

<b>Location:</b>	5110 Telegraph Avenue (bounded by 51 <sup>st</sup> St to the south, Clarke St to the east and Claremont Ave to the north).
<b>Assessor's Parcel Number:</b>	014 122601500
<b>Proposal:</b>	To establish an alcohol sales activity (Type 21 for off-site consumption) within the approved Whole Foods Market in Retail space #4.
<b>Applicant:</b>	City Shapers Inc, Dwane Kennedy
<b>Phone Number:</b>	(415) 401-9300
<b>Owner:</b>	Telegraph 2 NEUN
<b>Case File Number:</b>	PLN18531 (related to PLN15074 and DET200045)
<b>Planning Permits Required:</b>	Major Conditional Use Permit for an Alcohol Beverage Sales Commercial Activity in the CN-2 Zone.
<b>General Plan:</b>	Neighborhood Center
<b>Zoning:</b>	CN-2 Zone
<b>Environmental Determination:</b>	In 2016, a detailed CEQA (California Environmental Quality Act) Analysis was prepared for a mixed-use residential and commercial development, and concluded that the development satisfied each of the following CEQA Guidelines: Sections 15332-Class 32, 15300.2-Infill Projects, 15183-3-Streamlining for Infill Projects and 15183-Projects Consistent with a Community Plan, General Plan or Zoning. Since the newly constructed building is considered an existing facility, CEQA Guidelines Section 15301 would apply. Section 15301 allows the operation and minor alterations of existing private facilities. Therefore, the project is also exempt from CEQA. <a href="http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak058467.pdf">http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak058467.pdf</a>
<b>Historic Status:</b>	Non-Historic Property
<b>City Council district</b>	1
<b>Status:</b>	Pending
<b>Staff Recommendation</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to the City Council within 10 days
<b>For further information:</b>	Contact Case Planner, Mike Rivera at (510) 238-6417, or by email at <a href="mailto:mriviera@oaklandca.gov">mriviera@oaklandca.gov</a>

## PROJECT SUMMARY

The proposal is for the sale of alcohol beverages at the previously approved retail grocery store in the new mixed-use residential and commercial development located at 5110 Telegraph Avenue. The proposal requires a Major Conditional Use Permit, subject to approval by the Planning Commission. Staff supports the application and recommends approval of the project subject to the required Findings (**Attachment A**) and Conditions of Approval (**Attachment B**).

## PROPERTY DESCRIPTION

The 1.67-acre property contains a new six-story residential and commercial building that is under construction. Access to the property is from Telegraph Avenue, 51<sup>st</sup> Street, Clarke Street and Claremont Avenue. The main entry to the grocery store is located on the west side of the building, on the ground floor. The property contains a two-level underground parking garage, and vehicle access is from Clarke Street. The property is also adjacent to a residential apartment building to the north and a mix of multi-family dwellings and commercial buildings to the east, south and west.

INSERT ZONING MAP



## **PROJECT BACKGROUND**

On June 1, 2016, the Planning Commission approved a 204-unit residential facility (case no. PLN15074), with approximately 33,800 square feet of ground-floor commercial space and an underground parking garage. The project included both market-rate and affordable residential units; and four separate ground-floor retail spaces, including an entry plaza and public pathways within the property. The approved grocery market would occupy the project's larger 28,000 square foot commercial space (identified in plans as "Retail space #4"), located along 51<sup>st</sup> Street and the pedestrian breezeway.

## **PROJECT DESCRIPTION**

The proposal for the sale of alcohol beverages for off-site consumption (Alcoholic Beverage Control License Type 21) will be located within the approved 28,000 square-foot grocery market. The main access to the grocery market will be on the west side of Retail space #4 on 51<sup>st</sup> Street and through the building's breezeway and pedestrian pathway, located approximately 60 feet from Telegraph Avenue. A second access to the grocery market will be from the underground parking garage elevators and stairway.

The alcohol beverage display area and storage in Retail space #4 will occupy approximately 346 square feet in area, and will be placed near the storefront along 51<sup>st</sup> Street and toward the back of the grocery store. The proposal for the sale of alcohol beverages will include beer, wine and distilled spirits, and will be displayed in aisles and kept in refrigerators. The sale of alcohol beverages in conjunction with the grocery market will operate daily between the hours of 6:00am to 12:00am.

The proposal also includes a liquor shelving area located approximately 30 feet back from the storefront of the 3,367-square foot Retail space #1 space. Retail space #1 is located within the subject property and at the corner of Telegraph Avenue and 51<sup>st</sup> Street.

As part of the alcohol sales and as an accessory activity, the applicant proposes scheduled alcohol tasting and educational events within the grocery market, between the hours of 10:00am and 9:00pm. These occasional events will be restricted to persons over 21 years old. The delivery of alcohol beverages will be located at the approved commercial loading area, and receiving of packages will also be located along 51<sup>st</sup> Street.

## **GENERAL PLAN ANALYSIS**

The intent of the *Neighborhood Center Mixed Use* General Plan land use designation is to identify, create, maintain and enhance mixed use neighborhood commercial center 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 for 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.

The proposal will be consistent with the desired character of mixed-use development by allowing the sale of alcohol within the approved grocery market. The proposal is located within a high-density residential and commercial facility, and in a neighborhood commercial area with similar and complementary uses. The proposal is consistent with the following General Plan policies:

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.*

**KEY ISSUES**Liquor Shelving in Retail Space #1

The project proposal includes a label on the plans identifying a liquor shelving area within Retail space #1. The 2016 development approval did not include any shelving or storage area in the floor plan for Retail space #1. Staff believes that a liquor shelving space by itself and without a retail floor plan program in the 3,367 square foot principal retail storefront fronting Telegraph Avenue and 51<sup>st</sup> Street needs further development. The floor plan for Retail space #1 needs to show a vital retail component that compliments the operation of the Whole Foods Market, and meets the CN-2 Zoning regulations for creating active storefronts. Staff recommends adopting a Condition of Approval requiring the applicant to submit for staff review and approval a developed retail floor plan that is consistent with the grocery market in order to create active ground-floor commercial uses that generate foot traffic and vibrancy to Telegraph Avenue. See Condition of Approval #15.

**CONCLUSION AND RECOMMENDATIONS**

Staff finds that the proposal for the sales of alcohol in the approved grocery market is a practical and compatible use for this site because it will be convenient to local and regional shoppers and contribute to the success of the commercial facility. However, staff finds that Retail space #1 needs a more developed floor plan to show active retail uses, so condition of approval #15 has been included that requires submittal of this more developed floor plan for review and approval by staff prior to submitting for building permits.

In conclusion, Staff believes that the application meets the required findings (**See Attachment A**), and recommends approval by the Planning Commission, subject to the Conditions of Approval (**See Attachment B**).

Staff therefore recommends that the Planning Commission:

1. Affirm staff's Environmental Determination; and
2. Approve the Major Conditional Use Permit subject to the attached findings and conditions.

Prepared by:

*Mike Rivera/m@r*

---

Mike Rivera  
Planner II  
Bureau of Planning

Reviewed by:

*Catherine Payne*

---

Catherine Payne  
Acting Development Planning Manager  
Bureau of Planning

Approved for forwarding to the  
City Planning Commission:

A handwritten signature in black ink, appearing to read 'Ed Manasse', is written over a horizontal line.

Ed Manasse, Deputy Director,  
Bureau of Planning

**ATTACHMENTS:**

- A. Findings
- B. Conditions of Approval
- C. Project Application & Plans

---

**ATTACHMENT A: FINDINGS**

---

This proposal meets all the required findings under Sections 17.134.050, 17.103.030 and 17.103.030 (B)(2) 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 satisfy them are shown in normal type.

**SECTION 17.134.050 –GENERAL CONDITIONAL 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 proposal for alcohol sales activity for off-site consumption within the approved grocery market will be compatible with the daily operation and uses of a typical food market. The sale of packaged alcohol beverages will be appropriate for the grocery store use and convenient to the general public, and will not affect the livability of the abutting residential properties.

- 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 for alcohol sales activity is located within the main floor of the grocery market, and the floor plan is designed to make it convenient and accessible to the customers from the streets and parking garage. With staff recommendation for the applicant to submit a revised floor plan to create an active ground-floor commercial space in Retail space #1, the proposal will create a convenient and functional 3,367 square foot storefront along Telegraph Avenue, a major commercial corridor. Staff recommends a condition for the applicant to submit a revised plan for staff level review. See Condition of Approval #15.

- 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 proposal for alcohol sales activity within the approved grocery market will make it convenient to the public because the public will have the option to purchase alcoholic beverages while shopping for groceries and other products at the market.

- D. **That the proposal conforms with all applicable Regular Design Review criteria set forth in Section 17.136.050 of the Oakland Planning Code.**

The proposal for alcohol sales activity does not involve significant changes to the approved 2016 building design.



- 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 proposal for alcohol sales activity conforms to the policies of the General Plan by supporting and concentrating large-scale commercial development in economically viable retail neighborhoods.

**SECTION 17.103.030 ADDITIONAL CONDITIONAL USE PERMIT FINDINGS-FOR ESTABLISHMENTS SELLING ALCOHOL BEVERAGES**

- 1. The proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity.**

The proposal for alcohol sales activity in the approved grocery market will not contribute to undue proliferation of alcohol sales because the proposal will occupy approximately 2% of the floor area of the grocery market.

- 2. The proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.**

The proposal for alcohol sales activity in the approved grocery market will not adversely affect these institutions because these institutions are not in the immediate vicinity of the site. The closest facility is a playground located approximately 200 feet from the project site. Moreover, the predominant use of the site is as a general food sales/grocery store use, with a focus on an overall food shopping experience as opposed to solely the purchase of alcohol.

- 3. The proposal will not interfere with the movement of people along an important pedestrian street.**

The proposal for alcohol sales activity in the approved grocery market will not interfere with the movement of people along an important pedestrian street because the use is located within a planned grocery market.

- 4. The proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area.**

The proposal for alcohol sales activity does not involve significant alterations to the newly constructed mixed-use development.

- 5. The design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression.**

The proposal for alcohol sales activity does not include any signs.

**6. Adequate litter receptacles will be provided where appropriate.**

The project conditions of approval will require adequate litter receptacles.

**7. Where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.**

The proposal for alcohol sales activity will be inside the approved grocery market, and the nearest neighborhood residential facilities are located approximately 100 feet across 51<sup>st</sup> Street. The applicant proposes to operate the sales of alcohol from 6:00am to 12:00am, and proposes on-site security staff daily and during the proposed business hours to enforce this prohibition.

**SECTION 17.134.030(B)(2) ADDITIONAL FINDINGS OF PUBLIC CONVENIENCE OR NECESSITY**

**a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and**

The project applicant's statement demonstrates that the sales of alcohol in an established grocery store provides a major convenience and necessity to Oakland residents, and a safe shopping environment for customers.

**b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and**

The proposal for the sales of alcohol beverages in the approved grocery market will have a positive influence on the quality of life in the community, where the sales of alcohol along with groceries will result in an attractive development, provide needed jobs, and increase sales and property tax revenue.

**c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.**

The proposal for the sales of alcohol beverages in the approved grocery market are usually part of the main grocery store business.

## **ATTACHMENT B**

### **STANDARD CONDITIONS OF APPROVAL-GENERAL ADMINISTRATIVE CONDITIONS**

The proposal is hereby approved subject to the following 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 **submitted on September 1, 2020**, 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. 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

**13. 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

**14. 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

**15. Floor Plan for Retail Space #1 Space**

Requirement: The applicant shall submit for staff review and approval a developed retail floor plan for Retail #1 space.

