



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA • SUITE 2340 • OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department

www.oaklandnet.com

(510) 238-6402

FAX:(510) 238-2959

TDD:(510) 238-3254

REHABILITATION SCHEDULE - WORK PLAN

Site Address 955 57th Street, Oakland, CA 94608-2843 Parcel# 015-1298-009-00

Building Description meat storage & distribution warehouse Complaint # 1303769 & 1305560

The purpose of this Compliance Plan – Work Plan is to mitigate Suprema Meats' ("Suprema") impact on nearby properties, specifically with regard to:

- 1) Noise coming from Suprema's 57th Street open facility between the hours of 9pm and 7am due to loading & unloading activities, vehicular & equipment maintenance, and the movement of delivery trucks;
- 2) Noise and traffic impacts due to unloading & loading of refrigerated semi-tractor trucks on 57th Street; and
- 3) Unpermitted property improvements.

On the date(s) and by the signature(s) affixed below, the Owner(s) of this property and this business, whether singularly or jointly, agree(s) to perform faithfully each part and all terms of this Work Plan as enumerated herein and to rehabilitate fully the property described above:

1. Concurrent with execution of this Compliance Plan. Owner(s) shall submit a performance security in a form and format approved by the City of Oakland (refer to attachment) and for a face amount not less than **\$40,000.00** which shall secure the faithful completion of all property improvements as prescribed in #3 below, all Work Plan steps and requirements, and all terms in this Compliance Plan. Failure to satisfy the deadlines and timelines prescribed in this Work Plan or to abide by any specific condition will constitute a material breach of the Compliance Plan and will result in Administrative Fines of up to \$1000 per day for as long as the performance schedule or condition is not met.
2. Concurrent with execution of this Compliance Plan. Owner(s) shall pay a Compliance Plan fee of **\$1931.25**, which includes administration fees (i.e. Compliance Plan Type, Performance Bond Processing Fee, Record/Tech Fees) and 10 months of Monitoring Inspections Fees as outlined on page 1.
3. Concurrent with execution of this Compliance Plan. Owner(s) shall submit (a) a planning permit application (i.e. Design Review, Variance and Conditional Use Permit) as required by Zoning Division staff that seeks to legalize building and site improvements installed without permits, and (b) any building or specialty permits to legalize any improvements or repairs undertaken that do not require planning approvals (See Exhibit A for List of Unpermitted Improvements). The full scope of required private (on-site) and public (off-site) improvements to be included in all required planning and building permit applications shall include (c) construction of a new loading facility for at least one delivery truck inside the existing warehouse building along Lowell Street (east elevation), and (d) related public Right-of-Way improvements along the property's Lowell Street frontage (from 57th Street to Aileen Street) as needed to accommodate unloading of big rig trucks (semi-tractor trailer trucks). These public improvements shall be designed to City standards and shall include a sidewalk, curb, gutter, catch basins, pavement grade adjustments and any drainage improvements as needed per and to the satisfaction of the City Engineer.
4. Not Later Than two weeks from the execution date of this Compliance Plan. Owner(s) shall apply to Building Services to change the property address of Suprema Meat Co from 955 57th Street to 5655 Lowell Street, and include the application fee payment as required (i.e. \$393 + tech/recrd mgmt).



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Parcel# 015-1298-009-00

5. Concurrent with execution of this Compliance Plan, Owner(s) agree to establish the following: (1) Suprema shall immediately discontinue all unloading of big rig trucks (semi-tractor trailer trucks) on 57th Street and Lowell Street between 9pm and 7am (daily); (2) No trucks owned by Suprema Meats Inc shall park on the north or south sides of 57th Street west of Suprema's west property line; (3) Suprema will not load or unload any trucks within the 57th Street public Right-of-Way, except for the limited time period between the date that Suprema obtains a building permit to build the Lowell Street loading dock (referenced in paragraph #3 above) and the date that Suprema receives authorization from Building Inspections staff to use the Lowell Street loading dock; and (4) Suprema shall use their best efforts in good faith to comply with those procedures enumerated in the Delivery Truck Management Plan attached herein as Exhibit B to prevent delivery trucks traveling to and from Suprema from using 57th Street and other nearby local streets where truck traffic is prohibited, and to prevent all delivery trucks from parking on 57th Street when waiting to be unloaded.
6. Not later than one month from the execution date of this Compliance Plan, Owner(s) agree to discontinue all delivery staging activities (i.e. movement of vehicles, equipment, and product into position for loading), vehicle loading and unloading activities, and vehicle & equipment maintenance activities at Suprema's 57th Street open loading facility between the hours of 9 pm and 7 am (daily). The foregoing sentence excludes the movement of loaded vehicles leaving on delivery, which shall be limited as follows. The owner(s) agree to limit all delivery activity noise generated from Suprema's 57th Street open loading facility between 9pm and 7 am (daily) to two 3-minute windows of time during which a maximum of 3 pre-loaded delivery trucks can be started and can exit the property during one of the said 3-minute windows (maximum of 5 delivery truck exits total).
7. Owner(s) agree to phase out the use of all non-hybrid delivery trucks within Suprema's 57th Street open loading facility between 9pm and 7am within 3 years of the execution date of this Compliance Plan. This will be done by purchasing at least 2 hybrid delivery trucks per year as they become available for purchase, up to a minimum of five hybrid delivery trucks over the 3 year period. The size of the replacement hybrid delivery trucks shall be equivalent to the existing Suprema delivery trucks (i.e. Class 7). Upon purchase of each hybrid delivery truck, Owner(s) agree to remove one conventional truck from those available for use within Suprema's 57th Street open loading facility. .
8. Not Later Than 60 days following planning permit approval date (or from the final decision by the City appeal procedure), Owner(s) shall pay all fees and submit a complete application for construction permits to build all on-site and off-site property improvements including all unpermitted improvements and new improvements referenced in paragraph #3 above and as required by the Building Official and City Engineer.
9. Not Later Than 5 months from the date of construction permit issuance, Owner(s) shall obtain all Permit Rough Inspection approvals for the construction of all improvements referenced in paragraph #8 above.
10. Not Later Than 8 months from the date of construction permit issuance, Owner(s) shall obtain all Permit Final Inspection approvals for the construction of all permits referenced in paragraph #8 above.
11. Not Later Than 1 month from the date of Permit Final Inspection approvals, Owner(s) shall submit to Planning & Building staff for review and approval, a post-construction Acoustical Report prepared by a qualified acoustical engineer that measures all noise coming from the Suprema Meats property (day and night) to determine the extent of noise reduction achieved by physical improvements to the facility and operational improvements established by the Compliance Plan.



