

You are welcome to write a comment letter and attend the Planning Commission hearing. We have not set a date for that but will add you to the interested parties list.

Best,

Heather

From: Kris Mizutani <kris Mizutani@gmail.com>
Sent: Thursday, February 13, 2020 11:15 PM
To: Klein, Heather <HKlein@oaklandca.gov>
Subject: Re: 6501 Shattuck

Hi Heather,

Thanks for the update. I think since the issue is already addressed I will hold off on sending a letter. However, could you tell me if street parking is a part of the issue? That building is on Shattuck, so they will qualify for "I" parking permits. I spearheaded the effort a few years ago to get this block permitted. Parking is already very difficult. One large building will

use many parking spots even if it has a parking garage (more visitors, some people have two cars, etc). Is there a way to ask that the building be excluded from residential parking permits? The tiny end of the 65th between Whitney and Shattuck is the only section that doesn't get a permit (the one, lonely apartment building on that sliver of the end of the block). 6501 Shattuck abuts the lonely apartment building on 65th that doesn't get a permit.

I can write a letter about parking concerns if that isn't already a part of the appeal?

When are public hearings/something I can attend?

Thanks,

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Kris,

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From: Kris Mizutani <kris Mizutani@gmail.com>

Sent: Wednesday, February 12, 2020 12:28 PM

To: Klein, Heather <HKlein@oaklandca.gov>

Subject: 6501 Shattuck

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Hi Heather,

Thanks for calling me back a couple of times. I live at 6539 Shattuck, two buildings away.

I understand from your voice mail some of the neighbor concerns are around height/bulk of the proposed building. What can I do to put in my two cents that I don't want a building that is larger/taller than the existing buildings on the block/area?

Thanks very much,

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Appellants of 6501 Shattuck,

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As such, these permits will be noticed starting Friday with both mailings to residents per the Planning Code and the posting of a yellow sign. The comment period will end February 17th. Any comments received during the comment period will be considered by staff when making our final decision on the permits. These permits only may be appealed by any party and will be considered at the same time as the previous appeal. Given that this was staff's error we will not be charging any appellant to appeal these two permits only. The previous appeal related to the overall project and those previous permits cannot be supplemented.

If you have any questions feel to contact me.

Best,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 |Oakland, CA 94612 | Phone: (510)238-3659| Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

From: [Ian Martin](#)
To: [Klein, Heather](#)
Cc: [christoica@gmail.com](#); [guita@boostani.com](#); [coreydeanmc@yahoo.com](#); [evan_magers@yahoo.com](#); [siegfriedmall@yahoo.com](#); [david@varatanoff.com](#); [hotdogge@pacbell.net](#); [Don Merkamp, Robert](#); [Kalb, Dan](#); [Mulry, Brian](#)
Subject: Re: 6501 Shattuck
Date: Friday, February 7, 2020 11:08:45 AM

Thank you Heather,

I'm aware that this project has been appealed since I'm an appellant. As such, I already have a copy of the appeal documents, but thank you for providing the link anyway.

Considering that we filed our appeal more than a year ago, can you please do us the courtesy of providing us with the City's analysis of the "deemed complete" matter without making us wait even longer?

As I explained in my email to you yesterday, we've never received an explanation from the City about the "deemed complete" irregularity despite repeatedly raising it with the City over the years. As you point out, I sent that letter to Ann Clevenger in 2015--more than five years ago--and I have yet to receive an answer to it.

Also, in my email to you yesterday, I brought up the matter of 6501 Shattuck's clouded title that Ms. Boostani pointed out in an email to you. Can you please let us know what the City is doing to determine the ownership of 6501 Shattuck, and whether the City intends to rescind its latest notification?

Thank you again,

Ian Martin

P.S. The link you provided doesn't appear to provide a way to access the appeal documents. Perhaps that can be fixed so that other interested parties can access them?

On Fri, Feb 7, 2020 at 10:05 AM Klein, Heather <HKlein@oaklandca.gov> wrote:

Ian,

The project was appealed on January 28, 2019. In the appeal document were letters from several neighbors, including the one you yourself sent to Ann Clevenger on January 26, 2015. As part of the appeal staff report we will be discussing in depth this issue as well as all the others raised in the appeal documents.

