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# CHAPTER I

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## INTRODUCTION

### A. CEQA PROCESS

On August 26, 2004, the City of Oakland (Lead Agency) released for public review a Draft Environmental Impact Report (Draft EIR or DEIR) on the proposed Broadway—West Grand Mixed-Use project (ER03-0022). The public review and comment period on the Draft EIR began on August 26, 2004, and was scheduled to end on September 27, 2004; at its September 15, 2004, meeting, the Planning Commission extended the public comment period to October 8, 2004. The Planning Commission held a public hearing on the Draft EIR on September 27, 2004, and continued the public hearing to October 6, 2004. In addition, the Landmarks Preservation Advisory Board held a special meeting to consider the Draft EIR and make recommendations to the Planning Commission on September 20, 2004.

The Draft EIR for the Broadway—West Grand Mixed-Use project, together with this Response to Comments, constitute the Final EIR for the proposed project. The Final EIR is an informational document prepared by the Lead Agency that must be considered by decision makers (including the Oakland City Planning Commission) before approving or denying the proposed project. California Environmental Quality Act (CEQA) *Guidelines* (Section 15132) specify the following:

“The Final EIR shall consist of:

- (a) The Draft EIR or a revision of the draft.
- (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (d) The response of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.”

This document has been prepared pursuant to the CEQA *Guidelines*. This Final EIR incorporates comments from public agencies and the general public, and contains appropriate responses by the Lead Agency to those comments.

## **B. METHOD OF ORGANIZATION**

This Final EIR for the proposed Broadway—West Grand Mixed-Use project contains information in response to concerns raised during the public comment period.

Following this introductory Chapter I, Chapter II of this document contains text changes (initiated by the Oakland Community and Economic Development Department staff and those resulting from comments on the Draft EIR) and errata to the Draft EIR.

Chapter III contains a list of all persons and organizations that submitted written comments on the Draft EIR and that testified at the two public hearings held on September 15, 2004, and October 6, 2004.

Chapter IV contains comment letters received during the comment period and the responses to each comment. Each comment is labeled with a number in the margin and the response to each comment is presented immediately after the comment letter. Prior to the comment letters, this chapter contains a summary of comments made on the DEIR by members of the Landmarks Preservation Advisory Board at its September 20, 2004, meeting.

Chapter V contains a summary of the public comments received during the public hearings held on September 15, 2004, and October 6, 2004, and the responses to the comments received during the public hearings.

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## CHAPTER II

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### REVISIONS TO THE DRAFT EIR

#### A. PROJECT SPONSOR'S REVISED PREFERRED DESIGN OPTION

In response to comments from several members of the Landmarks Preservation Advisory Board, Planning Commissioners, and members of the public, the project sponsor has revised the project design such that the preferred design option for the project no longer would include the retention of the facades of any buildings on Parcel A (south of 23rd Street), but would instead include retention of the facades of two buildings on Parcel B (north of 23rd Street): the building at 2335 Broadway that was designed by Julia Morgan (Building 9 on DEIR Figure III-2, DEIR p. III-6) and the building at 440-448 23rd Street (Building 4 on DEIR Figure III-2, DEIR p. III-6); this latter building was previously proposed for facade retention as part of the project.

With the revised project as now proposed, the project would retain the Broadway facade of the Julia Morgan building, which was previously proposed for complete demolition, and both the 23rd and Valley Street facades of the building at 440-448 23rd Street, which was previously proposed for facade retention. The revised project would NOT retain the facades of the building at 449 23rd Street (Building 1 on DEIR Figure III-2, DEIR p. III-6), as previously proposed. Instead, this building would be demolished, along with the other existing structures on Parcel A.

The sponsor proposed these revisions to the project design following publication of the Draft EIR, following discovery by the sponsor that at least a portion of the original facade of the Julia Morgan-designed building at 2335 Broadway appears to be intact behind a newer metal false facade. Following comments by members of the Landmarks Preservation Advisory Board and the public at the Board's meeting on September 20, 2004, encouraging preservation, at a minimum, of the facade of the Julia Morgan building, representatives of the sponsor, Carey & Co. preservation architects, and the sponsor's construction department temporarily removed two of the metal panels that currently compose the upper facade of 2335 Broadway. Based on visual examination, it appears that, while the original storefront windows and doors have obviously been replaced by the current plate glass windows and doorways, at least some of the upper half of the original facade may remain intact beneath the current metal cladding. The investigation revealed, for example, that at least some of the small-paned transom windows are intact, as is at least a portion of the intermediate-level cornice that originally surmounted the transom windows. The inspection did not reveal whether the uppermost portion of the original facade—including the elaborate polychrome terra cotta frieze and cornice—is still extant. However, as noted in the DEIR on p. IV.E-20, "Visual evidence suggests that the original brick parapet and associated transom windows designed by Morgan exist beneath both layers of later metal cladding, as the

back of parapet is visible from the roof, and the metal cladding protrudes from the original parapet by more than two feet.”

The project sponsor proposes to rehabilitate the facade of 2335 Broadway, to the extent feasible based on the amount and condition of historic fabric remaining on the upper portion of the historic facade when the entirety of the current sheet metal cladding is removed.<sup>1</sup> (Because the project sponsor does not yet own any of the buildings on Parcel B, and does not expect to take possession until some time in 2006, following the start of construction on Parcel A, the sponsor is not able at the present time to remove all of the sheet metal cladding on 2335 Broadway, inasmuch as the existing auto dealership is an ongoing business.) Rehabilitation of the facade would be undertaken to the maximum feasible extent, consistent with the extent of historic material that remains. Should substantial portions of the upper facade be determined to be missing or be found to be damaged to such an extent that rehabilitation is determined by a preservation architect not to be feasible, the sponsor would undertake best efforts to refurbish the historic facade, using as much salvaged, remaining historic material as possible. The sponsor also intends to create a primary project entrance as part of the restoration of the historic facade.