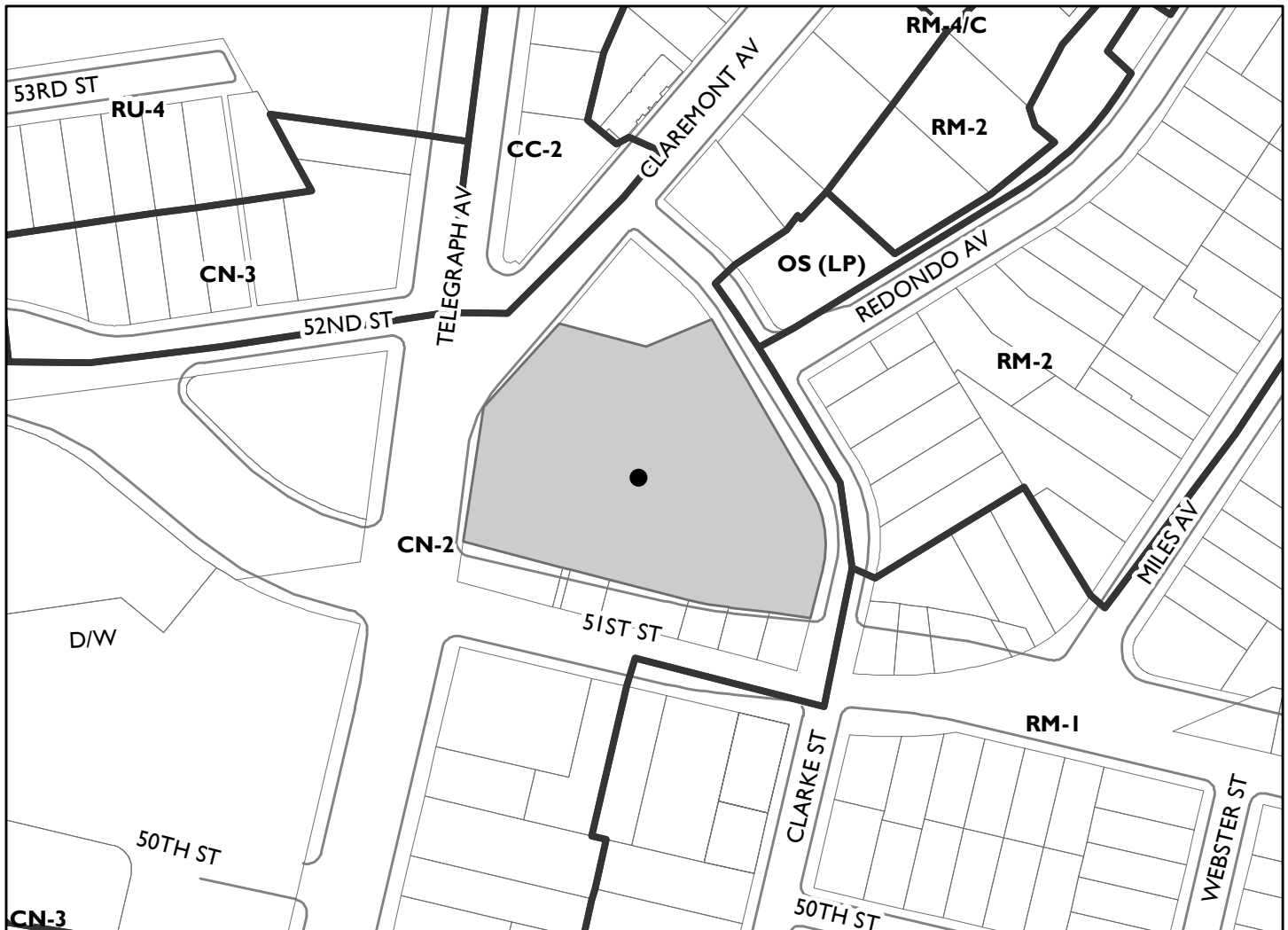
When Required: Prior to submitting building permits

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning



# CITY OF OAKLAND PLANNING COMMISSION



0 100 200 400 600 800 Feet



Case File: PLN18531  
Applicant: City Shapers Inc, Dwane Kennedy  
Address: 5110 Telegraph Avenue  
Zone: CN-2





Urban  
Affairs  
Management

580 California Street  
12<sup>th</sup> Floor  
San Francisco, CA 94104  
(415) 401-9300  
[www.cityshapers.com](http://www.cityshapers.com)  
[djkennedy@cityshapers.com](mailto:djkennedy@cityshapers.com)

**Via Electronic Mail**

*Originally submitted June 29, 2020; Revised by applicant to respond to staff's July 22, 2020 comments.*

Mr. Mike Rivera  
Bureau of Planning and Building  
City of Oakland  
250 Frank H. Ogawa Plaza, Suite 2114  
Oakland, CA 94612

**Re: Alcohol Sales Conditional Use Permit: Whole Foods Market, 5110 Telegraph Ave, Oakland, California, Conditional Use Permit PLN18-531.**

Dear Mr. Rivera:

As you know, Whole Foods Market is in the process of implementing approvals granted by the Planning Commission in 2016 for a grocery store (General Food Sales-Commercial Activity) of greater than 5,000 square feet located on the ground floor of a six-story, 204 residential unit, mixed-use development at 5110 Telegraph Avenue. See PLN 18-531. The approved grocery store will offer high-quality foods, beverages, beauty supplies, and household products and is planned to open in 2021. It will employ approximately 150 people.

In 2018, Whole Foods Market applied for a Conditional Use Permit to allow for alcoholic beverage sales at the approved store. In particular, Whole Foods is no longer seeking a minor CUP for General Foods Sales-Commercial Activity over 5,000 square feet as the City has now confirmed that the Planning Commission already granted a CUP for such use in 2016 which continues to be effective now.

1. The application now, therefore, consists only of a Conditional Use Permit for alcoholic beverage sales (OMC Sec. 17.103.030), Findings of Public Convenience or Necessity (OMC Sec. 17.134.040.A.1, and A.2, 17.103.030.B.3)).

## **Project Description**

The proposal now before the City is the approval of a **Major Conditional Use Permit to sell alcohol for off-premises consumption.**

Alcohol sales and storage are proposed to take place in the main store space (Retail # 4). The sales floor will also provide space for grocery, produce, bakery, meat, prepared foods, check-out and customer service functions. Back-of-house operations include merchandise storage, staff areas, loading, receiving, waste and recycling operations. As approved by the Planning Commission in 2016, merchandise deliveries and receiving activities for the grocery store will occur at a dedicated receiving area along the 51st Street side of the building, store waste and recycling activity will take place at the rear of the building and serviced from Clarke Street, and 129 parking spaces will be provided for Whole Foods customers. A small alcohol storage area will also be located in Retail Space #1.

## **Alcoholic Beverage Sales**

The sales of packaged alcoholic beverages are proposed to occupy up to 346 square feet, or approximately (2%), of the total floor area of the approved grocery store. Packaged alcohol sales will include beer, wine, and distilled spirits intended for off-site consumption. Alcoholic beverages will be available for sale daily between the hours of 6:00 a.m. and midnight. Store personnel will receive specialized training in regulations, policies, and procedures for the sale of alcoholic beverages. Alcohol sales shall maintain compliance with ABC Type 21 regulations.

Whole Foods Market is also proposing to allow wine growers, producers, and distillers to provide instructional tastings of wine, beer, and spirits in the main shopping area. The purpose of the instructional tastings is to allow store customers to learn more about beer, wine, and spirits directly from growers and producers.

Tasting events will be scheduled and announced in advance and will likely take place between the hours of 10:00 a.m. and 9:00 p.m. Instructional tastings are likely to occur no more than four days per week throughout the year. Areas of the store that will be used for instructional tastings will be separated by barriers to restrict access to customers 21 years and older. Customers will not be allowed to take alcohol outside of the store. All instructional tastings shall comply with the guidelines set forth by ABC Type 86 requirements.

The granting of a major conditional use permit for alcohol sales is appropriate here based on the following facts:

- Off-sale alcohol establishments such as grocery stores selling alcohol for off-site consumption are appropriate for this area and will not create a nuisance such as litter, noise, loitering, or crime. Alcohol sales will be limited to less than 2% of the total floor area of the entire store. The limited space devoted to alcohol sales further indicates the ancillary nature of such sales and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood. The approved vehicular and pedestrian circulation as well as capacity will not be an issue. Nuisances will be avoided

and capacity will be regulated by conditions of approval as well as the conditions set forth by ABC.

- Although the premises are located within 1,000-feet of parks, an elementary school, and a church, the majority of park, school, and church users are not expected to pass by the premises due to area configuration and patrons are not expected to pass directly by the parks, school or church on foot.
- The sale of alcoholic beverage at the approved grocery store will not impede pedestrian movement along this multi-modal transportation corridor.
- The proposed alcohol sales will occur in an existing building that meets or exceeds the highest architectural standards in the surrounding areas.
- The sale of alcohol will have no impact on the existing approved design, therefore, there will be no new alcohol -related signs or un-landscaped parking areas added to the building design.
- The establishment will contain litter receptacles within the premises as required.
- The sale of alcohol in addition to groceries at this location will not disrupt nearby residential uses. Activities approved to take place along Clarke Street, such as trash and recycling, will cease at 10:00pm.
- Purchasing packaged alcohol for off-site consumption at an established grocery store provides a convenience for Oakland residents and a safe shopping environment for customers. Purchasing alcohol, safely, at a grocery store, is a necessity. It allows consumers the ability to make fewer trips to accomplish their shopping needs in an efficient manner and thus is a benefit to the overall environment and this community. Thus, this proposal to add alcohol sales to a grocery store achieves both a public necessity and public convenience.
- There is little risk of anticipated negative impacts or an anticipated significant increase in police calls, and in any case will be mitigated by the imposition of reasonable conditions. As a result, the economic and other benefits outweigh anticipated negative impacts.
- Alcohol sales are a typical component of grocery store uses, and in that context are known to not cause deleterious impact to the community.
- The establishment that would sell alcohol here would employ more than 25 people and be larger than 12,000 square feet in total floor area. See 17.103.030(B)(4). In fact, Whole

Foods Market expects to employ approximately 150 people at this location, with 35 to 40 working at any particular time.

### **Community Outreach**

Although the grocery store use has already been approved, Whole Foods Market has been reaching out to neighbors to share plans and operating characteristics of the new store with neighbors, business owners, and interested parties to receive feedback and answer questions.

- 850 project information letters were mailed to residents, property owners and businesses located within a 1,000 feet radius of 5110 Telegraph Ave on December 15, 2019
- “The Rockridge News” published an article announcing the new grocery store in the February 2020 edition.
- Project information and community discussion appear on the NextDoor social media platform.
- Project plans and information were hand delivered to residents located on Clarke Street.
- 35 emails have been received regarding the project between December 15, 2019 and February 15, 2020.

If you have questions or need additional information, please don’t hesitate to contact me by phone at (415) 401-9300 or email at [djkennedy@cityshapers.com](mailto:djkennedy@cityshapers.com).