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12. Owner(s) shall conduct periodic post-construction noise monitoring as prescribed in paragraph #11 above and submit two Acoustical Reports to Building Services – Code Enforcement staff every 6 months for 1 year following the date of the initial post-construction Acoustical Report.
13. The City and Owner(s) agree to work in good faith for the purpose of completing the improvements, repairs and rehabilitation of the property. Owner(s) agrees to cooperate with the City and implement improvements and repairs as required by this Compliance Plan. City agrees that it will act in accordance with its ordinary custom and practice with respect to issuing planning approvals, building permits, inspection sign-off(s), time extensions, and other approvals in the administration of this Compliance Plan.
14. Owner(s) retains the right to withdraw from any Conditional Use Permit (CUP) application that may be required by paragraph #3 hereof, without such action constituting a breach of the Compliance Plan, but only on the following conditions: 1) the CUP Conditions of Approval materially alter the means and manner of operation, including the hours of operation, as set forth in the Compliance Plan, 2) the Owner(s) have exhausted all administrative remedies, prior to filing an administrative writ or other court action to contest the terms of the CUP that alter the terms required by this Compliance Plan, and 3) the request to withdraw from the CUP is made within 7 calendar days after a final CUP decision date (from the final decision by the City appeal procedure). The request to withdraw the CUP application must be given in writing to Zoning Division staff. The Owner(s) agree that any request to withdraw the CUP application will be done concurrently with application for a demolition permit to remove the unpermitted steel canopy structure and new loading dock improvements adjacent to 57th Street, that the 57th Street canopy and loading dock will be removed within 2 weeks of demolition permit issuance, and that use of the 57th Street canopy and loading dock must be discontinued as of that date. Owner(s) also agree that construction permit applications to legalize all unpermitted work identified in paragraph #3 above will be applied for not later than 2 weeks from the CUP withdrawal request date. Further, in the event that Owner(s) withdraw from the CUP, the City reserves the right to renew or bring any nuisance or other enforcement actions based on activities that this Compliance Plan is intended to address. If the City determines that the appeals of the CUP are based on non-material conditions, the City has the right to terminate this compliance plan with 7 days' notice to Owners, to require removal of the 57th Street canopy and loading dock, and to require discontinued use of the canopy and loading dock. The City reserves the right to renew or bring any nuisance or other enforcement actions based on activities that this Compliance Plan is intended to address.
15. Owner(s) hereby agree that in the event each part and all terms of this Compliance Plan are not completed in full on or before the dates set forth herein, the city will commence proceedings to retain the full face amount of the performance bond for said actions. In addition, this Compliance Plan in no way entitles the owner(s) to operate their business and/or facility in a manner that results in nuisance activity not specifically intended to be addressed by this Compliance Plan agreement.
16. Owner(s) hereby agree that the conditions stated herein will be incorporated as terms of any agreement to lease, or sell the real property, any agreement to sell purchase and sale or transfer the business operating at the site that may be entered into between them and all potential lessee/purchaser for the Property or the business. Owner(s) further agree that their successors in interest, assigns, heirs and transferees will be bound by obligations on the Owners herein, and they likewise will attach and incorporate all conditions stated herein into any lease or purchase and sale agreement for the Property or the business.
17. Within 21 calendar days of executing the Compliance Plan, the Owner(s) of record shall record with the Alameda County Clerk-Recorder's Office a copy of the executed Compliance Plan. Proof of recordation shall be delivered to the City of Oakland via electronic mail and certified mail by the United States Postal Service or any other postal service that provides delivery confirmation. The proof of recordation shall be addressed to Gregory Minor c/o City of Oakland Administrator's Office, 1 Frank H. Ogawa Plaza - 11th floor, Oakland CA, 94612.

REHABILITATION SCHEDULE - WORK PLAN

Site Address 955 57th Street, Oakland, CA 94608-2843

Parcel# 015-1298-009-00

BY *[Signature]* MANASA
Owner(s) Signature

Miguel E Jara Jr
Owner Name

10/20/14
Date

CITY _____
Inspector's Signature

Inspector's Name

Date

BY *[Signature]* Suprema Mendiola president
Owner(s) Signature

Miguel E Jara Jr
Owner Name

10/20/14
Date

CITY *[Signature]*
Supervisor's Signature

T Low
Supervisor's Name

10/20/14
Date

List of Unpermitted Improvements
(955 57th Street)

1. Steel Canopy structure
2. Cargo Container Break Room under canopy
3. Pallet Racks throughout warehouse
4. New Walls & Doors in warehouse
5. Mechanical Refrigeration equipment (including structural, access and sound control details)
6. Electrical Alterations & Repairs in warehouse
7. New Loading Dock (including plumbing)
8. Vehicle Entry Gate & Fence
9. New Windows-Framing-Exterior changes at 2nd Story Office
10. Reconfigured 2nd Story Walls of Break Room & Storage Room
11. Alterations to create 2nd Story Kitchen, Bathroom, and half Bathroom (unless such 2nd story alterations can be shown to have been previously permitted and approved)
12. Front Entry Security Gate (if remaining)
13. Final Approval of CMU Sound Wall (side lot line) with additional load of canopy.

DELIVERY TRUCK MANAGEMENT PLAN

In complying with its good faith best efforts obligation to prevent trucks coming to and from Suprema Meats, Inc. from creating noise and congestion on 57th Street, 955 57th LLC has prepared and executed this Delivery Truck Management Plan which is to be attached to and incorporated into the Compliance Plan executed on October 20, 2014.

1. By no later than November 1, 2014 Suprema shall advise all of Suprema's suppliers in writing;
 - a. Of Suprema's change of address.
 - b. That all truck traffic on 57th Street between Adeline Street and San Pablo Avenue is prohibited.
2. On the date of execution of the Compliance Agreement, Suprema shall advise each of its drivers that there can be no parking on the north side of 57th and any parking on the south side of 57th must be adjacent to 955 57th LLC's (Suprema's) property and cannot extent west of Suprema's west property line.
3. In the event of a violation of the above, any neighbor or other person can call, text or email Miguel Jara, Jr or Mario Jara to report the violation using the contact information noted below;

Miguel Jara, Jr.

Office Phone Number; 510-654-9282
Cell Phone Number; 510-376-2162
Email Address; mmjara@comcast.net

Mario Jara

Office Phone Number; 510-654-9282
Cell Phone Number; 510-376-3010
Email Address; tiomarito@comcast.net

4. Each time that a notice of violation comes into either of the two designated individuals noted in #3 above, that person shall immediately go into the street to ascertain whether or not a violation of this Management Plan has occurred. If a truck coming to or from Suprema has been found to have driven down 57th Street, the driver will be verbally admonished of the "no use" restrictions and the owner of the transportation company that has employed the driver shall be provided with a written

Exhibit B

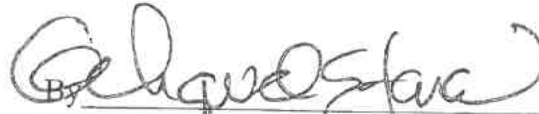
notice of the violation. The City of Oakland, Inspection Services Manager shall be copied on this and all other correspondence related to this matter. In the event of a repeat offense by the trucking company, Suprema shall notify the meat distributor that deliveries will not be accepted if delivered by that offending transportation company.

In the event a delivery truck is parked in 57th Street in violation of this Plan, the driver shall be instructed to immediately move the truck. If the driver refuses, or if within five minutes, the driver can not be located, the police will be called to have the truck cited or towed.

5. Within 24 hours of each such notice of violation received from a neighbor or other person a written report identifying the substance of the complaint, as well as the action taken, shall be emailed to Inspection Services Manager. Suprema shall keep a Complaint Log and tracks all such complaints with regard to date/time of complaint, complainant contact information, complaint description, actions taken to resolve it, and date of resolution. A copy of an updated Complaint Log shall be provide to the Inspection Services Manager monthly and upon request.

Dated this 20th day of October, 2014

955 57th LLC

By 
Miguel E. Jara, Jr., Manager

Dated this 20th day of October, 2014

Superma Meats, Inc.

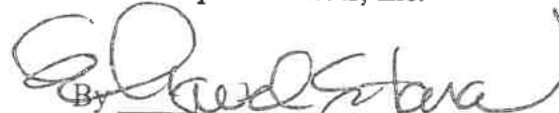
By 
Miguel E. Jara, President

EXHIBIT "B"
(to Compliance Plan; City of Oakland-955 57th LLC)



CITY OF OAKLAND

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

Planning and Building Department
Bureau of Planning

(510) 238-3941

FAX (510) 238-6538

TDD (510) 238-3254

Sent via U.S. Mail and Electronic Mail

February 7, 2018

Miguel Jara
Suprema Meats
955 57th Street, LLC
955 57th Street
Oakland, California 94608

Steven J. Hassing
Law Offices of Steven J. Hassing
425 Calabria Court
Roseville, California 95747

Craig Miers, Architect
1624 Santa Clara Drive, Suite 230
Roseville, CA 95661

RE: Case File No. PLN14-303; 955 57th, Street, Oakland, CA 94608 (APN: 015 129800900)

Dear Messrs. Jara, Hassing, and Miers,

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

The following table summarizes the proposed project:

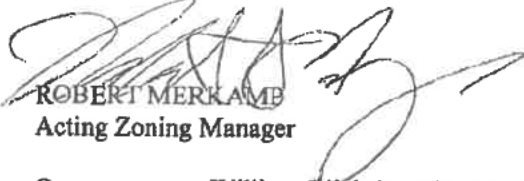
| | |
|-------------------------------------|---|
| Proposal: | To legalize unpermitted canopy, unloading dock and entry sliding fence/gate on 57th Street; and to construct a loading dock with opening gates on Lowell Street, including making exterior building alterations to the existing transport and warehouse facility. |
| Planning Permits Required: | Minor Conditional Use permit for unpermitted canopies; Minor Variance to reduce side yard setback where 5 feet is required and 0 feet is proposed; and Regular Design Review for unpermitted canopies, loading dock, entry sliding gate/fence. It includes a new loading dock and exterior alterations to building. |
| General Plan: | Housing and Business Mix |
| Zoning: | HBX-1 |
| Environmental Determination: | 15301-Existing Facilities 15183-Projects Consistent with a Community Plan or Zoning |
| Historic Status: | OCHS Rating: Dc3 |
| Service Delivery District: | 2 |
| City Council District: | 1 |

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, (by 4:00 pm on Feb 20th, 2018). An appeal shall be on a form provided by the Bureau of Planning of the Planning and building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of Heather Klein, Planner IV. The appeal shall identify the specific action or actions objected to, the action appellant requests City to take, the reason for the appeal; and must additionally provide evidence of a claim of error or abuse of discretion by the Zoning Manager or that his/her decision is not supported by substantial evidence. The appeal must include payment of \$1,622.57 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

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

If you have any questions, please contact the Supervising District Planner, Heather Klein, at (510) 238-3659 or hklein@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT MERKAMB
Acting Zoning Manager

Cc: William Gilchrist, Director, Planning and Building Department
Darin Ranelletti, Deputy Director, Bureau of Planning
Greg Minor, City Administrator's Office
Peter Spoerl, Deputy City Attorney
Elias Ferran, Deputy City Attorney
Bill Quesada, Zoning Inspections Manager
Chris Candell, Zoning Inspections

Neighbors Commenting on Zoning Permits:
Interested Parties Distribution List (emails and mailing list)

Attachments:

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

ATTACHMENT A: FINDINGS

In order to be approved in its entirety, this proposal is required to satisfy all of the following Findings: I. Code Section 17.134.050 (General Use Permit Criteria) for canopy and loading docks, II. Code Section 17.136.050.B (Regular Design Review Criteria – Nonresidential Facilities) for a 1,000-sq. ft. increase of the canopy, and III., Code Section 17.148.050 (Variance – Findings required) for the canopy within the side setback. Subject to Conditions of Approval, staff has made the Findings in support of the Conditional Use Permit and Design Review, but was not able to make all the required Findings for the Variance (Canopy within the side setback).

Required findings are shown in bold type; reasons the proposal satisfies or does not satisfy each are shown in normal type.

I. 17.134.050 GENERAL USE PERMIT CRITERIA.

Except as different criteria are prescribed elsewhere in the zoning regulations, a conditional use permit shall be granted only if the proposal conforms to all the following general use permit criteria, as well as to any and all other applicable use permit criteria:

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

The project includes minor modifications to an existing business which has operated for decades. The proposal to legalize an unpermitted canopy and the loading dock requires a Minor Conditional Use Permit as these facilities do not meet the definition of an accessory facility in Planning Code Section 17.10.70 because the facilities are unenclosed and considered an Open Non-Residential Facility. These elements provide shading for the temporary storage of refrigerated and frozen meat products as these products await loading into the facility or onto delivery trucks. As such, the canopy and loading is considered a Warehousing and Storage activity.

While the added roof area and other modifications listed will improve the operation and design of the facility, as a new non-residential activity and open facility, they will also result in more loading and unloading outside, potentially added noise, and visual intrusions. To address these issues, the City has imposed specific operational conditions of approval in conjunction with the approvals set forth under these findings detailing specific management and operational requirements for the continued use of the facility. Specifically, locating more deliveries to Lowell Street and inside, development and implementation of a delivery management plan, transportation improvements, truck loading and parking and noise measures are necessary to minimize the potential impacts on residential neighbors associated with the improvements. These measures will also address existing nuisances. The City will ensure compliance with the management through enforcement and reporting measures.

With compliance with the Conditions of Approval, the location, size, and design of the improvements will not have an adverse effect on the livability or development of abutting properties. The freezer area addition encloses the operation, reduces noise, and is compatible in materials and scale with the surrounding neighborhood. The canopy will be relocated outside the side setback and away from the residential neighbor. However, the continued use of the under-canopy area, should not negatively

affect the livability or appropriate development of abutting properties and the surrounding neighborhood character because with the unloading area on Lowell Street, vehicle traffic and noise adjacent to residential properties will be minimized as well as perceived bulk and mass. Furthermore, current ongoing impacts will be reduced by the redesign and reduced in the future by proposed Conditions of Approval related to traffic, noise, air quality and shadowing.

- 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 project is convenient and functional to the area. It serves as an adjunct to restaurants in the region in that the facility provides meat and fish products to these businesses. The proposal does not change the overall site planning of the facility which has existed in roughly its current configuration for many years. The imposition of Conditions of Approval on business operations (which had previously been unregulated and unmonitored by the City) in association with the approvals supported by these findings will serve to improve both the business and the neighborhood nuisance complaints related to traffic, noise, air quality and shadowing will be reduced or resolved by the redesign of the facility and by implementation of Conditions of Approval included in this action.

- 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 essential function of the site is food distribution providing meat and fish products to businesses within Oakland and the region. The essential function of the surrounding area is residential. These properties will be enhanced through the implementation of the Conditions of Approval which will ensure active management of the food distribution operations, further control its impacts on neighbors, and retain a small business.

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

This proposal is to add truck, traffic, noise and shade controlling elements to a warehousing facility which has existed in its present configuration for decades. The design modifications are primarily to shield the facility and neighbors from noise, sun, traffic and air quality effects. The modifications to the building involve less than one-quarter of the floor or building areas respectively, and meet the Design Review criteria for balanced design and efficient use of materials as described below.

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

The subject site is in the Housing and Business Mix (HBX) land use classification per the Land Use and Transportation Element (LUTE) of the Oakland General Plan. The HBX classification is intended to recognize the equal importance of both housing and business and intended to guide a transition from heavy industry to low impact light industrial and other businesses that can co-exist compatibly with residential development. Respect for environmental quality, coupled with opportunities for additional housing and neighborhood friendly businesses is desired, as well as the transition from industry that generates impacts detrimental for residences.

The HBX classification also notes that the desired character should include development of site specific buffers essential as specific conditions under which business and housing will co-exist. While the business and operations were previously considered “grandfathered”, construction of the canopy and loading dock are now considered a new principal facility and expansion of the overall use and footprint. As such, staff may impose Conditions of Approval related to the effects of these features and consistency with the intent (respect for environmental quality) and character (conditions to allow business and residential to co-exist). The delivery management plan, transportation improvements, truck loading and parking and noise measures are necessary to minimize the potential impacts on residential neighbors associated with the improvements as well as the existing nuisances and to move these activities to the more industrial façade along Lowell Street.

The proposed project, with the exception of the canopy structure in the side setback, conforms with the HBX classification. This business is existing and has located in the same location without restrictions. With implementation of the attached Conditions of Approval, impacts to residents related to traffic, noise and air quality and nuisances will be reduced. These Conditions are essential to the coexistence of the business and adjacent residential. Specifically, the project meets the following LUTE Objectives and Policies.