The proposed design changes to the project would not substantially affect the EIR’s conclusions regarding the project’s impacts on historic resources. The revised preferred design option would, like the design analyzed in the DEIR, result in significant, unavoidable impacts resulting from demolition of seven buildings identified as historical resources under CEQA. As with the design analyzed in the DEIR, incorporation of the facades of certain historic buildings as part of the project construction would not mitigate the impact of the loss of those buildings to a less-than-significant level.

## **B. ADDITIONAL VARIANT OF PARTIAL PRESERVATION ALTERNATIVE (“BROADWAY ALTERNATIVE”)**

Also in response to comments from several members of the Landmarks Preservation Advisory Board, Planning Commissioners, and members of the public, Planning staff has developed an additional variant of the Partial Preservation Alternative that would preserve the three buildings on Parcel B identified as historic resources on the Broadway frontage of the project site, including the building at 2335 Broadway that was designed by noted architect Julia Morgan.<sup>2</sup> As with the change in the proposed project design described above, staff developed this alternative after publication of the Draft EIR, following discovery by the project sponsor that at least a portion of the original facade of the Julia Morgan-designed building at 2335 Broadway appears to be intact (see above discussion).

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<sup>1</sup> As stated above, the lower portion of the original storefront has been completely altered through installation of new plate glass windows and new doorways.

<sup>2</sup> The City was not legally required to add this alternative because it is merely a minor variation of the already-analyzed Partial Preservation Alternative.

The newly discovered existence of at least a portion of the transom windows, in conjunction with the fact that the rear of the parapet is visible, as stated on DEIR p. IV.E-20, gives further evidence to Carey & Co.'s conclusion, reported on p. IV.E-22 of the Draft EIR, that ““If the original historic material survives in sufficient quantity, a restoration of the facade is possible. As such, the contingency rating of “b+” is appropriate, because the building could become of major importance after restoration, especially considering it was designed by architect Julia Morgan and may have a highly detailed facade behind the metal parapet.”” Carey concluded, however, that even if the building were restored, it

would not likely qualify for individual listing on the NRHP or the [California Register] under Criterion B/3 [association with important persons] for a number of reasons. The building would not be considered a “master” work, i.e., one that elevated Ms. Morgan to master status. By 1920, the date of construction for 2335 Broadway, Julia Morgan was already an established, large-scale architect, having designed many more architecturally significant buildings throughout California, and was already working on Hearst Castle in San Simeon, her most famous commission. In addition, there are more architecturally significant Julia Morgan designs in Oakland than the property at 2335 Broadway, such as the Fred C. Turner Stores (1916) on the corner of Piedmont Avenue and 40th Street (a commercial example) as well as dozens of earlier and more elaborate residential projects. (Draft EIR, p. IV.E-22)

In addition to the above, it is evident that the original storefront windows and doors at the ground level have been replaced by the current plate glass windows and doorways, limiting the amount of original facade material that could remain beneath the newer metal parapet.

Thus, this newly added alternative would reduce, but would not eliminate, the project's significant effects on historic architectural resources. It would retain three historic resources on Broadway, but would demolish three historic resources at the corner of 23rd and Valley Streets and the historic resource at the corner of 24th and Valley Streets that, in general, were identified by members of the Landmarks Board and the public as less important than the buildings on Broadway—particularly the Julia Morgan building—both in terms of historic significance and in terms of relative location, existing as they do on a small, lightly traveled street and not one of Oakland's most important thoroughfares.

This “Broadway Alternative” is added to EIR p. V-7, immediately prior to the heading “Alternatives Considered but not Further Analyzed,” as follows (all of the following indented text is newly added to the DEIR):

## ALTERNATIVE 4: BROADWAY (PARTIAL PRESERVATION) ALTERNATIVE

### ***DESCRIPTION***

Like the Partial Preservation Alternative, the Broadway (Partial Preservation) Alternative would retain, rehabilitate, and reuse three existing buildings identified as historic resources. This alternative would retain the three adjacent historic structures at the northernmost portion of the project site's frontage along Broadway, including the building at 2335 Broadway that was designed by noted architect Julia Morgan. Under this alternative, these three buildings would be retained because, with the adjacent 2355 Broadway building (not on the project site), they would maintain a group of historic buildings along more than half of the Broadway block face of Parcel B. The three buildings proposed for retention under the Broadway Alternative are (buildings numbered in accordance with Figure IV.E-1, p. IV.E-11):

- 9 – 2335 Broadway
- 10 – 2343 Broadway
- 11 – 2345 Broadway

As with the other alternatives other than No Project, the retained historic buildings would likely be re-used for various types of commercial uses, given that they represent ground-floor space on Broadway, with the parking reconfigured on the site. Residential units, commercial space, and parking would be developed on the remainder of the site. No new construction would occur atop the retained structures. For purposes of analysis, it is assumed that this alternative would include essentially the same ground-floor commercial space (40,000 square feet) as would both the proposed project and the Partial Preservation Alternative (Alternative 3), but less than , the Full Preservation Alternative (Alternative 2). However, the Broadway Alternative would have approximately 410 residential units, or 13 percent fewer than the 475 units proposed with the project.<sup>3</sup> The Broadway Alternative's 410 units would be about 17 percent more than the 350 units in the Full Preservation Alternative, and about 4 percent fewer than the 425 units in the Partial Preservation Alternative. All of the units lost, compared to the proposed project, would be on Parcel B, where this alternative would retain three existing buildings; compared to the project's 350 units on Parcel B, the Broadway Alternative would provide about 285 units on this northern parcel. The number of commercial parking spaces would be essentially the same as with the project and the other alternatives except No Project, and residential parking would be reduced proportionately (with a further reduction of 10 percent on

<sup>3</sup> As noted in Footnote 2 on p. III-1, in the Project Description, for purposes of a conservative analysis, the project analyzed in the EIR is based on the maximum feasible project that could be developed on the project site, including up to 475 units and 40,000 square feet of commercial space, which would require acquisition by the project sponsor of the building at 2301 Broadway (Lucky Goldfish building). The difference in unit count between each alternative and the proposed project represents a comparison based upon the maximum 475 units. If the sponsor does not obtain the Lucky Goldfish building, each alternative would necessarily contain fewer units than described here, but the *percentage* difference between each alternative and the proposed project would be similar.