Very truly yours,



**DWANE J. KENNEDY, President  
CITYshapers, Inc.**

Cc: Catherine Payne  
Robert Merkamp  
Brian Mulry

Exhibits:

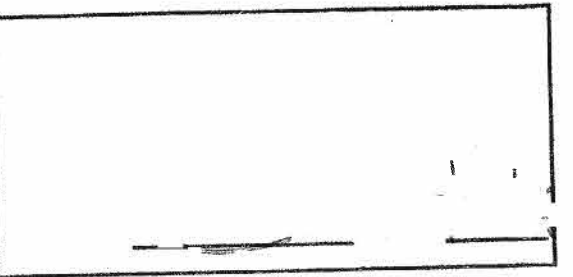


Exhibit A: Project Description/Narrative (Page 1-5)  
Exhibit B: Proposed Floor Plan/Site Plan (Page 6)  
Exhibit C: Approved Plans and Elevations (Page 7-11)  
Exhibit D: Façade Renderings (Page 12-20)  
Exhibit E: Context Photos (Page 21-32)  
Exhibit F: Approval Findings (Page 33-36)  
Exhibit F: Supplemental Questionnaire (Page 37-38)

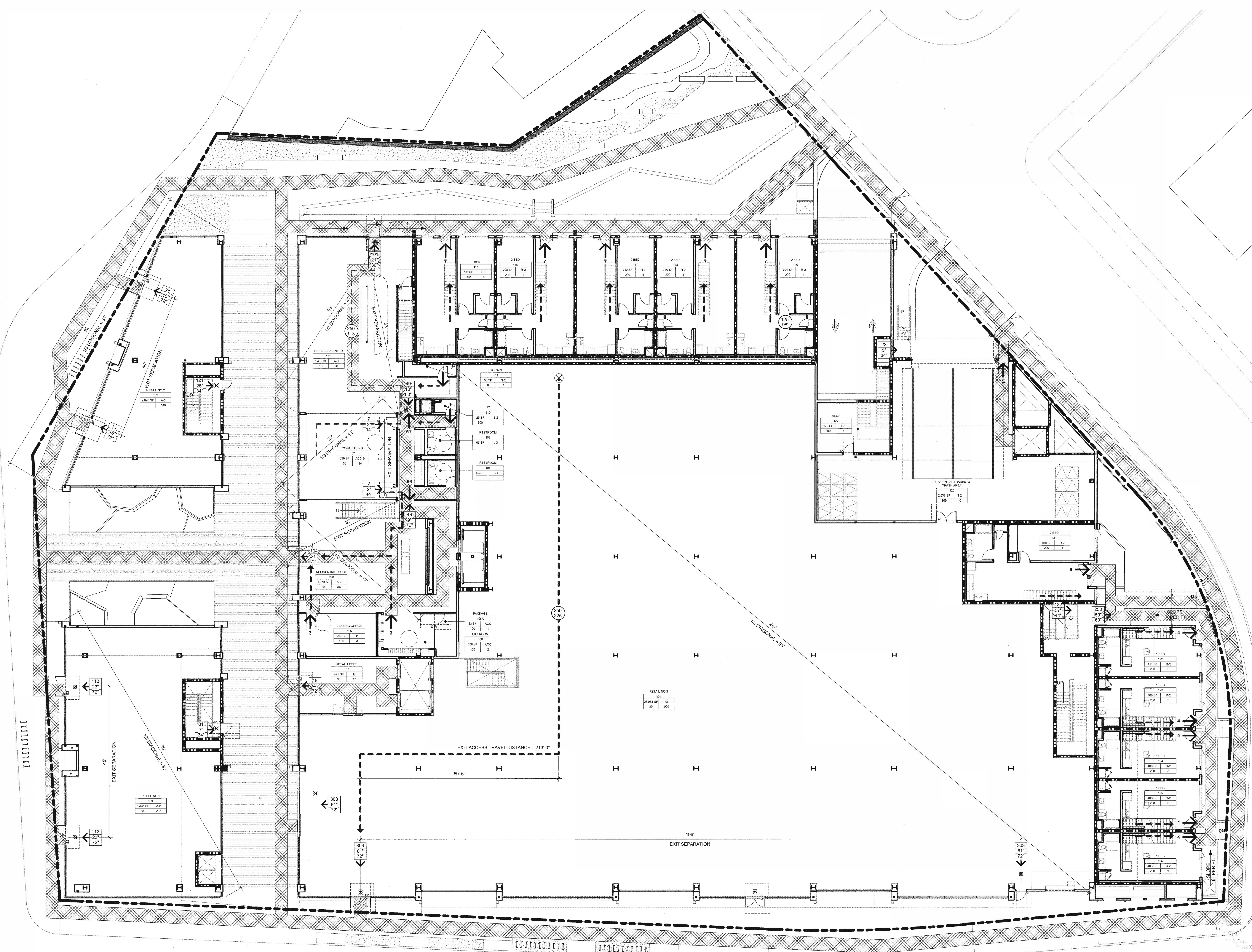












LEGEND

**EGRESS COMPONENTS**

1-HR FIRE RATED WALL  
2-HR FIRE RATED WALL

**OCCUPANCY TAG**  
ROOM NAME  
ROOM NUMBER  
OCCUPANCY GROUP  
TOTAL OCCUPANTS  
LOAD FACTOR (SQ. FT. / PERSON)  
ROOM AREA (SQUARE FEET)

**STAIR/EXIT TAG**  
OCCUPANT LOAD  
MIN. STAIR/EXIT WIDTH REQUIRED  
STAIR/EXIT WIDTH PROVIDED

**DISTANCE TAG**  
MAX. TRAVEL DISTANCE ALLOWED  
TRAVEL DISTANCE PROVIDED

PATH OF EGRESS TRAVEL

EXIT SIGN

FIRE EXTINGUISHER CABINET

OPENING FIRE PROTECTION

**TRAVEL DISTANCES**

MAX TRAVEL DISTANCE (M OCCUPANCY)  
MAX ALLOWED: 250'  
MAX PROVIDED: 132'

MAX TRAVEL DISTANCE (R-2 OCCUPANCY)  
MAX ALLOWED: 200'  
MAX PROVIDED: 132'

COMMON PATH OF TRAVEL (M OCCUPANCY)  
MAX ALLOWED: 75'  
MAX PROVIDED: 23'

**PARKING SPACE KEY**

R REGULAR PARKING  
15'-0" x 4'-0" PER 117.116.200(A)

I INTERMEDIATE PARKING  
16'-0" x 8'-0" PER 117.116.200(B)

C COMPACT PARKING  
13'-0" x 7'-0" PER 117.116.200(C)

ACCESSIBLE PARKING SPACES  
18'-0" x 8'-0" PER CBC 1100A.5.5

**TYPICAL CLEARANCES**

ACCESSIBLE PATH THRU PUBLIC & COMMON USE AREAS  
44" MIN. CLR. WIDTH TYP.  
48" MIN. CLR. WIDTH AT SIDEWALK  
2% CROSS SLOPE 110.0.0.N.  
REF. DETAIL 3/C-11