You can download a copy of the appeal documents via Oakland Citizen Access

<https://aca.accela.com/OAKLAND/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=19CAP&capID2=00000&capID3=02619&agencyCode=OAKLAND&IsToShowInspection=>

If you click record info, you can download all the appeal documents including your letters.

Best,

Heather

From: Ian Martin <ian@ianmartinphotography.com>

Sent: Friday, February 7, 2020 9:56 AM

To: Klein, Heather <HKlein@oaklandca.gov>

Cc: [christoica@gmail.com](#); [guita@boostani.com](#); [coreydeanmc@yahoo.com](#); [evan_magers@yahoo.com](#); [siegfriedmall@yahoo.com](#); [david@varatanoff.com](#); [hotdogge@pacbell.net](#); Don <don-link@comcast.net>; Merkamp, Robert <RMerkamp@oaklandca.gov>; Kalb, Dan <DKalb@oaklandca.gov>; Mulry, Brian <BMulry@oaklandcityattorney.org>

Subject: Re: 6501 Shattuck

Heather,

Can you please let me know what document you are referring to?

Thank you,

Ian

On Fri, Feb 7, 2020 at 9:31 AM Klein, Heather <HKlein@oaklandca.gov> wrote:

Ian,

This is part of the current appeal and will be thoroughly discussed in that document and at the Planning Commission hearing.

Heather

From: Ian Martin <ian@ianmartinphotography.com>
Sent: Thursday, February 6, 2020 8:22 PM
To: Klein, Heather <HKlein@oaklandca.gov>
Cc: christoica@gmail.com; guita@boostani.com; coreydeanmc@yahoo.com; evan_magers@yahoo.com; siegfriedmall@yahoo.com; david@varatanoff.com; hotdogge@pacbell.net; Don <don-link@comcast.net>; Merkamp, Robert <RMerkamp@oaklandca.gov>; Kalb, Dan <DKalb@oaklandca.gov>; Mulry, Brian <BMulry@oaklandcityattorney.org>
Subject: Re: 6501 Shattuck

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Ms. Klein,

In addition to the matter of the clouded title that Ms. Boostani points out, there remains the problem of "grandfathering" the application in under the obsolete zoning codes. On various occasions over the last several years, we have asked the City what their basis was for "deeming complete" the application in light of the fact that California law requires that a key section of the application be filled out before the City can deem an application complete. That form, the Hazardous Waste and Substance Statement, was blank when the application was turned in. By the time the full application was submitted, the zoning code had changed.

Since the City is again referring to that outdated zoning code with the Minor Conditional Use Permit and a Minor Variance, we again ask the City what their basis was for deeming the application complete. Please see the letter attached that we have given to the City on multiple occasions. We have yet to receive a response to it.

Can you please provide an explanation for us? I see that Brian Mulry of the city attorney's office is cc'd on your email.

Mr. Mulry, perhaps you can offer an explanation to us?

Thank you,

Ian Martin

P.S.

I too, ask that the City rescind its latest re-notification as the ownership of 6501 Shattuck is in doubt.

Ian Martin
Developer/Owner
Nomad Cafe Building
6500 Shattuck

On Thu, Jan 30, 2020 at 3:40 PM Klein, Heather <HKlein@oaklandca.gov> wrote:

| Appellants of 6501 Shattuck,

Staff has begun working on your appeal of 6501 Shattuck as we received word that the parties are not interested in trying to come to a resolution outside of the appeal process. In preparing the draft report, staff noticed that two permits are required for the project that were not originally noticed to the public nor findings made. These two permits include a Minor Conditional Use Permit for a multi-family facility in the C-10 Zone and a Minor Variance for over 20% of the required group open space on the roof of the building.

As such, these permits will be noticed starting Friday with both mailings to residents per the Planning Code and the posting of a yellow sign. The comment period will end February 17th. Any comments received during the comment period will be considered by staff when making our final decision on the permits. These permits only may be appealed by any party and will be considered at the same time as the previous appeal. Given that this was staff's error we will not be charging any appellant to appeal these two permits only. The previous appeal related to the overall project and those previous permits cannot be supplemented.

If you have any questions feel to contact me.

Best,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510)238-3659 | Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

From: [Corey McCannon](#)
To: [Klein, Heather](#)
Subject: Re: CDV10185 - 6501 Shattuck Avenue, Oakland
Date: Friday, February 7, 2020 3:01:29 PM

Thank you Heather. I believe this helps me understand the new minor conditional use permit and minor variance needed for the project. I appreciate your clarification with regards to my questions and I may come back with more.