Parcel B to account for the less efficient site layout as was warranted for the Full Preservation Alternative). Thus, the Broadway Alternative would have about 570 parking spaces in total (130 commercial and 440 residential), or about 10 fewer spaces than the Partial Preservation Alternative (Alternative 3), compared to 675 spaces with the proposed project about 500 spaces in the Full Preservation Alternative. The residential parking ratio would be 1.06 spaces per unit (approximately equal to the ratio in the Full Preservation and Partial Preservation Alternatives), compared to 1.15 spaces per unit with the proposed project. As discussed for the Full Preservation Alternative, maintaining some of the existing buildings on the project site would result in less optimal parking garage circulation since the retained buildings would protrude into the layout of the garage. However, this effect would be less than in the Full Preservation Alternative since fewer buildings would be maintained and since the building(s) to be maintained are contiguous and located in the northeast part of Parcel B.

The Broadway Alternative would construct buildings similar to those proposed with the project, except that the site plan for this alternative would include a “cutout” around the three existing historic buildings to be preserved. Also, it would develop approximately 87 percent of the residential units that would be built with the proposed project (similar to the 90 percent of residential units that would be built under the Partial Preservation Alternative) and therefore effectively be a reduced-intensity alternative, as well (although to a lesser extent than the Full Preservation Alternative, which would construct 75 percent of the residential units propose in the proposed project.)

Unlike the Partial Preservation Alternative (Alternative 3), the Broadway Alternative would not retain any buildings or facades on Parcel A, nor would it retain the building at the northeast corner of 23rd and Valley Streets on Parcel B.

### ***IMPACTS***

This alternative would minimize, but not fully avoid, the significant, unmitigable impacts of the project with respect to demolition of historic resources; adverse effects of this alternative would be less than those of the proposed project, but greater than those of the Full Preservation Alternative. On a strictly numerical basis, effects of the Broadway Alternative would be the same as those of the Partial Preservation Alternative, in that each would retain three buildings identified as historical resources pursuant to CEQA. However, some members of the Landmarks Preservation Advisory Board, Planning Commission, and the public have argued that the three buildings along Broadway, and particularly the Julia Morgan-designed building at 2335 Broadway, have more importance, both because of the provenance of the Morgan building (i.e., designed by a noted architect) and because of the substantially more prominent location of the three buildings that would be preserved under the Broadway Alternative, on what is arguably the City’s preeminent urban thoroughfare. Furthermore, while they are not in an Area of Secondary Importance like the three buildings at 23rd and Valley Streets that would be preserved under the Partial Preservation Alternative, two of the three buildings that would be rehabilitated under the Broadway

Alternative have OCHS contingency ratings of “b” (one “b+” and one “b-”) and the third has a contingency rating of “c,” compared to one contingency “b,” one contingency “c” and one “D” with no contingency rating in the Valley Street Group at 23rd and Valley. On the other hand, the existing ratings of the buildings in the Valley Street Group (C, D, and D) are higher than those of the buildings on Broadway (three “E”s). In terms of National Register ratings, the Broadway buildings rank marginally higher, in that all are listed as having local importance or potential importance as individual structures, while two of the three buildings in the Valley Street Group have local importance or potential importance only by virtue of their association with the group (district).

With implementation of this alternative, slightly more than half of the Broadway street frontage of Parcel B would be retained intact (in the case of the existing Saturn dealership adjacent to the project site at 2355 Broadway) or would be retained and rehabilitated (in the case of 2335, 2343, and 2345 Broadway). As with the Partial Preservation Alternative, it is assumed that rehabilitation of Buildings 9, 10, and 11 would be undertaken consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. As stated on pp. IV.E-20—24 of the DEIR, the evaluation by preservation architects Carey & Co. found that “restoration of the facade [of each building] is possible,” provided that “the original historic material survives in sufficient quantity.” As also stated in the DEIR, however, the three buildings have been extensively altered on both the exterior and interior. As a result, even if the facade of each building can be restored, it is likely that many other historic features have been lost. For example, in the case of 2335 Broadway, “Substantial alterations also have been made to the interior of the building, including opening of the northern wall to the adjacent building, introduction of new interior partitions and “drop” ceilings with acoustical tiles, repainting and replastering of walls, and installation of new flooring materials, essentially resulting in the loss of all important original interior features” (DEIR p. IV.E-20). In the case of both 2343 Broadway and 2345 Broadway, too, “substantial interior alterations have removed virtually all important historic interior features” (DEIR pp. IV.E-22 and IV.E-23). All three buildings effectively function as a single automobile showroom at present, with major portions of the interior walls removed. Nevertheless, as interior (non-corner) buildings on the block, the principal facade on Broadway is the feature of each building that most defines the structure’s character. Therefore, restoration of each of the three buildings consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties, whether by rehabilitation, restoration, reconstruction, or a combination of all three, with particular attention paid to the principal Broadway facades, would ensure that effects on these three historical resources would be mitigated to a less-than-significant level, consistent with CEQA Guidelines Section 15064.5(b)(3).

Other impacts of the Broadway Alternative would, in general, be similar to those of the proposed project and the Partial Preservation Alternative. Like the Partial Preservation Alternative, the Broadway Alternative would develop a quantity of housing units midway between those of the project and the Full Preservation Alternative. In the case of impacts

related to construction activities, such as noise and dust emissions during construction, use of or potential exposure to hazardous materials, or the potential to disturb unknown archaeological and paleontological resources, impacts of this alternative generally would be similar to those of the project and the other alternatives, except No Project. Despite the variation in the number of residential units that would be developed, the project site would be the same size and the duration of construction would not vary markedly.