- Policy 1/C1.2 Retaining Existing Businesses- Existing businesses and jobs within Oakland which are consistent with long-range objectives of this plan should, whenever possible, be retained. *The existing business will be retained.*
- Objective 1/C4 Minimize land use compatibility conflicts in commercial and industrial areas through achieving a balance between economic development values and community values.
- Policy 1/C4.2 Minimizing Nuisances- The potential for new or existing industrial or commercial uses, including seaport and airport activities, to create nuisance impacts on surrounding residential land uses should be minimized through appropriate siting and efficient implementation and enforcement of environmental and development controls. *The project, with the Conditions of Approval, places restrictions on the business where none were previously and will reduce impacts on neighbors.*
- Objective T1.5 Reduce truck traffic impacts on residential neighborhoods. *Constructing new docks for loading and unloading along Lowell Street will reduce vehicle traffic impacts on 57th Street and locate impactful operations next to industrial activities and away from residential properties.*
- Policy N1.5 Designing Commercial Development – Commercial development should be designed in a manner that is sensitive to surrounding residential uses. *The project, with the relocation of the canopy out of the side setback, is designed to be more sensitive to surrounding residential properties. Specific features of the project include constructing new docks for unloading along Lowell Street to reduce vehicle traffic impacts on 57th Street and locate impactful operations next to industrial activities and away from residential, adding new traffic improvements, lighting and landscaping.*

The project is consistent with the HBX Design Guidelines as applicable. Specifically:

- **Design Objective #1:** Create a development pattern that encloses the street space by defining a street wall and street section while providing transitions from existing patterns and respecting the light and air of residential properties, if present. *The project does not involve new construction, only minor modifications to an existing commercial building. The street wall will*

remain the same. The freezer addition will be located on the interior of the property. The canopy will be moved away from the adjacent neighbor to reduce shadowing on that property.

- **Design Objective #2:** Site parking to maintain an attractive streetscape and preserve on-street parking. *The project does not involve new construction, only minor modifications to an existing commercial building. The unloading area off 57th Street will be screened by the new entry gate. Per the Conditions of Approval, no trucks owned or controlled by Suprema Meats Inc. shall park on 57th Street. The loading area off Lowell Street will ensure that truck parking and unloading activities are located near industrial activities and away from residential properties.*
- **Design Objective #3:** Integrate functional open space into the design of the site. *The project is not residential but includes minor modifications to an existing commercial business. This finding is not applicable.*
- **Design Objective #4:** Use design techniques to scale buildings appropriate to their location. *The project does not involve new construction, only minor modifications to an existing commercial building. The freezer addition is compatible in height and materials to the existing facility. The canopy will be reduced to the previous existing height, is appropriate to its location and will not increase overall building bulk or shadowing on the adjacent neighbor.*
- **Design Objective #5:** Consider a variety of architectural styles. *The project does not involve new construction, only minor modifications to an existing commercial building. The freezer addition is compatible in height and materials to the existing facility. The canopy will be compatible with the existing architecture.*
- **Design Objective #6:** Provide visual interest to street facing areas. *The project does not involve new construction, only minor modifications to an existing commercial building. The project will add a new entry and sliding gate which is appropriate to the context and the commercial building. The new windows will be compatible with what is existing. The new unloading zone will reduce vehicle traffic impacts on 57th Street and locate impactful operations next to industrial activities and away from residential properties.*
- **Design Objective #7:** Provide visual emphasis to buildings at street corners. *The project does not involve new construction, only minor modifications to an existing commercial building. No changes will occur at the street corner.*
- **Design Objective #8:** Provide well designed landscaping and buffering for street fronting yards, parking areas, nonresidential activities, and parking podiums. *The project, with implementation of the Conditions of Approval, will improve the streetscape with sidewalk, curb, gutter, catch basins, pavement grade adjustments, drainage improvements and appropriate landscaping.*

Finally, the project is not located within a district plan or other development control map.

**II. SECTION 17.136.050(B) - DESIGN REVIEW DISCRETIONARY CRITERIA:
NONRESIDENTIAL FACILITIES AND SIGNS.**

1. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors,**

and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area.

The proposal includes minor modifications to an existing building. The canopy and freezer additions have been designed to facilitate operation of the food distribution business with minimum overflow of noise and other effects onto adjacent buildings, subject to new Conditions of Approval. Specifically, staff has included Conditions related to truck traffic, unloading, parking, washing, and management as well as acoustic buffering and street improvements. The additions fit the pattern of pre-existing industrial and warehousing facilities in the Lowell Street area with regard to arrangement, texture, materials, and colors.

- 2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

The applicant proposes to legalize existing improvements and make related modifications, while preserving most of the existing facilities unchanged. It has been designed with efficient industrial materials compatible with existing facilities. The proposed project will preserve the design characteristics of the existing industrial/warehousing facilities in the area but with minor operational changes. The Conditions of Approval imposed in conjunction with the approvals supported by these findings, will reduce traffic, noise and air quality impacts and nuisances on neighbors and protect the value of these properties while also retaining an existing legal business.

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

See the Conditional Use Permit findings above.

III. SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:

The project involves canopies which are located closer than the Zoning standard of 5 feet from neighboring properties. A Minor Variance is required, which is **DENIED**, with findings for denial as follows from Oakland Planning Code Section 17.148.050(a). Since all the required Findings for Approval cannot be made, the Variance must be denied.

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

The project site has been used as a food distribution facility since the 1940s and previous buildings were built to the front and side property lines. However, the project site is a rectangular shape, approximately 23,000 sq. ft., flat and covered in either structure or parking/loading areas. There are no unique physical or topographical circumstances on site. No habitat, vegetation, or natural amenities exist onsite that should be avoided, and the site itself is sizeable. Staff could find no reason to support a finding of practical difficulty or unnecessary hardship.

Furthermore, the adjacent property is a residential dwelling unit, in a residential zone. The purpose of the Zoning regulations (Oakland Planning Code Section 17.07.030) is to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare." The purpose of the setback

regulations is to provide a buffer from activities occurring on adjacent properties and reduce potential nuisance issues. While retaining the canopy on the property line would provide operational efficiency for the business, it would not improve the livability for the neighbor or appearance or meet the intent of the regulation. Residential activities would not be buffered and open loading/unloading would occur closer to the property line. However, removing the portion of the canopy that encroaches into the 5-foot setback area and the subsequent reduction of the screening wall to its original height (approximately 9 to 10 feet) will reduce potential impacts on the neighbor. It will move activities away open loading/unloading activities away from the neighbor, reduce the shadow from the canopy on the neighboring property and reduce the building bulk along the shared property.

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

The variance, if granted, would adversely affect the character, livability, or appropriate development of abutting properties and would be detrimental to the public welfare or contrary to adopted plans or development policy. As noted above, retaining the canopy along the side property line would increase potential nuisance activities occurring closer to the property line. Furthermore, retaining the canopy structure as built within the setback area would increase shading and result in a closer building bulk to the immediately abutting residential neighbor.

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

The canopy located within the side setback does not meet the desired intent or desired character of the HBX land use classification. The HBX classification notes that the desired character should include development of site specific buffers essential as specific conditions under which business and housing will co-exist. A canopy along the property line would not provide such a buffer or minimize potential impacts to neighbors.

CEQA FINDINGS

The project includes the legalization of an unpermitted insulated panel canopy, loading dock and entry sliding fence/gate on 57th Street, construction of a dock with opening gates on Lowell Street, exterior building alterations (new and replaced windows, patching of plaster facade, height increase to freezer area), and landscaping and lighting.

Staff has evaluated the project pursuant to the California Environmental Quality Act (CEQA). Staff has denied the Minor Variance for the canopy in the side setback. This denial is exempt from environmental review per Statutory Exemption 15270 which states that CEQA does not apply to projects or portions of projects that are disapproved. Staff has also determined that the project, including construction of the canopy outside the setback and at a 9-10' height, is exempt from environmental review under Sections 15301, 15303, 15332 and 15183, each as a separate and independent basis, and when viewed collectively, as an overall basis for exemption from CEQA.

Section 15301 of the CEQA Guidelines exempts from CEQA review those facilities which are existing. This exemption includes projects and minor alterations that involve negligible or no expansion of use beyond that existing. The project site already contains a food distribution facility with no restriction on hours of operation, number of employees, number of shifts, noise control, and truck loading, parking,

washing, and management. As noted in the City's determination letter dated October 19, 2017, there was insufficient evidence to support a finding that there was a change or expansion of Suprema Meats operations in conjunction with the unpermitted work. Furthermore, the proposed changes, including the new docks and exterior changes, will also not result in an expansion of use with implementation of the Conditions of Approval. Specifically, the new dock for unloading will not increase truck trips but will relocate noise generating activities away from residential activities and along the property line adjacent to industrial activities. Additional restrictions regarding semi-truck and truck management will further restrict, as opposed to expand, operations at the site. Finally, accessory (appurtenant) structures such as garages, carports, patios and fencing (which are similar to canopies) and the entry gate/fence, landscaping, windows and façade changes are specifically described in the exemption.