MECHANICAL AREA  
NOT ACCESSIBLE TO PUBLIC  
OR RESIDENTS. NO  
ACCESSIBLE PATH PROVIDED

TURN AROUND  
5'-0" CLEAR

T-TURN AROUND

**COMMERCIAL & COMMON USE DOOR CLEARANCES**

PULL SIDE  
PUSH SIDE

A1  
A2  
A3

B1  
B2  
B3

**RESIDENTIAL DOOR CLEARANCES**

PULL SIDE  
PUSH SIDE

C1  
C2

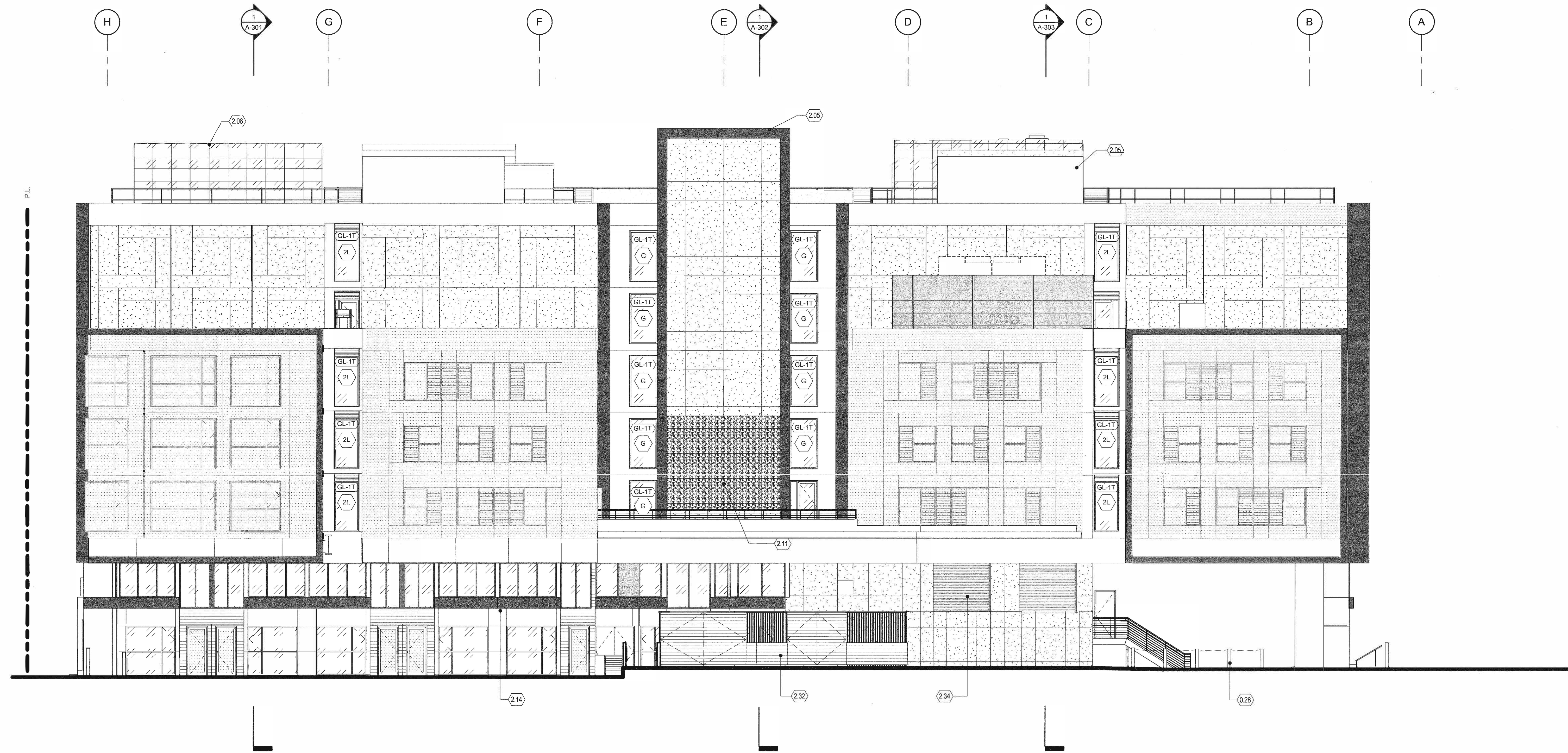
D1  
D2

NOTES

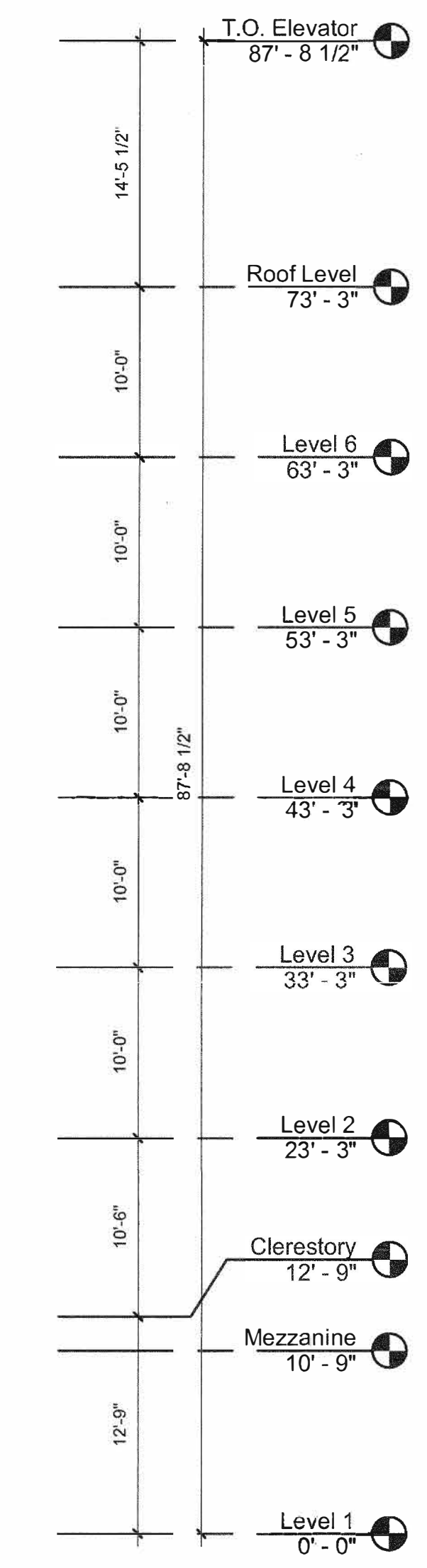
1. ALL DIMENSIONS TO F.O. FIN. AND BASEBOARD W.O.
2. ALL KITCHEN UNITS TO HAVE 30" MIN. CLEAR WIDE WORK SURFACE WITH KNEE SPACE. THIS IS PROVIDED WITH EITHER A REMOVABLE CABINET OR (2) 15" BREAD BOARDS. SEE SHEETS AM-XX UNIT MODULE PLAN.

1 EGRESS PLAN - LEVEL 1  
3/32" = 1'-0"

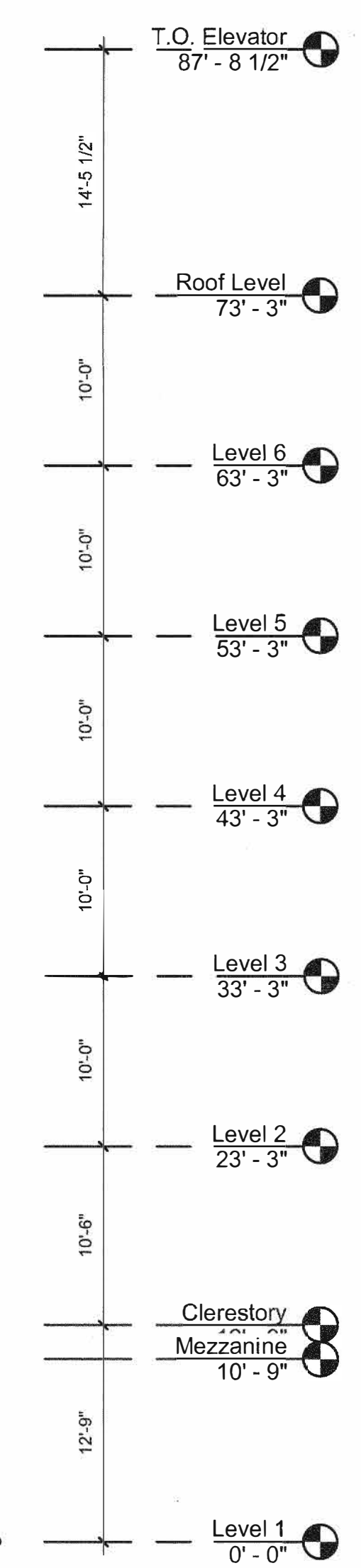




2 EAST ELEVATION  
1/8" = 1'-0"



1 WEST ELEVATION  
1/8" = 1'-0"



# ELEVATION SHEET NOTES

- FOR ELS INFORMATION SEE SHEETS G-XXX
- ITEMS SHOWN SCREENED ARE NOT INCLUDED IN THIS SCOPE AND WILL BE PROVIDED BY A MODULAR UNIT MANFR. SCREENED ITEMS ARE MODULAR BUILT HOUSING UNITS TO BE REVIEWED BY HCD
- SEE ENLARGED ELEVATIONS ON SHEETS A-411 - A-415
- EXTERIOR WALL FINISH INFORMATION AND WALL ASSEMBLIES ARE LOCATED ON SHEET A-500
- FINAL CEMENT PLASTER REVEAL AND ACM JOINT LOCATIONS TSD BY ARCHITECT
- STOREFRONT DIMENSIONS BASED ON ROUGH OPENINGS. IF FINAL DIMENSIONS IN FIELD
- ALL FUTURE TENANT-PROVIDED EXTERIOR SIGNAGE TO FOLLOW OAKLAND MUNICIPAL CODE STANDARDS

## ELEVATION LEGEND

- MODULAR UNITS AND SKIN - BY MODULAR UNIT MANFR
- MTL PANEL JOINT - BY MODULAR UNIT MANFR
- CONCEALED FASTENER COMPOSITE WOOD PLANKS. SEE PLANS FOR PARTITION INFORMATION
- CORRUGATED METAL PANEL. SEE PLANS FOR PARTITION OR MECHANICAL SCREEN INFORMATION
- MTL PANEL TYPE 1: COLOR TO BE SELECTED BY ARCHITECT
- MTL PANEL JOINT - SEE DETAIL 3A-503
- MTL PANEL TYPE 2: COLOR TO BE SELECTED BY ARCHITECT
- MTL PANEL JOINT - SEE DETAIL 3A-503
- SITE BUILT PLASTER WALL. COLOR TO BE SELECTED BY ARCHITECT. SMOOTH TROWEL FINISH
- ALUMINUM PLASTER REVEAL
- SITE BUILT GLAZING. SEE OVERALL AND ENLARGED ELEVATIONS FOR LOCATIONS AND TYPES
- WINDOW TYPES - SEE WINDOW SCHEDULE A-400
- GLAZING TYPES - SEE OVERALL AND ENLARGED ELEVATIONS

## KEYNOTE LEGEND

KEY VALUE	KEYNOTE TEXT
0.28	REMOVABLE BOLLARDS AND CHAIN
2.01	EXTERIOR METAL PANEL, COMPOSITE METAL DARK GREY (SEE FINISH SCHED)
2.05	STAIR / ELEVATOR PROJECTION OVER HEIGHT LIMIT PER 17.100.020 (B)
2.06	GREENHOUSE PROJECTION OVER HEIGHT LIMIT PER 17.100.020 (A)
2.07	STOREFRONT TYPE SIF-1, 6" X 2" (SIGHTLINE ALUM STOREFRONT SYSTEM (KAWNEER TRIFAB 9017 OR EQUIVALENT), SEE EXTERIOR MATERIAL SCHEDULE SHT A-500)
2.11	EXTERIOR LIVING WALL AT COURTYARD, 18" WIDE X 12" TALL, MOUNT 42" ABOVE FINISH FLOOR
2.14	PRIVATE BALCONY - SEE PLANS
2.17	FUTURE TENANT SIGNAGE, UNDER SEPARATE PERMIT
2.28	ACCENT LIGHTING, SEE
2.32	DECORATIVE ALUMINUM FENCE WITH COMPOSITE WOOD PANELS AT TRANSFORMER YARD. SEE PLANS
2.34	MECHANICAL LOUVER, TYP. SEE MECHANICAL DRAWINGS



[illegible]





**2 COURTYARD NORTH ELEVATION**  
1/8" = 1'-0"

**1 COURTYARD SOUTH ELEVATION**  
1/8" = 1'-0"

**ELEVATION LEGEND**

	MODULAR UNITS AND SKIN - BY MODULAR UNIT MFR		CORRUGATED METAL PANEL - SEE PLANS FOR PARTITION OR MECHANICAL SCREEN INFORMATION		MTL PANEL TYPE 2: COLOR TO BE SELECTED BY ARCHITECT		MTL PANEL JOINT - SEE DETAIL 3/A-503		SITE BUILT GLAZING - SEE OVERALL AND ENLARGED ELEVATIONS FOR LOCATIONS AND TYPES		WINDOW TYPES - SEE WINDOW SCHEDULE A-400		GLAZING TYPES - SEE OVERALL AND ENLARGED ELEVATIONS		SITE BUILT PLASTER WALL: COLOR TO BE SELECTED BY ARCHITECT: SMOOTH TROWEL FINISH		ALUMINUM PLASTER REVEAL
	CONCEALED FASTENER COMPOSITE WOOD PLANKS - SEE PLANS FOR PARTITION INFORMATION		MTL PANEL TYPE 1: COLOR TO BE SELECTED BY ARCHITECT		MTL PANEL JOINT - SEE DETAIL 3/A-503												

**KEYNOTE LEGEND**

KEY VALUE	KEYNOTE TEXT
2.05	STAIR / ELEVATOR PROJECTION OVER HEIGHT LIMIT PER 17.108.030 (B)
2.06	GREENHOUSE PROJECTION OVER HEIGHT LIMIT PER 17.108.030 (A)
2.16	MECHANICAL EQUIPMENT SCREEN, 12' TALL
2.17	FUTURE TENANT SIGNAGE, UNDER SEPARATE PERMIT
2.23	EXTERIOR LIVING WALL, BY DESIGNBUILD SUBCONTRACTOR

**ELEVATION SHEET NOTES**

- FOR FLS INFORMATION SEE SHEETS G-XXX
- ITEMS SHOWN SCREENED ARE NOT INCLUDED IN THIS SCOPE AND WILL BE PROVIDED BY A MODULAR UNIT MANUFACTURER. SCREENED ITEMS ARE MODULAR BUILT HOUSING UNITS TO BE REVIEWED BY HCD. SEE ENLARGED ELEVATIONS ON SHEETS A-411 - A-415
- EXTERIOR WALL FINISH INFORMATION AND WALL ASSEMBLIES ARE LOCATED ON SHEET A-500
- FINAL CEMENT PLASTER REVEAL AND ACM JOINT LOCATIONS TBD BY ARCHITECT

	<b>ARCHITECT</b> 	<b>ENGINEER</b> 	THIS DOCUMENT, AND THE IDEAS AND DESIGN INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF NAUTILUS GROUP INC. AND IS NOT TO BE USED IN WHOLE OR IN PART FOR ANY PROJECT OTHER THAN THE ONE IDENTIFIED HEREIN WITHOUT WRITTEN AUTHORIZATION OF NAUTILUS GROUP INC.	<b>ISSUE RECORD</b> 100% SD PERMIT SUBMITTAL PLAN CHECK RESUBMITTAL PLAN CHECK RESUBMITTAL - ROUND 2	<b>DATE</b> 06/17/2016 08/15/2016 02/16/2017 03/27/2017	<b>REVISION LIST</b> <table border="1"> <tr><th>NO.</th><th>DESCRIPTION</th><th>DATE</th></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>	NO.	DESCRIPTION	DATE										<b>AGENCY APPROVALS</b> <table border="1"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>							<b>5110 TELEGRAPH</b> 5110 TELEGRAPH AVE., OAKLAND, CA 94609 PROJECT NO.: 13501 DATE: 4/25/2017 SCALE: 1/8" = 1'-0"	<b>SHEET TITLE:</b> EXTERIOR ELEVATIONS - COURTYARD If this drawing is not 30"x48", then the drawing has been revised from its original size. Noted scales must be adjusted. This line should be equal to one inch.	<b>SHEET NO.:</b> A-203
	NO.	DESCRIPTION	DATE																									