The effects of traffic, traffic-generated air quality and noise would be less, compared to the project, with the Broadway Alternative, which would have fewer residential units (and equal commercial use) and would generate less traffic. With about 60 more units, the Broadway Alternative would generate more traffic than the Full Preservation Alternative, but incrementally less traffic than the Partial Preservation Alternative. This alternative would have a residential parking shortfall, compared to demand, of about 20 spaces (about the same as that with the Full Preservation Alternative), compared to the 19-space surplus that would occur with the proposed project and a deficit of about 25 spaces with the Partial Preservation Alternative. However, the demand could be met by nearby on- and off-street parking; furthermore, a parking shortfall, even if it occurred, would not normally be considered a significant impact under CEQA. Like the Full Preservation and Partial Preservation Alternatives, the Broadway Alternative would meet the zoning requirement for parking.

The Broadway Alternative would have comparable visual effects to those of the proposed project, in that this Alternative would construct buildings of the same height over most of the site. However, the Broadway Alternative, by retaining adjacent three single-story buildings along Broadway, would result in a clear “gap” or “cut-out” between the taller, new construction to the south and the existing, approximately 75-foot-tall Saturn building at 24th and Broadway, and the new construction behind the retained buildings. If the sponsor does not acquire the Lucky Goldfish building at 23rd and Broadway, retention of the three single-story buildings under this Alternative would result in an alternating pattern of single-story and mid-rise buildings on the Broadway frontage of Parcel B that might appear pleasantly random, not unlike the common evolution of urban development over time; should the Lucky Goldfish site ultimately be integrated into the project, the three single-story buildings to be retained might be seen by some observers as looking out of place amidst the taller buildings throughout that parcel.

While the Broadway Alternative would cast less shadow to the east than the project, across Broadway, shadow impacts would be the same as those of the project where the impacts would be most noticed—that is, at the residences and businesses across Valley Street and 24th Street. Shadow impacts would be greater than with the Full Preservation Alternative.

Although the Broadway Alternative would retain three buildings identified as historic resources, it would still result in significant, unmitigable impacts related to the demolition of four other existing CEQA historical resources on the project site. Also, like the proposed project, it would result in a cumulative impact on historic resources when

considered with other nearby projects in the vicinity that would demolish or substantially alter other historic resources. The Broadway Alternative would provide fewer units, compared to the proposed project (and also slightly fewer than the Partial Preservation Alternative), and thus less opportunity to meet the city’s need for diverse housing unit types and unit sizes, particularly to attract new residential populations Downtown.

**C. OTHER REVISIONS TO THE DEIR TEXT**

The following corrections and changes are made to the Draft EIR and are incorporated as part of the Final EIR. Revised or new language is double-underlined (except where all of the indicated text is new). Deleted language is indicated by ~~strikethrough~~ text.

Where a change is made as part of a response to a comment on the Draft EIR, the comment number is noted in brackets at the end of the text change. Where no comment number is given, the change is initiated by City staff.

On p. II-3, the last (parenthetical) sentence of the first partial paragraph is revised as follows to account for the fact that, upon further review of the Full Preservation Alternative, the project sponsor has determined that this alternative would result in more ground-floor commercial space than would the proposed project; additionally, a new sentence is added before the parenthetical sentence to accommodate the new Broadway Alternative included in this FEIR, and the first sentence of the following paragraph is similarly altered:

The Broadway Alternative, a variation on the Partial Preservation Alternative, would also retain, rehabilitate, and reuse three historic buildings (all on Parcel B), including a building at 2355 Broadway designed by noted architect Julia Morgan; it would have about 85 percent of the residential units proposed by the project. (The commercial square footage is assumed to remain approximately the same under ~~each alternative~~ the Partial Preservation Alternative and the Broadway Alternative, and increase by about two-thirds under the Full Preservation Alternative.)

~~Both~~ All three development alternatives generally would have similar impacts in most topic areas and would reduce to some extent, impacts related to cultural resources, traffic, air quality, noise, and shadow. ...

On page II-5, in the Summary Table, the following mitigation measure is added as partial mitigation for Impact E.5 (cumulative impacts to historic resources):

**Mitigation Measure E.5:** The project sponsor would contribute to the City’s Facade Improvement Fund an amount determined by the Planning Director to be roughly proportional to the project’s contribution to cumulative impacts on historic resources in downtown Oakland and the vicinity. Although the Facade Improvement Fund is not limited to historic buildings, the project’s contribution would be earmarked especially for improving facades of buildings identified as historic resources in the downtown area according to the General Plan Historic Preservation Element or the Oakland Cultural Heritage Survey. [Master Response on Historic Resources]

On page III-4, the second paragraph is revised as follows to correct the number of buildings on the project site:

Existing uses on the project site include automobile-related sales and services, smaller-scale retail and commercial services, and 16 residential units (in the Casa Blanca Apartments on Parcel B). Most of Parcel A and about half of Parcel B currently is devoted to surface parking and vehicular storage areas. The other portion of the project site is occupied by ~~14~~ 13 buildings, including the clearly identified Negherbon automobile showrooms along Broadway and the repair shops on 23rd and 24th Streets.

(The reference to 14 buildings was intended to include the Saturn auto dealership building at 2355 Broadway at 24th Street. However, this was an erroneous inclusion, as the Saturn building is not part of either the current or maximum potential project site. [The latter would include the Lucky Goldfish building at 2301 Broadway.]