Regards,
Corey McCannon

On Thursday, February 6, 2020, 12:47:51 PM PST, Klein, Heather <hklein@oaklandca.gov> wrote:

Corey,

The architect did not provide justification for the permit. I found it when I was preparing the appeal. Just because we missed code sections and approved the project doesn't mean that they still don't need those permits. Hence the Planning Department is instigating the notice not the developer.

The code section can be found in the C-10 regulations in the old 2010 Planning Code which we deemed was the code that the project would be processed under. I know that you are challenging this and that is the subject of the current appeal.

Currently the amount on the roof is about 50% not 20%.

17.36.070 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Residential Facilities:

 One-Family Dwelling

 One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360

Multifamily Dwelling

17.126.030 Group usable open space.

B. Location. The space may be located anywhere on the lot within twenty (20) feet of the living units served, except that not more than twenty (20) percent of the required area shall be located on

the roof of any building other than an attached garage or carport, with the exception of property located within the S-15 zone where the space may be located anywhere on the lot and may be located entirely on the roof of any building on the site.

Does this help?

Heather

From: Corey McCannon <coreydeanmc@yahoo.com>
Sent: Thursday, February 6, 2020 12:44 PM
To: Klein, Heather <HKlein@oaklandca.gov>
Subject: CDV10185 - 6501 Shattuck Avenue, Oakland

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Mrs. Klein,

I am trying to understand a new notice issued for a project close to our home. The project is at 6501 Shattuck in North Oakland and case file CDV10185. I am one of the appellants on the project and I am seeking clarification regarding an additional Minor Conditional Use Permit that is needed. I'd like to understand more about the city code and this new requested Minor Conditional Use Permit. Can you send the code section for a multi-family residential facility and explain how the project doesn't currently comply with the code section? Also, can you send me a copy of the justification provided by the architect for this new Minor Conditional Use Permit?

In addition, I have a question regarding the allowable percentage of group open space. I see the project seeks a minor variance due to more than 20% of group open space on the roof. Can you clarify the percentage of the roof proposed as a group open space in the current design?

Thank you,

Corey McCannon

From: [Kelley Kahn](#)
To: [Klein, Heather](#)
Subject: Support for project at 6501 Shattuck Ave., case file CDV10185
Date: Sunday, February 2, 2020 3:07:37 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Heather,

I am writing in strong support of the residential project and related zoning permits being considered for 6501 Shattuck. My family lives one block away. We are thrilled to see this vacant, blighted site become much-needed housing. This is the perfect place for new house -- two blocks from Ashby BART and on a commercial corridor that could benefit from more residents to support local businesses. I totally support the height of the building, and in fact wish the project had more units given our housing crisis. This project will generate much needed impact fees to help support new affordable housing in Oakland.

One request is that as part of this project, the Planning Department and DOT require a new crosswalk across Shattuck Street at 65th, on the north side of the intersection. There is currently not a crosswalk at that corner, but this is a heavily travelled route for pedestrians en route to BART, and for folks going to the Nomad Cafe. A crosswalk is needed to increase pedestrian safety in the area.

Thank you for supporting new housing near transit!

Sincerely,

Kelley Kahn
Tremont Street, Oakland

From: [Seth Mazow](#)
To: [Klein, Heather](#)
Subject: I support building 18 homes at 6501 Shattuck Ave
Date: Tuesday, January 26, 2021 12:16:51 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Case Planner Klein,

I'm writing in support of the planned project of 18 homes and ground floor commercial space that will replace a gas station at 6501 Shattuck Ave. We need more housing in Oakland, and these 18 homes will help slow displacement and make our neighborhood better and more affordable. It is project PLNCDV10185.

Thanks,
Seth

From: [Veronica Oberholzer](#)
To: [Klein, Heather](#)
Subject: Support for PLNCDV10185
Date: Friday, January 22, 2021 2:50:14 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Good afternoon,

I'm an Oakland resident writing to express my support for the new development at 6501 Shattuck Avenue. We need more housing!

Best regards,
Veronica Oberholzer

From: [James Proctor](#)
To: [Klein, Heather](#)
Subject: Supporting Project at 6501 Shattuck Avenue - PLNCDV10185
Date: Tuesday, January 19, 2021 9:38:40 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello Case Planner Klein,

I'm writing in support of the mixed-use development planned for 6501 Shattuck Avenue. The 18 new homes and new commercial space will be a great addition to the neighborhood. I live nearby in Oakland at 314 Alcatraz Avenue and visit friends and use services nearby.