Section 15303 of the CEQA Guidelines exempts from CEQA review the construction and location of a small facilities including buildings in urbanized areas that do not exceed 10,000 sf of floor area where facilities which are existing, do not involve hazardous waste substances and are in areas that are not environmentally sensitive; utilities and street improvements, and accessory (appurtenant) structures. The project includes a height increase to a 2,871-freezer area which would be under 10,000 sf floor area once constructed.

Section 15332 of the CEQA Guidelines exempts infill projects from CEQA review. While the food distribution facility is existing and no expansion will occur but rather will be restricted, the project is consistent with the General Plan and Zoning, is within city limits, is less than five acres in an urban area, and has no special studies species habitat. With implementation of the Conditions of Approval related to loading areas, truck parking, loading and unloading, and delivery management and traffic improvement, the project would not result in any significant traffic impacts. These Conditions, along with moving the canopy away from the side property side and acoustic noise and buffering, will reduce noise impacts and Conditions related to the loading areas, truck management, washing, and idling will reduce air quality impacts. Finally, the project site is already served by utilities and services.

This project doesn't trigger any of the exceptions in CEQA Section 15300.2 that would disqualify it for an exemption.

- The project is not located in a particularly sensitive environment. The project site has been used as distribution facility since the 1940s per the Oakland Cultural Heritage Survey. Also, according to this data and the City's Sanborn maps, the area has long been and continues to be a mix of industrial and single-family to small multi-family residential, and the building reflects food processing in 19th and 20th centuries.
- The project would not result in a cumulative impact of successive projects of the same type and the same place being significant. The site has been a food distribution since the 1940s with minor additions in 1950s prior to CEQA. Other improvements to the building have been made over the years which were ministerial building permits. The improvements are mainly to increase the efficiency of the operation. No expansion is anticipated and the improvements, with the Conditions of Approval, will restrict operations. No successive projects are anticipated.
- The project will not result the reasonable possibility that activity and changes will have a significant effect due to unusual circumstances. Again, the facility is existing and not proposed to expand operations. The surrounding area has not changed substantially regarding the land uses and remains both industrial and residential. Furthermore, with implementation of the Conditions of Approval, the use will be further restricted to alleviate impacts on neighbors.
- The project is not located near a scenic highway or on a hazardous waste site.
- The property is not a historic resource. The site was evaluated in 1994, and the City found in 1995 that the property was not a Potentially Designated Historic Property with a historic rating of Dc3.

Finally, as noted above, this project is also consistent with the City's General Plan and Zoning subject to Conditional Use Permit and Regular Design Review approval, consistent with CEQA Section 15183.

Attachment B: Conditions of Approval

This approval is 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, letter, and plans dated March 31, 2015 and submitted on April 2, 2015, as amended by the following conditions of approval. Any additional use or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation for the approved plans, Conditions of Approval or use shall be require prior approval from the Director of Planning and Building or designee. This action by the Zoning Manager includes the following:

- I. **Denial** of a Minor Variance to reduce side yard setback where 5 feet is required and 0 feet is proposed under Oakland Municipal Code Chapter 17.148 for the unpermitted expansion of the canopy structure;
- II. **Approval** of a Minor Conditional Use permit for Open Non-Residential Facilities (unpermitted loading dock) under Oakland Municipal Code Chapter 17.134, and partial approval for the unpermitted expansion of the canopy (see I., above);
- III. **Approval** of a Regular Design Review permit for the unpermitted loading dock and entry sliding gate/fence. It also includes approval for a new dock along Lowell Street and exterior alterations to the building under Oakland Municipal Code Chapter 17.136.

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire in **one (1) calendar year** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, 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, 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 on an ongoing basis. Any existing blight or nuisance shall be abated within 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 the Bureau of Building, if directed by the Building Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Compliance Matrix

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

12. 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, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

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. Construction-Related Air Pollution Controls (Dust and Equipment Emissions)

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

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.
- e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").
- i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Asbestos in Structures

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

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

17. Archaeological and Paleontological Resources – Discovery During Construction

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

find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

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

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Human Remains – Discovery During Construction

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. Construction-Related Permit(s)

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

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

20. Hazardous Materials Related to Construction

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

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Erosion and Sedimentation Control Measures for Construction

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

22. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged

to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

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

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

23. Source Control Measures to Limit Stormwater Pollution

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

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

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

24. Construction Days/Hours

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

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

c. No construction is allowed on Sunday or federal holidays.

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

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

25. Construction Noise

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

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

26. Extreme Construction Noise***a. Construction Noise Management Plan Required***

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

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

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

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

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

27. Construction Activity in the Public Right-of-Way***a. Obstruction Permit Required***

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

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Traffic Control Plan Required

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian detours, including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. ***Repair of City Streets***

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

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

28. Construction and Demolition Waste Reduction and Recycling

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

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

29. Underground Utilities

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

When Required: During construction
Initial Approval: N/A
Monitoring/Inspection: Bureau of Building

PROJECT SPECIFIC CONDITIONS

30. Semi-truck Delivery Management Plan (operating hours)

Within 90-days of final Zoning Approval for unpermitted improvements (i.e. this permit)

The applicant shall schedule appointments to unload big-rig (semi-truck) deliveries one at a time along the Lowell Street dock between 7 am and 5 pm. No big-rig trucks delivering to Suprema may arrive anywhere on Lowell Street or within the immediate area prior to 7:00 am. Additional or early-arrival trucks must be held in reserve outside the residential area until the dock is clear. Trucks that are not being unloaded must remain at a lawful off-site location such as designated truck stops near the Port or freeways. The applicant shall implement this delivery management plan with all delivery vendors.

When Required: Within 90 days of Approval of Zoning Permit (i.e. this permit) and Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Planning and/or Bureau of Building

31. Transportation Improvements

Requirement: The applicant shall submit a plan for a new sidewalk, curb and gutter and street trees on the west side of Lowell Street between 57th Street and Aileen Street adjacent to Suprema's building and shall install such improvements to City of Oakland standards pursuant to a public-improvements project, consistent with the following:

- a) 60 foot right of way, City improvements 2015-2017
- b) 42 foot right of way curb to curb; centerline to be adjusted by City
- c) 9-foot sidewalk to be installed with applicant assistance, including street trees
- d) Utility poles to be relocated at applicant cost, in concert with utilities and City Public Works, unless this condition (Condition 31d) is waived by Public Works
- e) Applicant to post signs, consistent with Condition 30, approved by City Public Works, regarding parking and unloading of trucks (time, place, manner) to minimize effects on neighbors; these signs are to be in the right-of-way on poles.

When Required: Plan submittal required prior to building permit issuance with completion of improvements within 90 days of building permit issuance;

Initial Approval: Bureau of Building; Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

32. Washing of Trucks

Ongoing

No washing of trucks shall occur on Suprema property including the property currently owned by Suprema located across Lowell Street from the warehouse. Truck washing shall occur at commercial truck washing facilities.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

33. Streetscape Landscaping***Prior to issuance of building permit (or other construction-related permit)***

The applicant shall coordinate with the Public Works Department as appropriate to determine suitable landscaping to be installed, such as street trees. As part of submittal of revised plans, the applicant shall also propose landscaping to be installed adjacent to the two-story portion of the building along Lowell Street.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

34. Gate Screening***Prior to issuance of building permit (or other construction-related permit)***

As part of submittal of permit plans, the applicant shall propose screening material such as slats or solid materials with sound attenuating characteristics, behind the gate and fence system on 57th Street, and shall install screening material upon approval and as part of this permit.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

35. Street Improvements and Loading System***Prior to issuance of building permit (or other construction-related permit) and ongoing***

Plans shall be revised within 30 days of approval of this permit to indicate a new dock facility for at least one delivery truck along Lowell Street (east elevation), and related public Right-of-Way improvements shall be made along the property's Lowell Street frontage (from 57th Street to Aileen Street) as needed to accommodate unloading of big rig trucks (semi-tractor trailer trucks). These public improvements shall be designed to City standards and shall include a sidewalk, curb, gutter, catch basins, pavement grade adjustments and any drainage improvements as needed per and to the satisfaction of the City Engineer (see COA #27). The construction of these improvements shall occur within 180 days of final zoning approval (or from the final decision under the City Appeal procedures, if applicable). Unloading of trucks on Lowell Street shall occur directly from the truck into the east side of the building. No unloading activity is allowed on 57th Street.