On page III-4, the third and fourth sentences of the fourth paragraph are revised as follows to acknowledge changes in AC Transit service:

There are multiple AC Transit routes within one block of the project site include Line 51, ~~and 59, and 59A,~~ along Broadway; Line 12, ~~B, and K~~ along Grand / West Grand Avenue; and Line 40, 40L, and 43 along Telegraph Avenue. The recently inaugurated AC Transit “Rapid Service” on San Pablo Avenue stops approximately two blocks west of the site, at San Pablo and West Grand Avenues, as well as at 20th Street and Broadway; 20th and Broadway is also the nearest stop for Transbay service, on the NL line. [C-5]

On page III-4, the fourth sentence of the first paragraph under “Project Characteristics” is revised as follows to indicate the project sponsor’s intention that the proposed project’s commercial component be devoted to neighborhood-serving retail:

The commercial portion would include up to 40,000 square feet ~~—intended as neighborhood-serving retail—~~ along West Grand and Broadway, extending over both parcels.

On page IV.B-8, the text under the heading “AC Transit” is revised as follows to acknowledge changes in AC Transit service:

The project site is served by several AC Transit bus lines running through major north-south corridors: Telegraph Avenue (Lines 40, 40L and 43) and Broadway (Lines 51, ~~and 59, and 59A~~). **Table IV.B-5** summarizes the bus routes and service schedules for the AC Transit lines located within easy walking distance from the project site. Line 12 is the closest east-west bus line, running on Grand Avenue, on the southern edge of the project site. Lines 11, 15, 72, 72M and 72R run on 20th Street, three blocks south of the project site. Most of the buses run every 5 to 15 minutes during the peak periods and 20 to 30 minutes during non-peak periods. As of June 27, 2004, Line 59/~~59A~~ operates between the 51st Street / Broadway intersection and the Lake Merritt BART Station only. [C-5]

On page IV.B-14, the first full paragraph is revised as follows to acknowledge changes in AC Transit service:

In the vicinity of the proposed project site, AC transit bus stops are located on Telegraph Avenue at 24th Street (Lines 40, 40L and 43), on Telegraph Avenue at Grand Avenue (Lines 40, 40L and 43), on Broadway at Grand Avenue (Lines 51, and 59, and 59A) and on Grand Avenue at Webster Street (Line 12); the nearest Transbay service stop is at 20th and Broadway (Line NL). [C-5]

On page IV.E-37, the following mitigation measure is added as partial mitigation for Impact E.5 (cumulative impacts to historic resources):

**Mitigation Measure E.5:** The project sponsor would contribute to the City’s Facade Improvement Fund an amount determined by the Planning Director to be roughly proportional to the project’s contribution to cumulative impacts on historic resources in downtown Oakland and the vicinity. Although the Facade Improvement Fund is not limited to historic buildings, the project’s contribution would be earmarked especially for improving facades of buildings identified as historic resources in the downtown area according to the General Plan Historic Preservation Element or the Oakland Cultural Heritage Survey. [Master Response on Historic Resources]

On p. V-2, the second partial paragraph under “Alternative 2: Full Preservation Alternative” is revised as follows to account for the fact that, upon further review of the Full Preservation Alternative, the project sponsor has determined that this alternative would result in more ground-floor commercial space than would the proposed project; additionally, a new footnote (#1) is added to clarify that the descriptions of project alternatives compares the number of residential units with each alternative to those of the maximum potential project (the footnote appears at the bottom of the page):

~~For purposes of analysis, it is assumed that~~ This alternative would include essentially the same approximately 65,000 square feet of ground-floor commercial space as would (about 25,000 square feet more than the proposed project (40,000 square feet), but would have about 350 residential units, or 25 percent fewer than the 475 units proposed with the project.<sup>1</sup> Of the 350 units, approximately 105 units (15 percent fewer than the project) would be on Parcel A and about 245 units (30 percent fewer than the project) would be on Parcel B. (The difference would be greater on Parcel B because more existing buildings would be retained ...

On p. V-4, the first paragraph is revised as follows to accommodate the increased commercial floor area of the Full Preservation Alternative:

In the case of impacts related to the intensity of development, including effects of traffic, traffic-generated air quality and noise, the Full Preservation Alternative would have ~~lesser similar~~ similar impacts because, with fewer residential units than the proposed project (and ~~equal greater~~ greater commercial use), this alternative would generate less traffic in the p.m. peak hour.

<sup>1</sup> As noted in Footnote 2 on p. III-1, in the Project Description, for purposes of a conservative analysis, the project analyzed in the EIR is based on the maximum feasible project that could be developed on the project site, including up to 475 units and 40,000 square feet of commercial space, which would require acquisition by the project sponsor of the building at 2301 Broadway (Lucky Goldfish building). The difference in unit count between each alternative and the proposed project, represents a comparison based upon the maximum 475 units. If the sponsor does not obtain the Lucky Goldfish building, each alternative would necessarily contain fewer units than described here, but the *percentage* difference between each alternative and the project would be similar.

but more traffic in the a.m. peak hour; existing-plus-project average vehicle delay would change by no more than 0.2 seconds, compared to conditions with the proposed project, at any study intersection, which would not be noticeable, and there would be no change in level of service, compared to that with the proposed project, under any of the study scenarios. With fewer parking spaces per residential unit, this alternative would have a residential parking shortfall of about 20 spaces. However, the demand could be met by nearby on- and off-street parking; furthermore, a parking shortfall, even if it occurred, would not normally be considered a significant impact under CEQA. This alternative would meet the zoning requirement for parking.

On p. V-5, the first paragraph is revised as follows to account for the fact that the Full Preservation Alternative would have more ground-floor commercial space than the proposed project; additionally, a new footnote (#2) is added to clarify that the descriptions of project alternatives compares the number of residential units with each alternative to those of the maximum potential project (the footnote appears at the bottom of the page):

As with the Full Preservation Alternative, the retained historic buildings would likely be re-used for various types of commercial uses, with the parking reconfigured on the site. Residential units, commercial space, and parking would be developed on the remainder of the site. No new construction would occur atop the retained structures. For purposes of analysis, it is assumed that this alternative would include essentially the same ground-floor commercial space (40,000 square feet) as would ~~both~~ the proposed project ~~and~~ but less than the Full Preservation Alternative (Alternative 2). However, the Partial Preservation Alternative would have approximately 425 residential units, or 10 percent fewer than the 475 units proposed with the project, and about 21 percent more than the 350 units in the Full Preservation Alternative.<sup>2</sup>...