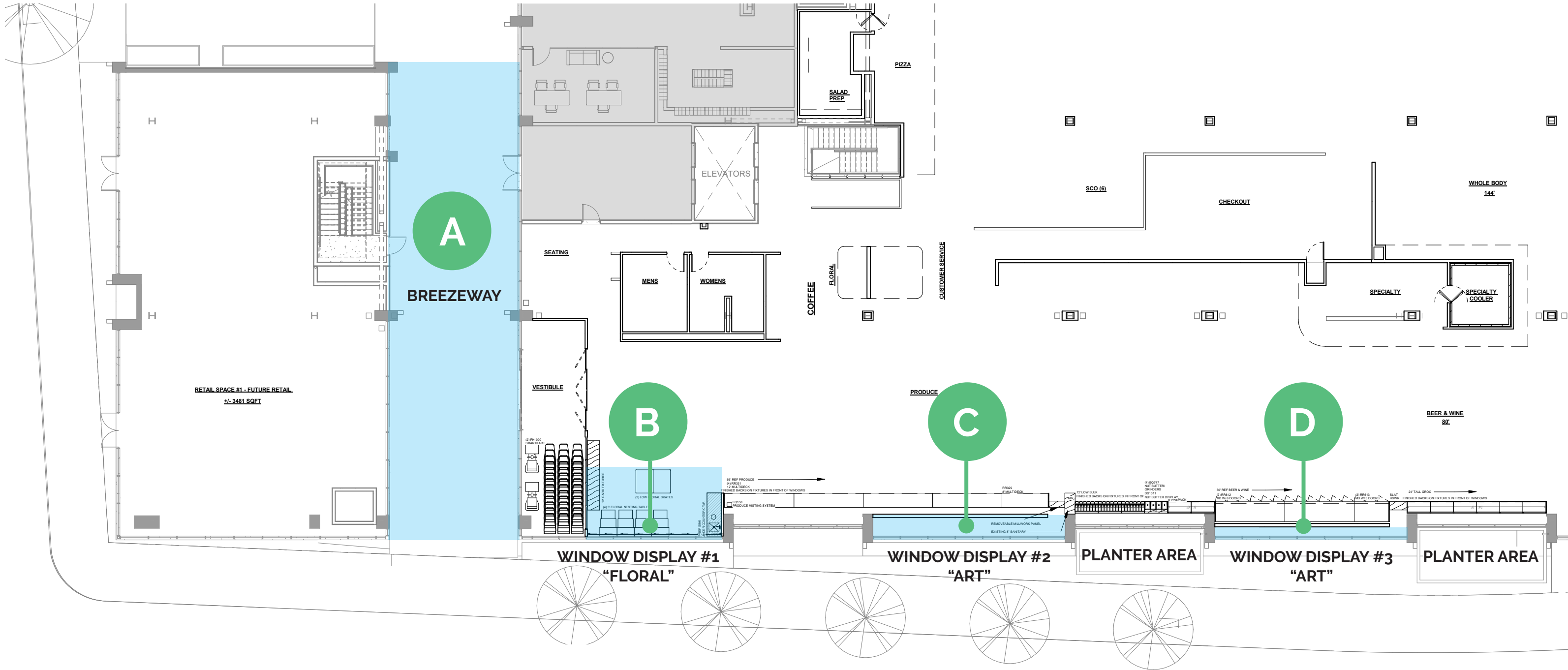


WFM ELEVATION STUDY  
OAKLAND, CALIFORNIA  
08.21.2020



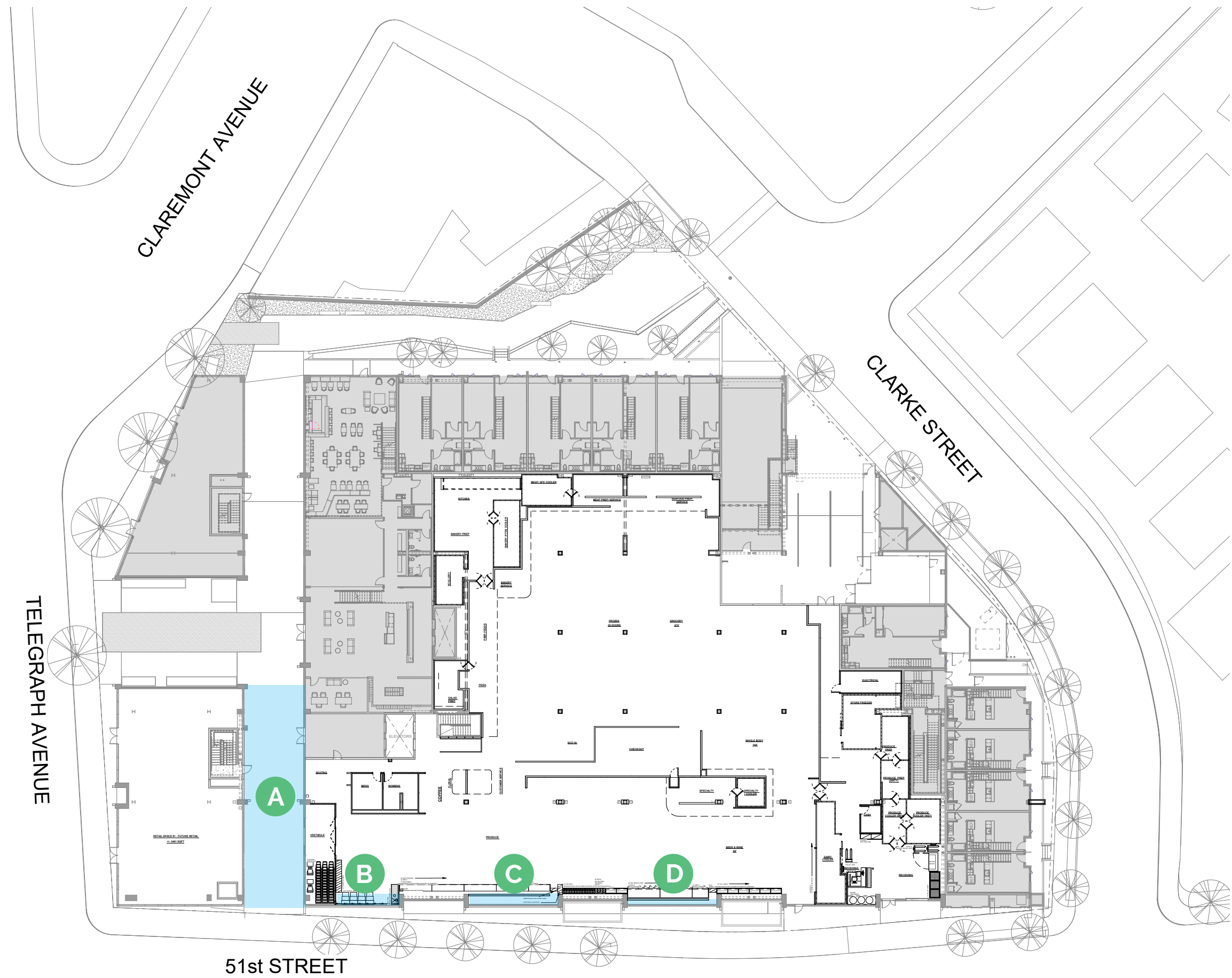
**Whole Foods Market**  
OAKLAND, CA





# Whole Foods Market Site Plan Enlarged

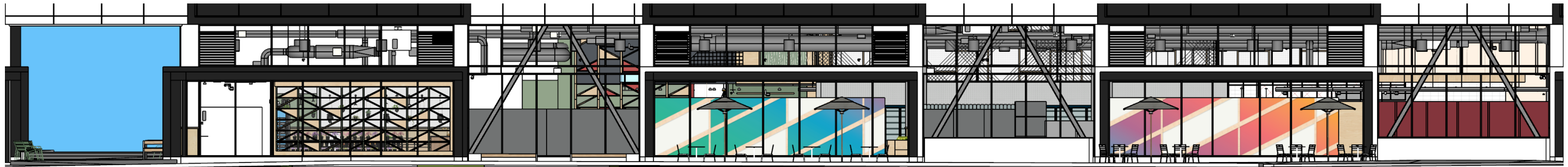
OAKLAND, CA



# Whole Foods Market Site Plan

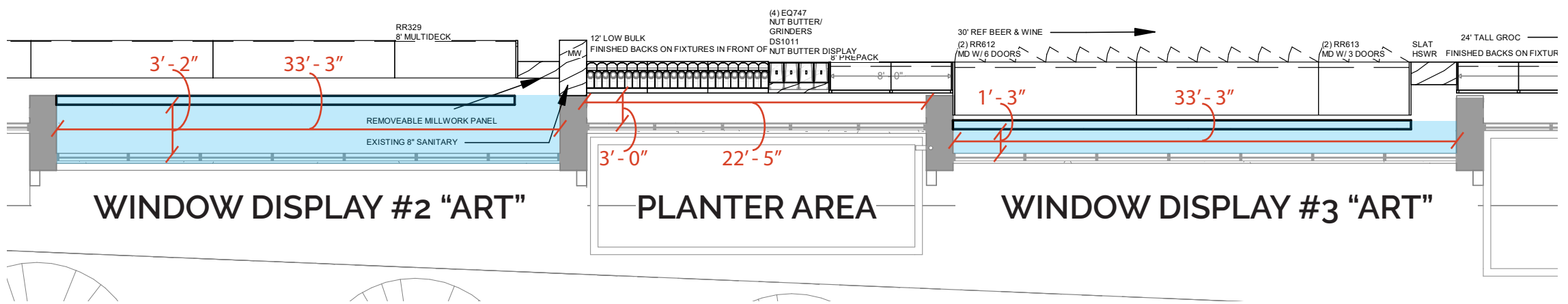
OAKLAND, CA

DESIGN REPRESENTATION ONLY – NOT FOR CONSTRUCTION  
 The building images shown are a representation of the current design intent only. The building images may not reflect variations in color, tone, hue, tint, shading, ambient light intensity, materials, texture, contrast, font style, construction variations required by building codes or inspectors, material availability or final design detailing.