When Required: Ongoing

Initial Approval: Bureau of Planning and Bureau of Building

Monitoring/Inspection: Bureau of Building

36. Truck Loading***Ongoing***

The applicant shall not load/unload big rig trucks (semi-tractor trailer trucks) or any other trucks within the 57th Street right-of-way.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

37. Truck Parking***Ongoing***

No trucks owned or controlled by Suprema Meats Inc. shall park on 57th Street.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

38. Truck Delivery Management***Ongoing***

The applicant agrees to discontinue all delivery staging activities (i.e. movement of vehicles, equipment, and product into position for loading), vehicle loading and unloading activities, and vehicle & equipment maintenance activities at the 57th Street open loading facility between the hours of 8 pm and 7 am (daily). The foregoing sentence excludes the movement of pre-loaded vehicles leaving on delivery, which shall be limited as follows: Suprema shall limit all delivery activity noise generated from Suprema's 57th Street open loading facility between 8pm and 7 am (daily) to two 3-minute windows of time during which a maximum of 3 pre-loaded delivery trucks can be started and can exit the property during each of the said 3-minute windows (maximum of 6 delivery truck exits total). Said 3-minute windows shall not occur before 5:00 am.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

39. Modification of undermitted portion of canopy structure within 5' setback area***Prior to issuance of building permits***

Plans shall be revised within 30 days of approval of this permit to indicate the removal of the five-foot (5') section of canopy roof and any supporting appurtenances along the west perimeter of the property. Removal of the 5' section shall occur within 90 days of approval of this permit. Canopy and vertical wall elements may be constructed outside the 5' side setback and at the original 9-10' height.

When Required: Ongoing

Initial Approval: Bureau of Planning and Bureau of Building

Monitoring/Inspection: Bureau of Building

40. Acoustical Buffering and Noise Prevention

The applicant shall install, with permits, acoustical buffering and baffling below metal shade structures to limit the extent of noise which bounces off the structure toward residential properties. The applicant shall follow the recommendations of the 2015 Wilson and Ihrig noise study on file with the Zoning Manager which are incorporated herein by reference, including but not limited to:

- a. Sound barrier walls around all existing rooftop refrigeration units
- b. Seal gaps between sound barrier walls and roofs
- c. Provide airfoil fan blades on condensers
- d. Install mufflers on compressors

When Required: Prior to final inspections of building permits and Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

41. Permit Binding on Successors

Suprema hereby agrees that the conditions stated herein will be incorporated as terms of any agreement to lease, or sell the real property, any agreement to sell purchase and sale or transfer the business operating at the site that may be entered into between them and all potential lessee/purchaser for the Property or the business. Suprema further agree that their successors in interest, assigns, heirs and transferees will be bound by obligations herein, and they likewise will attach and incorporate all conditions stated herein into any lease or purchase and sale agreement for the Property or the business.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

42. Enforcement

Within 90-days of final Zoning Approval for unpermitted improvements (i.e. this permit)

The project applicant shall install/maintain at least two (2) video cameras along Lowell Street and one (1) on 57th Street with specific locations to be approved by the Zoning Manager, to monitor truck movements as well as the other Conditions. The video tapes shall include date and time information and shall be made available to the Zoning Manager and Inspections Manager for review upon request. If the tapes disclose violations of this or other conditions, the Zoning Manager and/or Inspections Manager or designee shall require compliance and may begin revocation proceedings if more than three violations are verified in any 30-day period.

When Required: Within 90 days of Approval of Zoning Permit (i.e. this permit) and Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Planning and/or Bureau of Building

43. Compliance Plan

While this approval may address or supersede some measures within the Compliance Plan signed by the applicant on October 20, 2014, the Compliance Plan is a stand-alone document and compliance with the Plan shall still be required.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Planning and/or Bureau of Building

Applicant Statement

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

Name of Project Applicant

Signature of Project Applicant

Date

City of Oakland
Community and Economic Development Agency
Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

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

Project Title: Suprema Meats-

Case No. PLN14-303

Applicant: Craig Miers, Architect

Project Location: 955 57th Street, Oakland, CA 94610

Project Description: Minor Conditional Use permit, Minor Variance, and Regular Design Review to legalize an unpermitted canopy at the rear and side of the property, rear loading dock and entry sliding fence/gate on 57th Street; and to construct a loading dock with opening gates on Lowell Street, including making exterior building alterations to the existing transport and warehouse facility.

Exempt Status:

Statutory Exemptions

Categorical Exemptions

- | | |
|--|---|
| <input type="checkbox"/> Ministerial {Sec.15268} | <input checked="" type="checkbox"/> Existing Facilities {Sec.15301} |
| <input type="checkbox"/> Feasibility/Planning Study {Sec.15262} | <input type="checkbox"/> Replacement or Reconstruction {Sec.15302} |
| <input type="checkbox"/> Emergency Project {Sec.15269} | <input checked="" type="checkbox"/> Small Structures {Sec.15303} |
| <input type="checkbox"/> Other: {Sec._____} | <input type="checkbox"/> Minor Alterations {Sec.15304} |
| <input checked="" type="checkbox"/> Disapproved Projects {Sec.15270} | <input checked="" type="checkbox"/> Infill Projects {Sec. 15332} |
| | <input type="checkbox"/> General Rule {Sec.15061(b)(3)} |

Other

- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- _____ (Sec. _____)

Reasons why project is exempt: Staff has denied the Minor Variance for the canopy in the side setback. This denial is exempt from environmental review per Statutory Exemption 15270 which notes that CEQA does not apply to projects that are disapproved. Staff has also determined that the project, including construction of the canopy outside the setback, is exempt from environmental review under Sections 15301, 15303 and 15183, each as a separate and independent basis, and when viewed collectively, as an overall basis for CEQA clearance.

Section 15301 of the CEQA Guidelines exempts from CEQA review those facilities which are existing. This exemption includes projects and minor alterations that involve negligible or no expansion of use beyond that existing. The project site already contains a food distribution facility with no restrictions. The changes to be legalized and those proposed will not result in an expansion of use, truck trips, noise with implementation of the Conditions of Approval. In addition, accessory (appurtenant) structures such as garages, carports, patios and fencing and the entry gate/fence, landscaping, windows and façade changes are specifically described in the exemption.

Section 15303 of the CEQA Guidelines exempts from CEQA review the construction and location of a small facilities including buildings in urbanized areas that do not exceed 10,000 sf of floor area where facilities which are existing, do not involve hazardous waste substances and are in areas that are not environmentally sensitive; utilities

and street improvements, and accessory (appurtenant) structures. The project includes a height increase to a 2,871-freezer area which would be under 10,000 sf floor area once constructed.

This project doesn't trigger any of the exceptions in CEQA Section 15300.2 that would disqualify it for an exemption. The project is not located in a particularly sensitive environment and would not result in a cumulative impact of successive projects of the same type and the same place being significant. The project site has been used as distribution facility since the 1940's per the Oakland Cultural Heritage Survey. Minor additions were approved in the 1950's prior to CEQA and other later improvements have been made over the years which were ministerial building permits not subject to CEQA. No expansion is anticipated and the improvements with the Conditions of Approval will restrict the operations. No successive projects are anticipated. The project will not result the reasonable possibility that activity and changes will have a significant effect due to unusual circumstances. Again, the facility is existing and not proposed to expand operations. The surrounding area has not changed substantially regarding the uses in the area and remains both industrial and residential. Furthermore, with implementation of the Conditions of Approval, the use will be further restricted to alleviate noise, air quality and traffic impacts on neighbors. The project is not located near a scenic highway or on a hazardous waste site. The property is not a historic resource.