On p. V-8, footnote 1 is renumbered as footnote 3, in light of the two footnotes added above.

Table V-1, beginning on p. V-9, is revised as shown on the following page to accommodate the project sponsor's revised preferred project design and the new Broadway Alternative. Additionally, for the proposed project and each alternative, Table V-1 now provides two quantities of residential units: the first number (475, in the case of the proposed project) represents the maximum potential project, should the sponsor acquire the building at

<sup>2</sup> As noted in Footnote 2 on p. III-1, in the Project Description, for purposes of a conservative analysis, the project analyzed in the EIR is based on the maximum feasible project that could be developed on the project site, including up to 475 units and 40,000 square feet of commercial space, which would require acquisition by the project sponsor of the building at 2301 Broadway (Lucky Goldfish building). The difference in unit count between each alternative and the proposed project, represents a comparison based upon the maximum 475 units. If the sponsor does not obtain the Lucky Goldfish building, each alternative would necessarily contain fewer units than described here, but the *percentage* difference between each alternative and the project would be similar.

2301 Broadway (Lucky Goldfish building), and the second number (421, in the case of the proposed project) represents the number of units should the sponsor not acquire the Lucky Goldfish building. As stated in Footnote 2 on DEIR p. III-1, all analysis in the DEIR assumes the maximum potential project of 475 residential units. Note that, at the time the Draft EIR was published, the project sponsor had submitted to the City a development application and plans for a 409 residential units. This number has now been revised slightly to 421 residential units.

**REVISED TABLE V-1  
SUMMARY OF IMPACTS: PROPOSED PROJECT AND ALTERNATIVES**

<b>Description of Alternative</b>	<b>Proposed Project <sup>a</sup></b>	<b>No Project Alternative</b>	<b>Full Preservation Alternative</b>	<b>Partial Preservation Alt. Variant 1</b>	<b>Partial Preservation Alt. Variant 2: Broadway Alt.</b>
Residential Units <sup>b</sup>	475 / <u>421</u>	0	350 / <u>315</u>	425 / <u>375</u>	410 / <u>365</u>
Commercial Square Footage	40,000	0	<del>40,000</del> <u>65,000</u>	40,000	<u>40,000</u>
Parking Spaces	675	0	500	580	<u>570</u>
Historic Buildings Demolished	7	0	0	4	<u>4</u>
Historic Buildings Remaining	0	7	7	3	<u>3</u>
<u>Historic Buildings With Facades Retained <sup>a</sup></u>	<u>2</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<b>Environmental Impact</b>					
<b><u>SIGNIFICANT UNAVOIDABLE IMPACTS (WITH PROJECT)</u></b>					
<b>E. Cultural Resources</b>					
<b>E.3:</b> The project would result in demolition or substantial alteration of seven buildings that qualify as historic resources, as defined in Section 15064.5. These buildings include: 1) 2335 Broadway, 2) 2343 Broadway; 3) 2345 Broadway, 4) 2366-2398 Valley Street, 5) 439 23rd Street, 6) 440-448 23rd Street, and 7) 441-449 23rd Street. <del>(For Partial Preservation Alternative, Variant 1: The project would retain the following buildings: result in demolition or substantial alteration of three buildings that qualify as historic resources, as defined in Section 15064.5. These buildings include: 1) 439 23rd Street, 2) 440-448 23rd Street, and 3) 441-449 23rd Street. Partial Preservation Alternative, Variant 2 (Broadway Alternative) would retain the following buildings: 1) 2335 Broadway, 2) 2343 Broadway; and 3) 2345 Broadway.)</del>	SU	N↓	LS↓	SU↓	<u>SU↓</u>
<b>E.5:</b> The proposed project, in combination with cumulative development including new construction and other alterations to historic resources in the project vicinity, could result in cumulative impacts to historic resources.	SU	N↓	N↓	SU↓	<u>SU↓</u>

<sup>a</sup> The sponsor has indicated a preference for a new design option that would preserve the facades of Buildings 4 and 9, compared to preserving the facades of Buildings 1 and 4.

<sup>b</sup> First number is the maximum potential project, including the 2301 Broadway (Lucky Goldfish) building; second number is units without 2301 Broadway.

SU – Significant, Unmitigable Impact, even with mitigation; SM – Significant Impact; less than significant with mitigation; LS – Less than Significant Impact; N – No Impact

↑ Impact of alternative *more* severe than that of project

↓ Impact of alternative *less* severe than that of project

**REVISED TABLE V-1 (continued)**  
**SUMMARY OF IMPACTS: PROPOSED PROJECT AND ALTERNATIVES**

<b>Environmental Impact</b>	<b>Proposed Project</b>	<b>No Project Alternative</b>	<b>Full Preservation Alternative</b>	<b>Partial Preservation Alternative</b>	<i>(added in FEIR)</i> <b>Broadway Alternative</b>
<b><u>SIGNIFICANT BUT MITIGABLE IMPACTS (WITH PROJECT)</u></b>					
<b>B. Transportation, Circulation, and Parking</b>					
<b>B.2:</b> Traffic generated by the project would affect traffic levels of service at local intersections under future (2010) conditions.	SM	N↓	SM↓	SM↓	<u>SM↓</u>
<b>B.3:</b> Traffic generated by the project would affect traffic levels of service at local intersections under cumulative (2025) conditions.	SM	N↓	SM↓	SM↓	<u>SM↓</u>
<b>B.11:</b> Project construction would affect traffic flow and circulation, parking, and pedestrian safety.	SM	N↓	SM	SM	<u>SM</u>
<b>C. Air Quality</b>					
<b>C.1:</b> Activities associated with demolition, site preparation and construction would generate short-term emissions of criteria pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions.	SM	N↓	SM	SM	<u>SM</u>
<b>D. Noise</b>					
<b>D.1:</b> Construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity.	SM	N↓	SM	SM	<u>SM</u>
<b>E Cultural Resources</b>					
<b>E.1:</b> Construction of the proposed project could cause substantial adverse changes to the significance of currently unknown cultural resources at the site, potentially including an archaeological resource pursuant to CEQA Guidelines Section 15064.5 or CEQA Section 21083.2(g), or the disturbance of any human remains, including those interred outside of formal cemeteries.	SM	N↓	SM	SM	<u>SM</u>
<b>E.2:</b> The proposed project may damage or degrade unidentified paleontological remains.	SM	N↓	SM	SM	<u>SM</u>