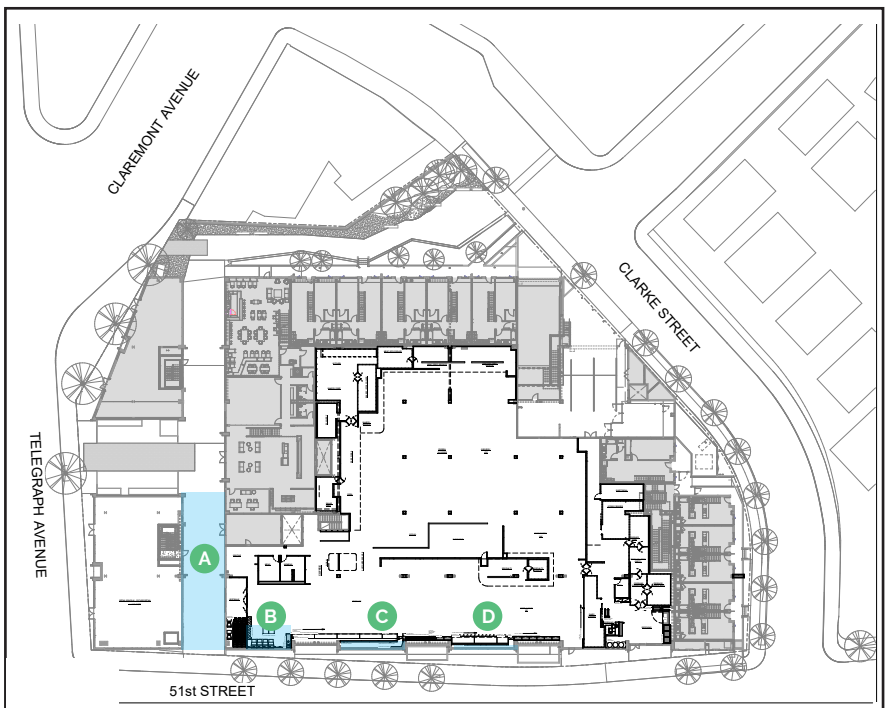


**A** BREEZEWAY      **B** WINDOW DISPLAY #1 "FLORAL"      **C** WINDOW DISPLAY #2 "ART"      **D** WINDOW DISPLAY #3 "ART"

Elevation



Enlarged Plan

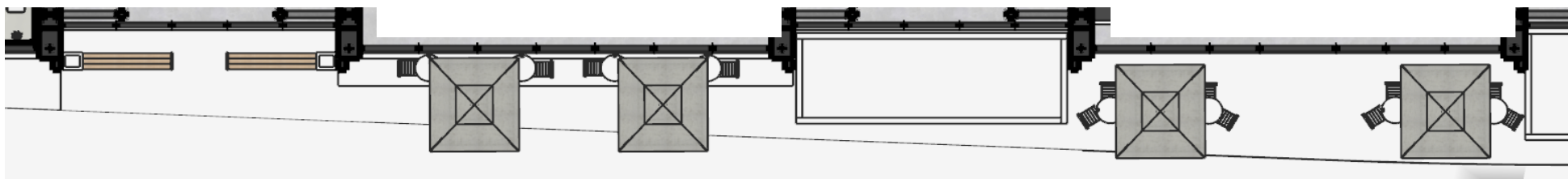


Key Plan

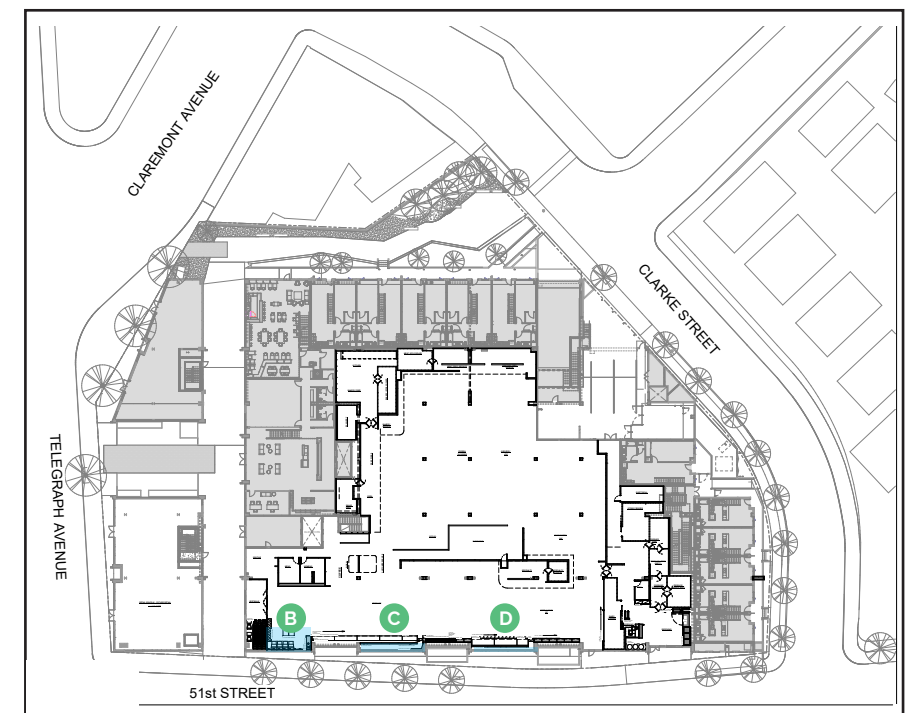




Perspective View - 51st Street

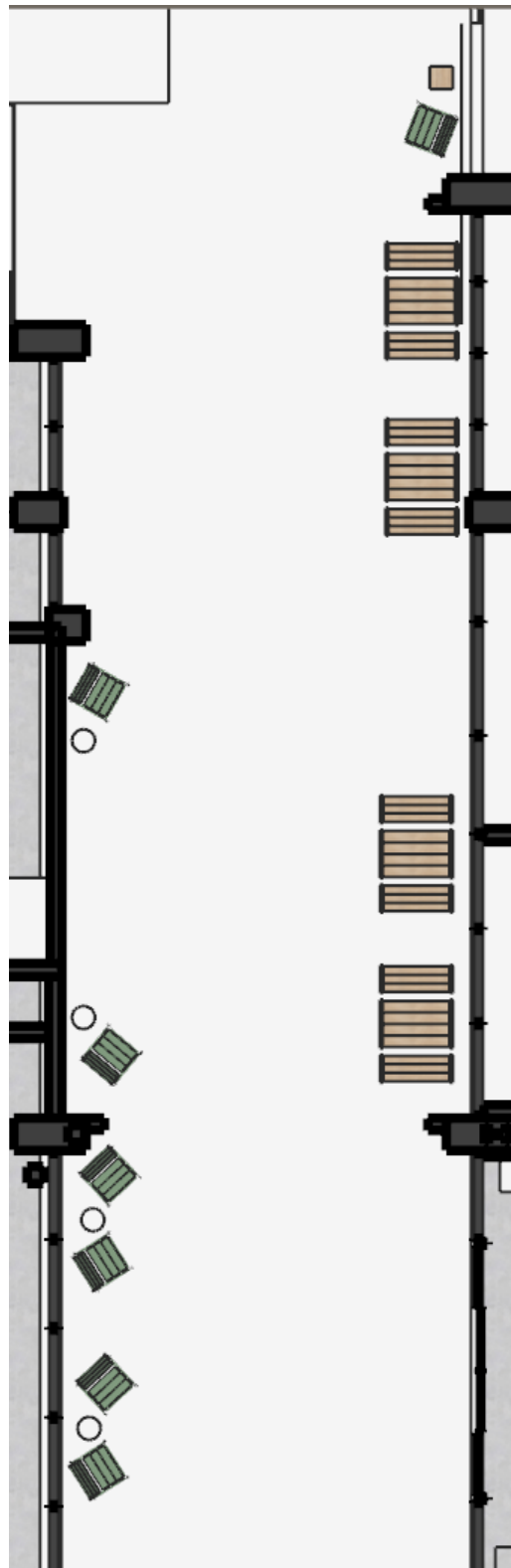


Plan View



Key Plan

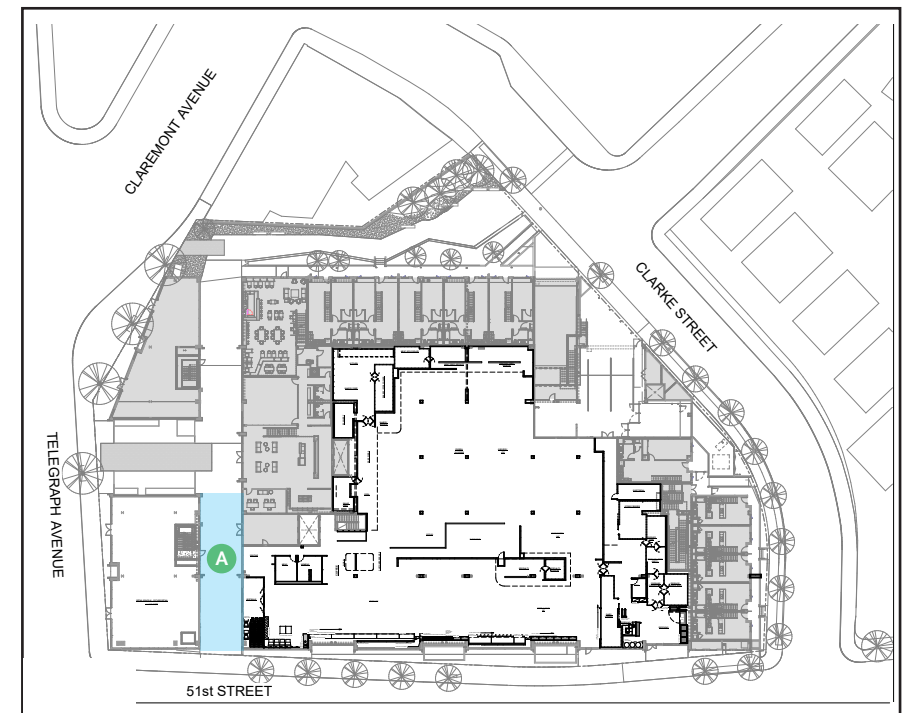
DESIGN REPRESENTATION ONLY - NOT FOR CONSTRUCTION  
The building images shown are a representation of the current design intent only. The building images may not reflect variations in color, tone, hue, tint, shading, ambient light intensity, materials, texture, contrast, font style, construction variations required by building codes or inspectors, material availability or final design detailing.