Section 15332 of the CEQA Guidelines exempts from CEQA review infill projects that are consistent with the General Plan and Zoning, are within city limits, are less than 5 acres in an urban area, have no special studies species habitat, would not result in any significant traffic, air quality or noise impacts, and are served by utilities and services.

Finally, per Section 15183 of the CEQA Guidelines, the project is consistent with the City of Oakland's General Plan.

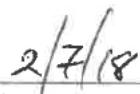
Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: Heather Klein, Planner IV

Phone: 510-238-3659



Signature (Robert Merkamp, Acting Zoning Manager)



Date:

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



**CITY OF OAKLAND
 APPEAL FORM
 FOR DECISION TO PLANNING COMMISSION, CITY
 COUNCIL OR HEARING OFFICER**

PROJECT INFORMATION

Case No. of Appealed Project: PLN 14-303
 Project Address of Appealed Project: 955 57th STREET, OAKLAND, CA
 Assigned Case Planner/City Staff: Heather Klein

APPELLANT INFORMATION:

Printed Name: STEVEN J HASSING JR Phone Number: (916) 677-1776 office
Suprema Mats, Inc
 Mailing Address: 955 57th LLC Alternate Contact Number: (916) 412-5847 cell
425 CALAGRIA COURT
 City/Zip Code: Roseville, CA 95247 Representing: Suprema Mats, Inc
 Email: s.j.hassing@supremamats.com and 955 57th LLC
by STEVEN J. HASSING, Attorney

An appeal is hereby submitted on:

- AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

YOU MUST INDICATE ALL THAT APPLY:

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) use permit / Design Review / Combinations

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
 - Determination of General Plan Conformity (OPC Sec. 17.01.080)
 - Design Review (OPC Sec. 17.136.080)
 - Small Project Design Review (OPC Sec. 17.136.130)
 - Minor Conditional Use Permit (OPC Sec. 17.134.060)
 - Minor Variance (OPC Sec. 17.148.060)
 - Tentative Parcel Map (OMC Section 16.304.100)
 - Certain Environmental Determinations (OPC Sec. 17.158.220)
 - Creek Protection Permit (OMC Sec. 13.16.450)
 - Creek Determination (OMC Sec. 13.16.460)
 - City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
 - Hearing Officer's revocation/impose or amend conditions (OPC Sec. 17.152.150 &/or 17.156.160)
 - Other (please specify) use permit (see attached)
- SR #11622 57 enclosed.

(Continued on reverse)

(Continued)

- A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)** Granting an application to: OR Denying an application to:

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) _____

FOR ANY APPEAL: An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision. The appeal must be accompanied by the required fee pursuant to the City's Master Fee Schedule.

You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.

The appeal is based on the following: *(Attach additional sheets as needed.)*


See pages 1-11 with exhibit "A-D" Attached

1622.57 enclosed by check # 6196

Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.)*

(Continued on reverse)

(Continued)


Signature of Appellant or Representative of
Appealing Organization

att. for appellants

Feb 19, 2018
Date

TO BE COMPLETED BY STAFF BASED ON APPEAL TYPE AND APPLICABLE FEE

APPEAL FEE: \$ _____

Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. All fees are due at submittal of application.

Below For Staff Use Only

Date/Time Received Stamp Below:

Cashier's Receipt Stamp Below:

CONTINUATION OF PAGE 2
APPEAL FROM DECISIONS AND INTERPRETATIONS
OF CITY OF OAKLAND PLANNING DEPARTMENT

In approving and partially approving Appellant's applications with conditions City of Oakland Planning Department committed error and abuse of discretion and made decisions and determinations which are not supported by substantial evidence, and in many instances, not supported by any evidence.

Introduction

Although this introduction has no bearing on Appellant's assignment of error, abuse of discretion and failure to make findings supported by substantial evidence, it should clarify certain misconceptions held by City Planning.

Appellant is in the process of complying with that part of the Compliance Plan necessary to relieve it of further participation thereunder. There is also a separate law suit now pending in Alameda County Superior Court seeking determination of Appellant's and City's rights and responsibilities under the Compliance Plan aimed at having the Compliance Plan declared terminated.

Appellant entered into the Compliance Plan in good faith in October of 2014 but, to the prejudice of Appellant, City unreasonably and inexplicably delayed action on Appellant's applications until February 7, 2018. Further, City has unfairly used the Compliance Plan as weapon against Suprema in a wrongful attempt to aid and assist Kim Lucas in her quest to cause Appellant to move from City of Oakland. For example, in 2015, City cited Appellant for 22 instances of violation of the Compliance Plan via forklift movement and 11 instances of nuisance. After two and a half years of litigation, including review by the First District Court of Appeal which found partially in favor of Appellants, City has been shown to have improperly cited Appellant in 28 of those 33 instances. In short, appellant will likely not be constructing a loading dock along Lowell.

THE FOLLOWING ARE FINDINGS, WHICH, UNLESS
OTHERWISE NOTED, ARE APPEALED BECAUSE THEY
ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE, ARE
ERRONEOUS AND THEY CONSTITUTE ABUSE OF DISCRETION

1. The proposal to legalize an unpermitted loading dock requires a Minor Conditional Use Permit. (§ I.A of Findings).
2. The loading dock is an unenclosed facility and therefore considered an Open Non-Residential Facility. (§ I.A of Findings).
3. The loading dock does not meet the definition of an accessory facility in Planning Code Section 17.10.70. (§ I.A of Findings).

4. All but the west 5 feet of the canopy will constitute a new non-residential activity and open facility. (§ I.A of Findings).
5. The canopy does not meet the definition of an accessory facility in Planning Code Section 17.10.70. (§ I.A of Findings).
6. Construction of the loading dock is considered a new principal facility. (§ I.E of Findings). Please see Exhibit "A" attached consisting of two pictures of the unpermitted loading dock.
7. Construction of the loading dock is considered an expansion of the overall use and footprint. (§ I.E of Findings).
8. The canopy and loading [dock] is considered a Warehousing and Storage activity. (§ I.A. of Findings).

Evidence and Legal Argument No 1; Pertaining to 1-8 Above

"Accessory Facility" means a facility, other than a sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable conditions set forth in §17.10.070.

"Accessory Structure" means a building or facility, other than a sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable regulations set forth in Title 17 of the Oakland Planning Code.

In addition to the principal facilities expressly included therein, each Nonresidential Facility type shall be deemed to include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to, such a principal facility; are located on the same lot as such principal facility; and meet the further conditions set forth hereinafter. Such accessory facilities shall be controlled in the same manner as the principal facilities within such type except as otherwise expressly provided in the zoning regulations. They include but are not limited to off-street parking and loading facilities if they are reserved for employees or other persons utilizing the principal facility. (OPC § 17.10.70A).

Unenclosed storage and service areas other than those listed elsewhere in this section, (i.e. OPC § 17.10.70A), qualify as accessory to a principal only if they do not exceed two hundred square feet each and are used for the temporary storage of trash; (OPC §17.10.070 C). Appellant's loading dock, canopy and staging area are not storage areas.

Warehousing, Storage and Distribution activities are classified as "Industrial Activities". (OPC §17.10.030D) (OPC §17.10.540). They include the warehousing and storage, primarily within enclosed buildings, of commercial goods and the associated distribution activities that occur on-site prior to delivery of goods to wholesale and retail outlets or direct shipment to customers. These activities may also include ancillary truck parking and dispatching; and accessory outdoor

storage areas where outdoor storage, not including parking and loading areas, does not occupy more than thirty percent (30%) of the total site area. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. (OPC §17.10.583A). No storage takes place in Appellant's open parking and loading area.

Appellant's loading area, dock and canopy qualify as accessory facilities because they are facilities as are customarily associated with, and are appropriate, incidental, and subordinate to, such its principal facility.

A "Facility" is defined by the Planning Code as a structure, open area, or other physical contrivance or object. (OPC §17.09.040) (OPC §17.10.020).

A "Structure" is defined by the Planning Code as any facility which is constructed or erected, and which is located on the ground or is attached to something having location on the ground. (OPC §17.09.040).