SU – Significant, Unmitigable Impact, even with mitigation; SM – Significant Impact; less than significant with mitigation; LS – Less than Significant Impact; N – No Impact  
 ↑ Impact of alternative *more* severe than that of project  
 ↓ Impact of alternative *less* severe than that of project

**REVISED TABLE V-1 (continued)  
SUMMARY OF IMPACTS: PROPOSED PROJECT AND ALTERNATIVES**

<b>Environmental Impact</b>	<b>Proposed Project</b>	<b>No Project Alternative</b>	<b>Full Preservation Alternative</b>	<b>Partial Preservation Alternative</b>	<i>(added in FEIR)</i> <b>Broadway Alternative</b>
<b><u>SIGNIFICANT BUT MITIGABLE IMPACTS (CONT'D.)</u></b>					
<b>E.2:</b> The proposed project may adversely affect unidentified paleontological resources at the site.	SM	N↓	SM	SM	<u>SM</u>
<b>F. Hazardous Materials</b>					
<b>F.1:</b> Disturbance and release of contaminated soil or building materials during demolition and construction phases of the project could expose construction workers, the public, or the environment to adverse conditions related to hazardous substance handling.	SM	N↓	SM	SM	<u>SM</u>
<b>F.2:</b> Improper disposal of contaminated soil components from the demolition and excavation phases of the project could expose construction workers, the public, or the environment to adverse conditions.	SM	N↓	SM	SM	<u>SM</u>
<b>F.3:</b> Hazardous materials used on-site during construction activities (i.e. solvents) could be released to the environment through improper handling or storage.	SM	N↓	SM	SM	<u>SM</u>
<b><u>LESS THAN SIGNIFICANT IMPACTS (WITH PROJECT)</u></b>					
<b>A. Aesthetics</b>					
<b>A.1:</b> The proposed project would not have a substantial adverse effect on a scenic vista, nor would the project substantially damage scenic resources.	LS	N↓	LS	LS	<u>LS</u>
<b>A.2:</b> Implementation of the proposed project would alter, but would not substantially degrade the existing visual character or quality of the site and its surroundings.	LS	N↓	LS	LS	<u>LS</u>
<b>A.3:</b> Implementation of the proposed project would result in an increase in light and glare at the project site.	LS	N↓	LS	LS	<u>LS</u>

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 ↑ Impact of alternative *more* severe than that of project  
 ↓ Impact of alternative *less* severe than that of project

**REVISED TABLE V-1 (continued)**  
**SUMMARY OF IMPACTS: PROPOSED PROJECT AND ALTERNATIVES**

Environmental Impact	Proposed Project	No Project Alternative	Full Preservation Alternative	Partial Preservation Alternative	(added in FEIR) Broadway Alternative
<b>LESS THAN SIGNIFICANT IMPACTS (CONT'D.)</b>					
<b>A.4:</b> The proposed project, in conjunction with cumulative development, would alter the visual character in the project vicinity.	LS	N↓	LS	LS	<u>LS</u>
<b>B. Transportation, Circulation, and Parking</b>					
<b>B.1:</b> Traffic generated by the project would affect existing traffic levels of service at local intersections.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>B.4:</b> Traffic generated by the project would affect existing traffic levels of service on freeway segments in the project area.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>B.5:</b> Traffic generated by the project would affect traffic levels of service on freeway segments in the project area under future (2010) conditions.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>B.6:</b> Traffic generated by the project would affect traffic levels of service on freeway segments in the project area under cumulative (2025) conditions.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>B.7:</b> (Non-CEQA Impact) The proposed project would increase the demand for parking in the project area.	LS	N↓	LS↑	LS↑	<u>LS↑</u>
<b>B.8:</b> (Non-CEQA Impact) The proposed project would contribute to the cumulative increase in parking demand in the project area.	LS	N↓	LS↑	LS↑	<u>LS↑</u>
<b>B.9:</b> The project would increase ridership on public transit providers serving the area.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>B.10:</b> Development of the proposed project would not conflict with existing pedestrian and/or bicycle facilities.	LS	N↓	LS	LS	<u>LS</u>
<b>C. Air Quality</b>					
<b>C.2:</b> The project would result in an increase in ROG, NOx and PM emissions due to project-related traffic and on-site area sources.	LS	N↓	LS↓	LS↓	<u>LS↓</u>

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 ↓ Impact of alternative *less* severe than that of project