Thank you,
James Proctor

From: [Sean McLaughlin](#)
To: [Klein, Heather](#)
Subject: In Support of PLNCDV10185
Date: Sunday, January 17, 2021 11:21:04 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Dear Case Planner Klein,

I'm a resident of Berkely near the border with Oakland, and I'm emailing in support of the planned development at 6501 Shattuck. Our city is suffering from a massive shortage of housing, and developments such as this one should not be held up by frivolous objections from neighbors; if anything, they should be encouraged. As a hopeful future neighbor of this project, I would like to see it be approved as quickly as possible.

Thank you,
Sean McLaughlin

From: [Tommaso Sciortino](#)
To: [Klein, Heather](#)
Cc: [East Bay for Everyone](#)
Subject: East Bay For Everyone endorsement of PLNCDV10185
Date: Saturday, January 16, 2021 3:42:38 PM
Attachments: [EB4E_PLNCDV10185.pdf](#)

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

On behalf of East Bay For Everyone I'd like to submit this endorsement letter for PLNCDV10185, the proposed development at 6501 Shattuck. Let me know if you have trouble opening it.

Tommaso Sciortino for
East Bay For Everyone

From: [Chau Lowe](#)
To: [Klein, Heather](#)
Cc: [Bernice W](#)
Subject: Re: 6501 Shattuck PC Hearing
Date: Saturday, January 16, 2021 10:06:38 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Heather,

I hope you're having a wonderful start to the weekend.

We are reaching out because we are the new homeowners of 6512 Whitney St, Oakland, CA. We live in the property directly to the rear of 6501 Shattuck. In December, we purchased the home from Chris and Vasilica Hall (appellants on the 6501 Shattuck appeal), and we are planning on attending the upcoming PC meeting on February 3rd.

Given the change of ownership, would it be possible for you to include us on future communications regarding the upcoming PC hearing?

Thank you,
Chau and Bernice

On Mon, Jan 11, 2021 at 10:48 AM Jennifer Wolan <jen@jenwolan.com> wrote:
FYI I just received this...

Begin forwarded message:

From: Chris Hall <christoica@gmail.com>
Subject: Fwd: FW: 6501 Shattuck PC Hearing
Date: January 11, 2021 at 10:41:56 AM PST
To: Milton Boyd <milton@miltonboyd.com>, jen@jenwolan.com

It seems the new owners are in communication already with the other appellants, but please see email sent to me from case planner. Obviously, communications are going to us because our email was listed on appeal, but i will continue to forward things until told otherwise...

----- Forwarded message -----

From: Klein, Heather <HKlein@oaklandca.gov>
Date: Mon, Jan 11, 2021 at 9:14 AM
Subject: FW: 6501 Shattuck PC Hearing
To:
Cc: Merkamp, Robert <RMerkamp@oaklandca.gov>, Mulry, Brian <BMulry@oaklandcityattorney.org>, Armstrong, Desmona <DRArmstrong@oaklandca.gov>, Payne, Catherine <CPayne@oaklandca.gov>, Steward, Seth <SSteward@oaklandca.gov>

All,

I wanted to give you some more details about the two Appeal hearings related to 6501 Shattuck which are to take place on February 3rd.

First, we are still not in the office and so the meeting will take place on Zoom. I will send you the agenda with the Zoom link and details when that is published. However, the meeting will occur starting at 3:00 PM. I do not yet know what item number we are on the agenda, again as that has not been prepared yet, so plan on being available at 3:00.

Second, both the applicant and appellants are able to make presentations. Typically, the applicant goes first and then the appellants but the order is up to the Planning Commission Chair. However:

- At this time we can only handle one representative per permit. In this case that means one presenter for the applicant's team and one presenter for each of the appeals. Each representative will enter the Zoom public hearing as an attendee at the beginning of the meeting. Each representative shall name themselves as "presenter" and according to their agenda number and case file (ex. "Presenter Item 5 CDV10185" for the applicant and Presenter Item 5 APL19003 and Presenter Item 5 APL20010 for the appellants) when signing in to Zoom.
- Once the item is called, and at the appropriate time, you will be elevated to panelist to speak. All other persons are attendees. If other team members are needed to answer questions, the representative can identify them in the attendee list. Attendees make their comments when the item is opened for public discussion – after all the presentations.
- Do not hit the record button at the meeting as a panelist. The recording will be available digitally on KTOP after).
- It is your responsibility to have the appropriate equipment and be prepared to make their own presentation (Zoom account, phone, computer, mic, access to reliable wifi), etc. We will not delay the meeting while you find a better signal for example.