Plan View

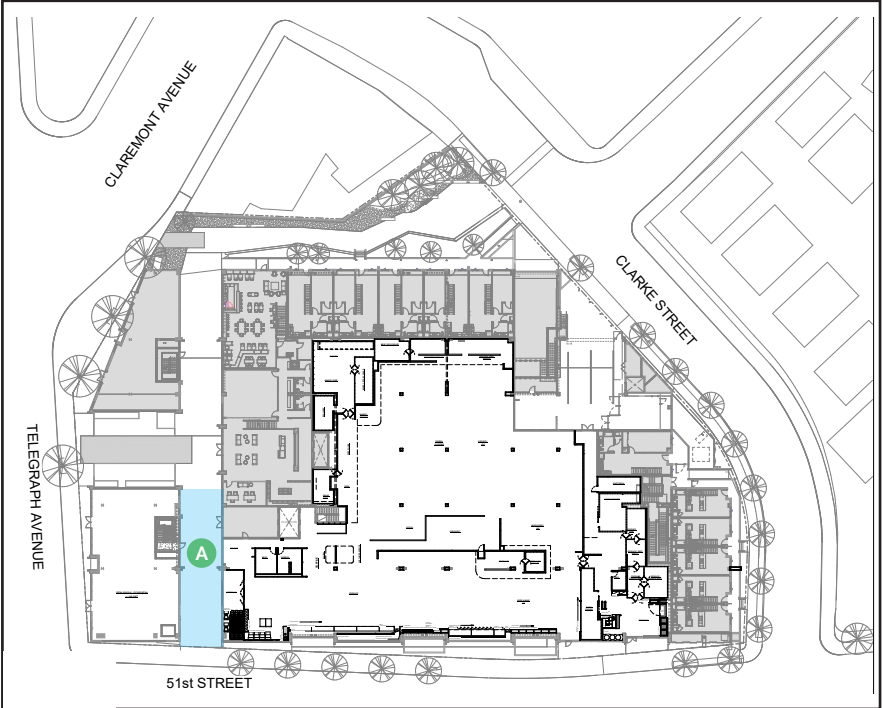
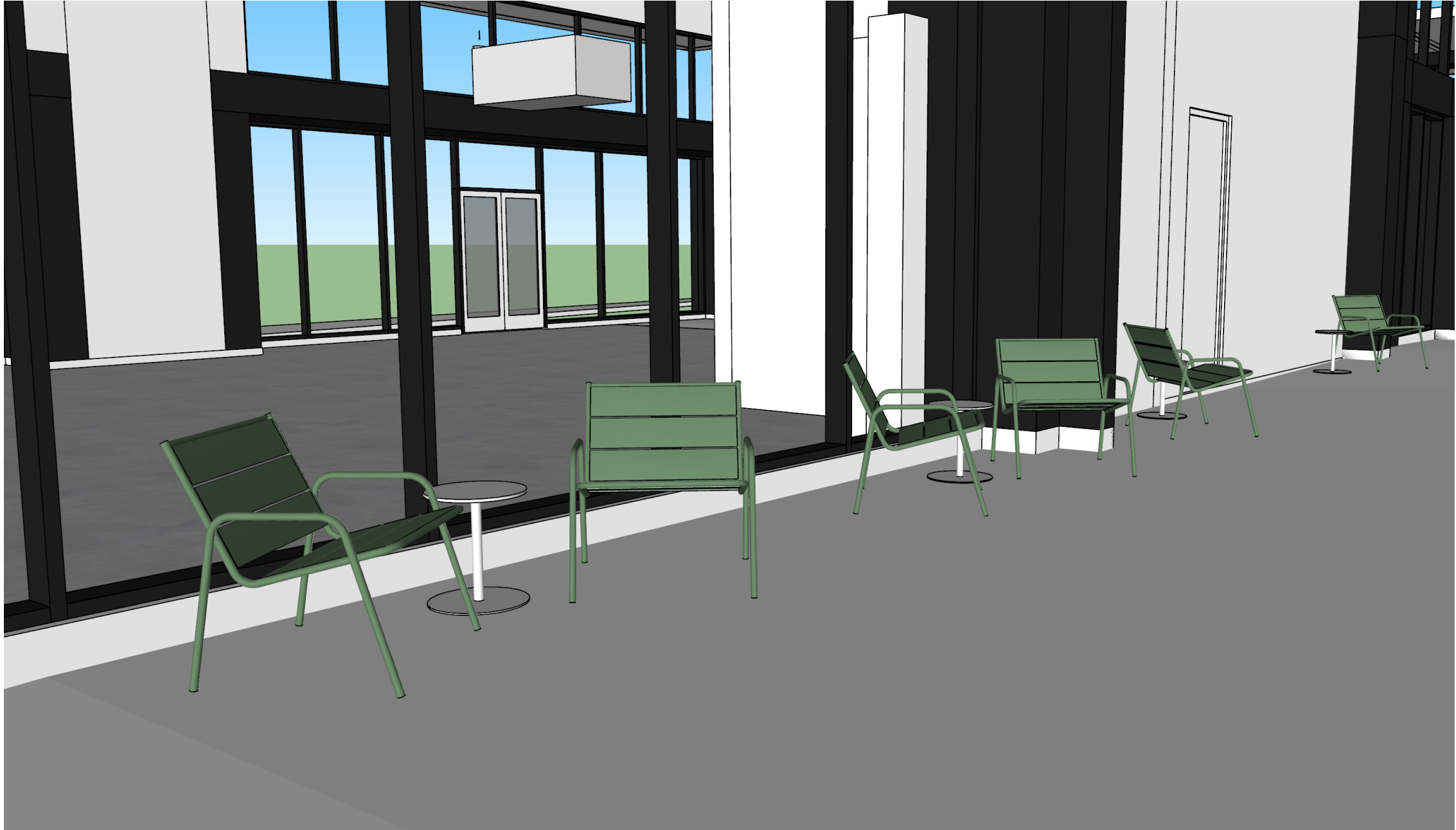


Perspective View - Breezeway



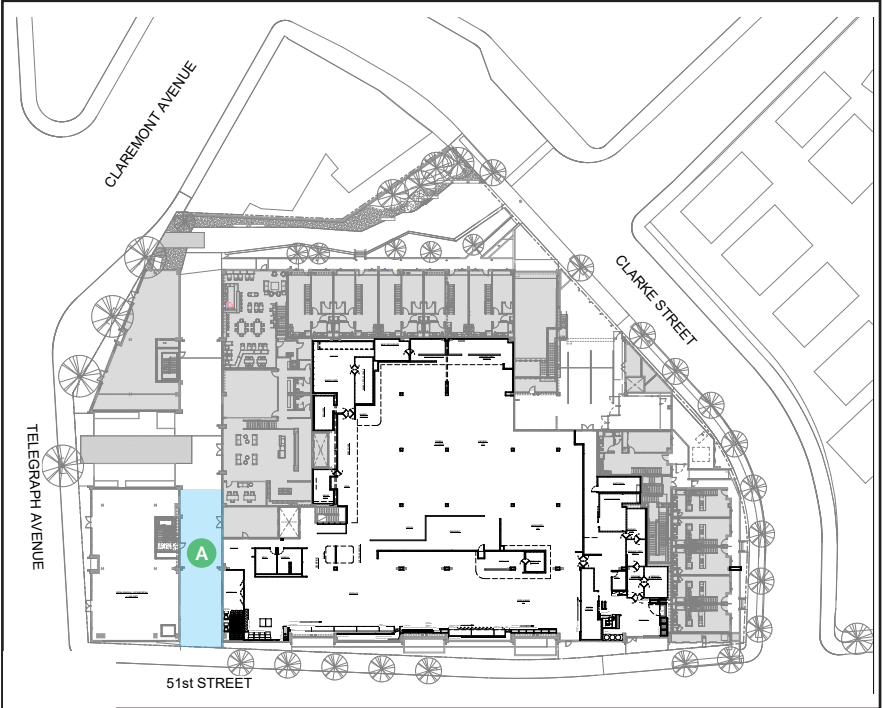
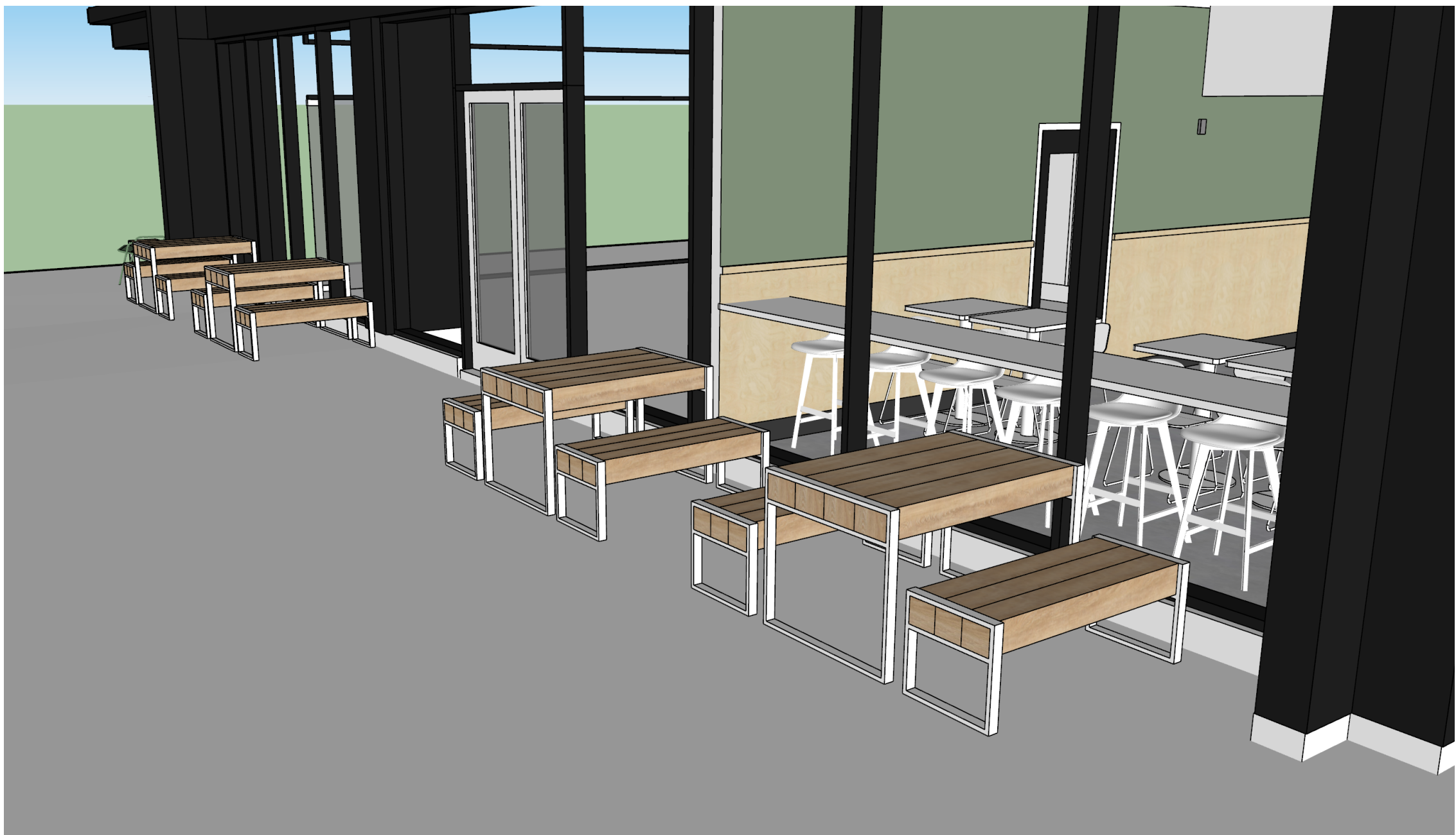
Key Plan





Key Plan

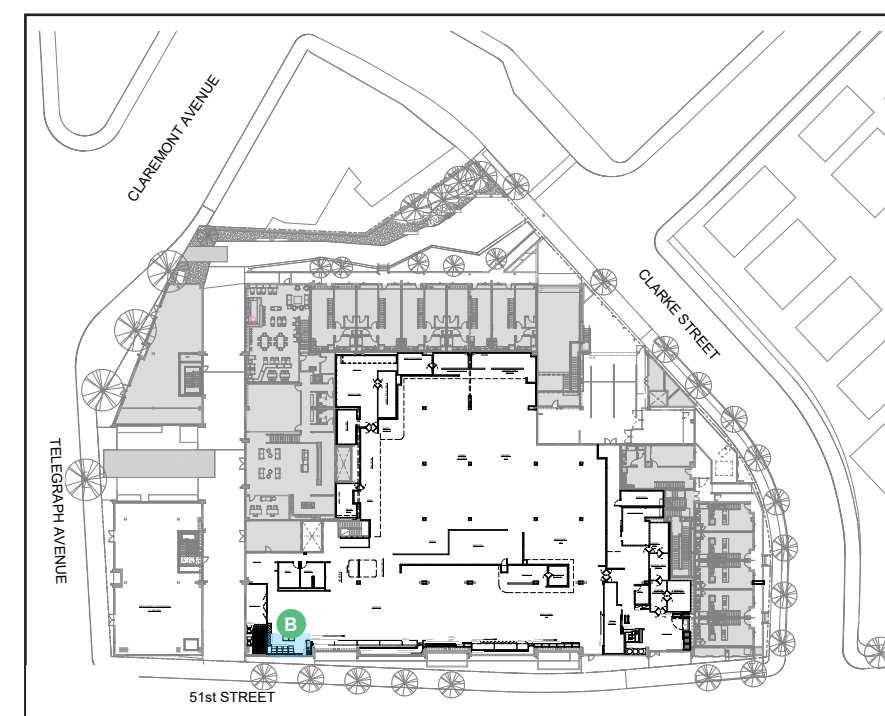




Key Plan







Key Plan





Telegraph Ave

51st Street





Telegraph Ave

51st Street

Project Site Looking East





51st Street

Clark Street

Project Site Looking West





Telegraph Ave Looking South





Clarke Street Looking South





Little Frog Park-Clarke Street









Clarke Street Looking South





Claremont Avenue Looking West





Claremont Avenue Looking North





Telegraph Ave @ 51st Street Looking West





51st Street and Telegraph Ave Looking Northwest



## Attachment A: Findings for Approval

---

This proposal meets the required findings under Conditional Use Permit Procedure/General Use Permit Criteria (OMC Sec. 17.134.050), findings required for General Foods Sales Commercial Activities (OMC Sec. 17.10.270) by virtue of the approval of PLN15074, Alcoholic Beverage Sales Commercial Activity (OMC Sec. 17.103.030), findings of Public Convenience or Necessity (OMC Sec. 17.134.040.A.1, and A.2, 17.103.030.B.3)), under the Planning Code (Title 17), as detailed below and elsewhere in the Report. Required findings are shown in **bold** type; applicant's explanations as to why these findings can be made are in normal type.