**REVISED TABLE V-1 (continued)  
SUMMARY OF IMPACTS: PROPOSED PROJECT AND ALTERNATIVES**

<b>Environmental Impact</b>	<b>Proposed Project</b>	<b>No Project Alternative</b>	<b>Full Preservation Alternative</b>	<b>Partial Preservation Alternative</b>	<i>(added in FEIR)</i> <b>Broadway Alternative</b>
<b><u>LESS THAN SIGNIFICANT IMPACTS (CONT'D.)</u></b>					
<b>C.3:</b> Project traffic would increase localized carbon monoxide concentrations at intersections in the project vicinity.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>C.4:</b> Emissions generated by vehicular activity within the parking structures could result in a localized increase in carbon monoxide concentrations within the garage and adjacent areas and affect employees of the garage.	LS	N↓	LS	LS	<u>LS</u>
<b>C.5:</b> The project, together with anticipated future cumulative development in Oakland and the Bay Area in general, would contribute to regional air pollution.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>D. Noise</b>					
<b>D.2:</b> Noise from project-generated traffic and other operational noise sources such as mechanical equipment, truck loading/unloading, etc., could exceed the Oakland Noise Ordinance standards and affect nearby residential receptors.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b>D.3:</b> The project would locate noise sensitive multifamily residential uses in a noise environment characterized as “conditionally unacceptable” for such uses by the City of Oakland.	LS	N↓	LS	LS	<u>LS</u>
<b>D.4:</b> The proposed project, together with anticipated future development in the Northgate commercial district area as well as Oakland in general, could result in long-term traffic increases that could cumulatively increase noise levels.	LS	N↓	LS↓	LS↓	<u>LS↓</u>
<b><u>LESS THAN SIGNIFICANT IMPACTS (CONT.)</u></b>					
<b>E. Cultural Resources</b>					
<b>E.4:</b> The proposed project would construct a new mixed-use, multi-story development adjacent to historic resources including the building at 2355 Broadway and the 25th Street Garage District.	LS	N↓	LS↓	LS↓	<u>LS↓</u>

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 ↑ Impact of alternative *more* severe than that of project  
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**REVISED TABLE V-1 (continued)**  
**SUMMARY OF IMPACTS: PROPOSED PROJECT AND ALTERNATIVES**

<b>Environmental Impact</b>	<b>Proposed Project</b>	<b>No Project Alternative</b>	<b>Full Preservation Alternative</b>	<b>Partial Preservation Alternative</b>	<i>(added in FEIR)</i> <b>Broadway Alternative</b>
<b>F. Hazardous Materials</b>					
<b>F.4:</b> Project operations would generate general commercial, household, and maintenance hazardous waste.	LS	N↓	LS	LS	<u>LS</u>
<b>F.5:</b> Development proposed as part of the project, when combined with other foreseeable development in the vicinity, could result in cumulative hazardous materials impacts.	LS	N↓	LS	LS	<u>LS</u>
<b>G. Shadow</b>					
<b>G.1:</b> The project would create additional shadow on adjacent blocks to the west, north, and east, including casting shadow on contributing buildings in an Area of Primary Importance, but would not introduce landscaping conflicting with the California Public Resource Code; not cast shadow on buildings using passive solar heat, solar collectors for hot water heating, or photovoltaic solar collectors; and not cast shadow that impairs the use of any public or quasi-public park, lawn, garden, or open space.	LS	N↓	LS↓	LS↓	<u>LS↓</u>

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 ↑ Impact of alternative *more* severe than that of project  
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# CHAPTER III

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## PERSONS AND ORGANIZATIONS COMMENTING ON THE DRAFT EIR

### A. PERSONS AND ORGANIZATIONS COMMENTING IN WRITING

- |  |                             |
|--|-----------------------------|
| A. Oakland Landmarks Preservation Advisory Board Comments  | September 20, 2004          |
| B. East Bay Municipal Utility District<br>William R. Kirkpatrick, Manager of Water Distribution Planning | September 16, 2004          |
| C. Alameda-Contra Costa Transit District<br>Nancy Skowbo, Deputy General Manager for Service Development | October 7, 2004             |
| D. Alameda County Congestion Management Agency<br>Saravana Suthanthira, Associate Transportation Planner | October 8, 2004             |
| E. Oakland Heritage Alliance ( <i>letter to Planning Dep't. staff</i> )<br>Naomi Schiff, President       | October 8, 2004             |
| <i>and</i>   |                             |
| Oakland Heritage Alliance ( <i>letter to Planning Commission</i> )<br>Naomi Schiff, President            | October 5, 2004             |
| F. Lakeside Apartment Neighborhood Association<br>Cynthia L. Shartzter, Co-Chair                         | October 6, 2004             |
| G. Lakeside Apartment Neighborhood Association<br>Orna Sasson  | undated                     |
| H. 21 Grand Arts Group Inc.<br>Darren Jenkins, President, Exhibitions Director                           | October 8, 2004<br>(e-mail) |
| I. Smythe's Accordion Center<br>Kimric Smythe, Owner   | October 6, 2004<br>(e-mail) |
| J. Hamburger Properties<br>Ken Zemel, Executive General Manager  | October 8, 2004             |
| K. Anna Naruta, Historical Archaeologist   | October 8, 2004             |
| L. Peter Birkholz, AIA   | October 8, 2004             |

### COMMENTS RECEIVED AFTER THE CLOSE OF THE COMMENT PERIOD

- |  |                  |
|--|------------------|
| M. Mark E. Piros, Department of Toxic Substances Control | October 12, 2004 |
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## **B. PERSONS COMMENTING AT THE PUBLIC HEARINGS**

The following persons provided public testimony at the two Oakland City Planning Commission Public Hearings on the Draft EIR, held at City Hall on Wednesday, September 15, 2004, and Wednesday, October 6, 2004.

### **SEPTEMBER 15, 2004, HEARING**

- Naomi Schiff, Oakland Heritage Alliance
- Orna Sasson, Lakeside Apartment Neighborhood Association
- Cynthia Shartzer, Lakeside Apartment Neighborhood Association
- Peter Birkholz
- Mark Baining, Hanzel Auto Body
- Planning Commissioners Franklin, Lighty, Jang, and Killian

### **OCTOBER 6, 2004, HEARING**

- Naomi Schiff, Oakland Heritage Alliance
- Cynthia Shartzer, Lakeside Apartment Neighborhood Association
- Joyce Roy
- Sanjiv Handa, East Bay News Service
- Planning Commissioners Lighty, Jang, and Franklin

A summary of the comments made at the public hearings is included in Chapter V of this document. A response is provided following the summary of each comment.