Third, in addition to speaking, you are able to share presentation materials on Zoom as well. For both the appellants, you cannot include additional information that was not previously in your appeal documents. Furthermore, we, as City staff cannot navigate your presentation on Zoom for you. Again, you must have the technology to make the visual presentation and know how to work it such as how to share your screen. Commission staff are unable to share your presentation materials during the meeting. The electronic presentation, if any, to be shared must be in .pdf format not a .ppt format.

Fourth, any presentation materials will also need to be to me 48 hours prior to the hearing. No exceptions. Again, the presentation must be .pdf format.

I hope this provides a little more detail on the meeting format. If you want to see how it works, I suggest signing onto the zoom meeting January 20th. Below is the link.

<https://cao-94612.s3.amazonaws.com/documents/January-20-2021-Planning-Commission-Meeting-Agenda-Online.pdf>

Best,

Heather

district homes logo



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"I have not verified any of the information contained in those documents that were prepared by other people. You will never receive wire instructions or changes to previously provided wire instructions from myself or my team."

From: [Becca Schonberg](#)
To: [Klein, Heather](#)
Subject: Writing in support of project PLNCDV10185
Date: Friday, January 15, 2021 8:45:20 PM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi,

I am writing in support of the mixed-use development planned for 6501 Shattuck Avenue. We need more housing, especially in areas that are close to BART and other amenities. A small development with 18 homes and some retail space sounds lovely! It will add more character to the area and, most importantly, more HOMES, which we so desperately need. I live in the area and I strongly support approving this project. I hope you won't let NIMBY's keep out the development that we are all relying on.

Enjoy the long weekend,
Becca Schonberg

From: [Jim Koman](#)
To: [Klein, Heather](#)
Subject: Support for PLNCDV10185 - 6501 Shattuck Ave
Date: Tuesday, January 12, 2021 11:19:50 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Greetings,

I am a D1 Oakland resident and member of East Bay for Everyone. I am writing in support of the 6501 Shattuck Avenue project (PLNCDV10185). I am familiar with this neighborhood, and this development would be a good addition, and an excellent use of the site. The dense development will help the region achieve housing goals without impacting neighborhood character. It will also add ground floor retail to an already highly walkable neighborhood.

Thank you,

Jim Koman
Oakland, CA - District 1

From: [Derek Sagehorn](#)
To: [Klein, Heather](#)
Subject: PLNCDV10185/6501 Shattuck: 2/3 PlanCom Appeal
Date: Tuesday, January 12, 2021 9:38:11 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello,

I am writing in support of the project at 6501 Shattuck Avenue. This project adds much-needed multifamily housing in a transit-accessible and high-opportunity neighborhood. It replaces an auto service use and will activate the street with ground floor commercial uses.

Therefore I urge the Planning Commission to deny the appeal and uphold the Planning Director's determination on this application.

Thank you,

--

Derek Sagehorn
(925) 783-1963
sagehoe@gmail.com

From: [Tommaso Sciortino](#)
To: [Klein, Heather](#)
Subject: Please approve PLNCDV10185
Date: Tuesday, January 12, 2021 7:16:44 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

I live at 744 65th St, a block from the proposed site. Please approve this building. We desperately need housing in this neighborhood and it's the perfect spot for dense housing. My only complaint is that it has too much parking and isn't tall enough. But don't let the perfect be the enemy of the good. I've had to put up with that eyesore for over a decade now.

-tomm

From: [Ben Keller](#)
To: [Klein, Heather](#)
Subject: Re: PLNCDV10185
Date: Tuesday, January 12, 2021 6:54:08 AM

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

To whom it may concern:

I live near the proposed development at 6501 Shattuck and I am writing to express my strong support for this project, which will provide sorely needed housing for North Oakland. I urge your office and the Planning Commission to approve this development with all deliberate speed.

Sincerely,
Ben Keller