### **CONDITIONAL USE PERMIT PROCEDURE/GENERAL USE PERMIT CRITERIA (OMC SEC. 17.134.050)**

**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 proposal will allow alcohol sales for an off-site consumption in an approved but not yet operational grocery store located at 5110 Telegraph Avenue. The grocery store conditional use permit was approved on June 1, 2016 as part of PLN15074, which allowed retail sales of groceries (a use classified as a General Foods Sales Commercial Activity) in retail space #4 at 5110 Telegraph Avenue. Section 17.33.030 of the planning regulations requires a conditional use permit for any General Food Sales Commercial Activities over 5,000 square feet in the CN-2 zoning district. The conditions of approval imposed in 2016 on the General Food Sales Commercial Activities conditional use permit granted by PLN15074 considered and allowed the grocery store use to locate its commercial trash and recycling enclosures facing Clarke Street, and for said trash and recycling to be picked up and removed from the premises by utilizing Clarke Street; and, further considered and established appropriate conditions related to parking, traffic, loading, noise, transportation demand, retail uses, and window transparency applicable to the grocery store use. The conditions of approval included in this alcohol conditional use permit apply to the alcohol sales.

The addition of alcohol sales (consisting of approximately 2% of total floor space devoted to alcohol) to this approved grocery store use will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood nor will it have a harmful effect upon desirable neighborhood character. The generation of traffic and capacity of surrounding streets (including the use of Clarke Street as the location for trash and recycling storage and pick-up) associated with the grocery store was already considered and determined to be less than significant as part of the approval of the grocery store use in 2016. Adding alcohol sales to the approved grocery store will not change any of the determinations about neighborhood compatibility made in 2016.

As noted, only approximately 2% of total floor area in the approved grocery store will be devoted to the sales of alcoholic beverages pursuant to a Type 21 ABC License, and a small area which will periodically be used to conduct tastings of alcoholic beverages pursuant to a Type 86 ABC License. The sales of packaged alcoholic beverages will occupy up to approximately 400 square feet. Store personnel will receive specialized training in regulations, policies, and procedures for the sale of alcoholic beverages, and in compliance with the ABC Act of State law. Alcohol sales of this nature and type are common in markets such as Whole Foods Markets and similar establishments in the City of Oakland and elsewhere.

Alcohol will be available for purchase during all grocery store business hours, which will be open from not earlier than 6:00 a.m. to not later than 12 a.m. every day. All employees who are involved in and responsible for sales of alcoholic beverages will be trained in responsible service of alcoholic beverages rules and requirements. Deliveries of alcohol, along with other products, will take place from 51<sup>st</sup> street at staggered times between 7 a.m. and 10 p.m. Per the approval of the grocery store use in 2016, pickup of trash and recycling will take place, and be picked up and removed from, and by utilizing Clarke Street.

Thus, the addition of alcohol sales to an already approved grocery store of greater than 5,000 square feet will be compatible with, and not adverse to, the livability of abutting properties and the surrounding neighborhood with consideration given to all other factors required by the OMC for this finding.

**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 additional activity allowing alcohol sales in an approved grocery store will serve as a clean comfortable place for the public to purchase alcohol in the same place where they purchase groceries.

**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 added activity allowing alcohol sales will support the success of the approved grocery store and provide a convenient location for the neighborhood to purchase alcohol in the same place they purchase food.

**D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.050.**

Design review for the new building was completed in 2016

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

The proposal conforms to the General Plan and CN-2 zoning which allows for the sale of alcoholic beverages in connection with a previously approved grocery store use.

**SPECIAL REGULATIONS APPLYING TO CERTAIN ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES (OMC SEC. 17.103.030(A):**

**1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;**

Off-sale alcohol establishments such as grocery stores selling alcohol for off-site consumption are appropriate for this area and will not create a nuisance such as litter, noise, loitering, or crime. Alcohol sales will be limited to less than 2% of the total floor area of the entire store. The limited space devoted to alcohol sales further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood. The premises vehicular and pedestrian circulation as well as capacity will not be an issue. Nuisance and capacity will be regulated by conditions of approval as well as the conditions set forth by ABC.

**2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;**

The premises are located within 1,000-feet of parks, an elementary school, and a church. The majority of park, school, and church users are not expected to pass by the premises due to area configuration and patrons are not expected to pass directly by the parks, school or church on foot.

**3. That the proposal will not interfere with the movement of people along an important pedestrian street;**

The sale of alcoholic beverage at the approved grocery store, will not impede pedestrian movement along this multi-modal transportation corridor.

**4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;**

The proposed alcohol sales will occur in an existing building that meets or exceeds the highest architectural standards in the surrounding areas.

**5. That the design will avoid unduly large or obtrusive Signs, bleak landscaped parking areas, and an overall garish impression**

The sale of alcohol will have no impact on the existing approved design, therefore, there will be no new signs related to alcohol sales or un-landscaped parking areas added to the building design.

**6. That adequate litter receptacles will be provided where appropriate;**

The establishment will contain litter receptacles within the premises as required.

**7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten (10) p.m. and seven (7) a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full-service restaurants.**

The sale of alcohol in addition to groceries at this location will not disrupt nearby residential uses. Activities approved to take place along Clarke Street, such as trash and recycling, will cease at 10:00pm.

**8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).**

This finding is inapplicable; the proposal does not involve a fast food restaurant.

**PUBLIC CONVENIENCE OR NECESSITY (OMC SEC. 17.103.030(B)(3))**

**a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and**

Purchasing packaged alcohol for off-site consumption at an established grocery store provides a major convenience for Oakland residents and a safe shopping environment for customers. Purchasing alcohol, safely, at a grocery store, is a necessity. The proposal to add alcohol sales to a grocery store achieves both a public necessity and public convenience.

**b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and**

As noted elsewhere, there is not a substantial risk of anticipated negative impacts or an anticipated significant increase in police calls. As a result, the economic and other benefits outweigh anticipated negative impacts.

**c. That alcohol sales are typically a part of this type of business in the City of Oakland (for example and not by way of limitation, alcohol sales in a laundromat would not meet this criteria).**

Alcohol sales are a typical component of grocery store uses. Moreover, only about 2% of floor area will be devoted to sales of alcohol.

**ADDITIONAL PUBLIC CONVENIENCE OR NECESSITY FINDINGS (OMC SEC. 17.103.030(B)(4))**

**a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (except full-service restaurants), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and**

An exception exists to the requirement that this finding be made for establishments selling alcohol that employ 25 or more full time employees or are larger in total floor area than 12,000 square feet. 17.103.030(B)(4). In this case, the establishment that would sell alcohol here would employ more than 25 people and be larger than 12,000 square feet in total floor area.

**b. Police department calls for service within the “beat” where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats citywide during the preceding twelve (12) months.**

An exception exists to the requirement that this finding be made for establishments selling alcohol that employ 25 or more full time employees or are larger in total floor area than 12,000 square feet. 17.103.030(B)(4). In this case, the establishment that would sell alcohol here would employ more than 25 people and be larger than 12,000 square feet in total floor area.



# CITY OF OAKLAND SUPPLEMENTAL QUESTIONNAIRE FOR PROPOSED ACTIVITIES/USES

*The applicant may submit a detailed narrative that addresses the characteristics listed below or complete the following questionnaire. Attach additional pages as needed. **This questionnaire is a supplement to the Basic Application for Development Review.***

**PROJECT ADDRESS:** 5110 Telegraph Avenue

**PROPOSED PROJECT:**    ☒ Establish a New Activity    ☐ Modify an Existing Activity  
(Check all that apply)        ☒ In an Existing Structure        ☐ In a New or Modified Structure

## I. Activities and Users

1. Proposed hours and days of operation: 6:00 a.m. to 12:00 p.m., Daily
2. If proposed activity is occasional, how often will the proposed activity occur?  
Not applicable
3. The proposed activity is Permanent
4. Number of individuals involved with the events or operations (employees, clients, residents, spectators, students, teachers, animals, etc.): 150 Employees
5. Will there be other activities on-site? If yes, describe (ex. catering from a restaurant).  
Yes, grocery store approved in 2016  
Specifically, if the proposal involves Residential Care (or related use), Medical Care, Child Care or Education, describe all services to be provided on-site (for example, tutoring, regular visits by physicians).  
Not applicable  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Is the proposed activity part of a master plan or part of a program with multiple sites? If yes, describe.  
No
7. The activity is for profit.
8. Previous use on the project site, and date of closure, if known. Theater, vacant lot, project under construction

## II. Physical Characteristics

In addition to the required detailed site plan, floor plans and exterior elevations, indicate: **See revised plans**

9. Floor and/or site areas associated with different components of the proposed activity (dining area, kitchen, dance floor, assembly, office, etc.) with total area measurements indicated for each component.
10. Location of driveways, parking, walkways, and doorways; show how vehicles and pedestrians will move through the site.
11. Proposed exterior lighting, signage, landscaping, screening, recycling and trash storage areas, etc.

### III. Parking and Circulation

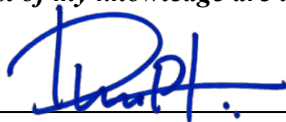
12. Anticipated number of vehicle or pedestrian trips to the site per day: **Trips analyzed in 2016**
13. Number of parking spaces on the site or on another site but reserved for the proposed operation (*indicated also on site plan*) **129 spaces for Whole Foods Market**
14. If reserved parking is proposed off-site, describe location of parking and distance from the proposed activity and attach copy of off-site parking agreement.  
**Not applicable**
15. Describe the primary mode of travel (e.g., auto, transit, bike, and walking) the majority of users are likely to use get to the site.  
**Automobile, walking, transit and biking**

### IV. Operations

16. Projected volumes of sound in decibels and any soundproofing or noise mitigation measures proposed.  
**No new noise impacts since analyzed in 2016**
17. Provisions for site maintenance or safety (trash cleanup, landscaping maintenance, call boxes, security personnel, caretakers, etc.)  
**Grocery store will provide daily janitorial and security personnel. Grocery store approved in 2016**
18. Types of materials used in the operation and any waste products created or emitted.  
**Alcohol sales in a previously approved grocery store will not create or emit waste products**

*The above statements represent to the best of my knowledge are accurate.*

APPLICANT'S SIGNATURE:



DATE: August 5, 2020