A "Footprint" is defined by the Planning Code as the total land area covered by all structures on a lot, measured from outside of all exterior walls and supporting columns, including residences, garages, covered carports, and accessory structures. (OPC §17.09.040).

Any proposal which conforms to the General Plan and which is permitted or conditionally permitted by the Zoning and/or Subdivision Regulations shall be processed in accordance with such code and/or regulations. (OPC §17.01.100A). It is only if the proposal conforms with the General Plan but is not permitted by the Zoning Regulations that approval depends upon obtaining a conditional use permit pursuant to Chapter 17.134.

9. The canopy will result in more loading and unloading outside, potentially added noise, and visual intrusions. (§ I.A of Findings).
10. The loading dock will result in more loading and unloading outside, potentially added noise, and visual intrusions. (§ I.A of Findings).
11. Use of the canopy in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce nuisances. (§ II. #2 of Findings).
12. Use of the canopy (after the west five feet have been removed) in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce noise impacts. (§ II. #2 of Findings).
13. Use of the loading dock in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce traffic impacts. (§ II. #2 of Findings).

14. Use of the loading dock in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce nuisances. (§ II. #2 of Findings).

15. The specific operational conditions of approval the City is attempting to require, i.e., locating more deliveries to Lowell Street and inside, development and implementation of a delivery management plan, transportation improvements, truck loading and parking and noise measures will address the new and additional loading, unloading, added noise and visual intrusions caused by the loading dock and canopy. (§ I.A of Findings).

16. The development and implementation of a delivery management plan, transportation improvements, truck loading and parking and noise measures are necessary to minimize the potential impacts on residential neighbors associated with the unpermitted loading dock and canopy. (§ I.A of Findings).

17. The loading dock is creating nuisances not existing before the dock was created. (§ I.A of Findings).

18. The canopy (except for the west 5 feet thereof) is creating nuisances not existing before it was built. (§ I.A of Findings).

19. The proposal is to add truck, traffic and noise elements to a warehouse facility. (§ I.D of Findings).

20. City staff may impose Conditions of Approval related to the effects of the loading dock. (§ I.D of Findings).

21. The delivery management plan, transportation improvements, truck loading and parking and noise measures are necessary to minimize the potential impacts on residential neighbors associated with the loading dock and canopy. (§ I.D of Findings).

22. City found that its staff may impose Conditions of Approval related to the effects of the “these features” but failed to describe to what “feature” it was referring other than the loading dock. (§ I.D of Findings).

23. City found that its staff may impose Conditions of Approval related to the effects of the “these features” (loading dock and canopy?) but went on to find “and consistency with the intent (respect for environmental quality) and character (conditions to allow business and residential to co-exist)” which is unintelligible and makes no sense. (§ I.D of Findings).

24. Implementation of the Conditions of Approval reduces impacts on residents related to traffic. (§ I.D of Findings).

25. Implementation of the Conditions of Approval reduces impacts on residents related to noise. (§ I.D of Findings).

26. The delivery management plan, transportation improvements, truck loading and parking and noise measures are necessary to move loading activities to the more industrial façade along Lowell Street. (§ I.D of Findings).

27. The Conditions of Approval are essential to the coexistence of the business and adjacent residential. (§ I.D of Findings).

Evidence and Legal Argument No 2: Pertaining to 9-27 Above

There is absolutely no evidence that the unpermitted loading dock or canopy has increased loading or unloading, increased noise or that the dock increased visual intrusions. With respect to the loading dock the exact opposite is true. Before the dock was put in it took three men fifteen minutes to load one truck. With the dock it takes two men five minutes. Before the dock a pallet jack removed a pallet of product from the freezer, driving it to the back of the truck and then dropping it.

Next a forklift picked the pallet up and placed it into the truck. Once in the truck, a man in the truck, using a hand jack, turned the load around and walked it back towards the front of the truck. The hand jacks are only made with metal wheels that make unwelcome noise when rolled on the aluminum bed of a truck. But with the dock, the pallet jack that removes the product from the freezer moves right into the truck on its polyurethane wheels and puts the load in place. Using the dock is much faster and much quieter than loading trucks without the dock.

Further, Suprema would be loading exactly the same number of trucks with or without the unpermitted dock or canopy which, incidentally, serves to keep a certain amount of noise from reaching the street.

Moreover, use of the dock enables Suprema to load one truck at a time and then park it for the night. Before the dock was built Suprema backed two trucks in for loading and loaded four on 57th. Accordingly, without the dock there is far more truck noise and traffic impacts than with it.

Finally, the existing loading dock is exempt from design review pursuant to OPC 17.136.025 A 1-5 and B1g.

Any proposal which conforms to the General Plan and which is permitted or conditionally permitted by the Zoning and/or Subdivision Regulations shall be processed in accordance with such code and/or regulations. (OPC §17.01.100A). It is only if the proposal conforms with the General Plan but is not permitted by the Zoning Regulations that approval depends upon obtaining a conditional use permit pursuant to Chapter 17.134.

28. The development and implementation of a delivery management plan, transportation improvements, truck loading and parking and noise measures will address existing nuisances. (§ I.A of Findings).

29. Neighborhood nuisance complaints related to air quality will be reduced or resolved by the redesign of the facility and by implementation of the imposed Conditions of Approval. (§ I.B of Findings).

30. The delivery management plan, transportation improvements, truck loading and parking and noise measures are necessary to minimize existing nuisances. (§ I.D of Findings).

31. Implementation of the Conditions of Approval will reduce nuisances. (§ I.D of Findings).

32. Use of the canopy (after the west five feet have been removed) in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce nuisances. (§ II. #2 of Findings).

33. Use of the loading dock in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce nuisances. (Sec II. #2 of Findings).

Evidence and Legal Argument No 3: Pertaining to 28-33 Above

Appellant has never been found to have created a nuisance, private or public. In fact, the one time that City of Oakland cited Appellant for eleven separate instances of nuisance the City's own Hearing Examiner, on November 19, 2015, chided the City in his written findings and decision, writing;

The City of Oakland has a noise control ordinance. This ordinance should have been used for any alleged noise complaint violations. The fact that it was not used was clear error and/or abuse of discretion.

Even since, City has hired noise experts to try and catch Suprema violating noise ordinances. No noise nuisance citations or notices of violation have been issued. Accordingly, to cite to *nuisances* (instead of simply neighbor complaints) when there have been no finding of nuisance, is error and abuse of discretion. Moreover, the existing loading dock is exempt from design review pursuant to OPC 17.136.025 A 1-5 and B1g.

Any proposal which conforms to the General Plan and which is permitted or conditionally permitted by the Zoning and/or Subdivision Regulations shall be processed in accordance with such code and/or regulations. (OPC §17.01.100A). It is only if the proposal conforms with the General Plan but is not permitted by the Zoning Regulations that approval depends upon obtaining a conditional use permit pursuant to Chapter 17.134.

34. Implementation of the Conditions of Approval reduces impacts on residents related to air quality. (§ I.D of Findings).

35. Use of the canopy (after the west five feet have been removed) in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce air quality impacts. (§ II. #2 of Findings).

36. Use of the loading dock in a manner which creates minimal impact on neighbors requires that The Conditions of Approval now imposed be implemented to reduce air quality impacts § II. #2 of Findings).

Evidence and Legal Argument No 4: Pertaining to 34-36 Above

There is no evidence to support the contention that the loading dock and canopy have in anyway impacted air quality, making it worse than it was before the loading dock and canopy were installed. Moreover, the existing loading dock is exempt from design review pursuant to OPC 17.136.025 A1-5 and B1g.

The purpose of the provisions of the *conditional use permit procedure* is to prescribe the procedure for the accommodation of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary, the imposition of special conditions of approval. This procedure shall apply to all proposals for which a conditional use permit is *required* by the zoning regulations.

(OPC 17.134.010)

37. The Conditions of Approval related to truck traffic, unloading, parking, washing, and management, acoustic buffering and street improvements are necessary to insure that the freezer addition will operate with minimum overflow of noise and other effects onto adjacent buildings. (§ II. #1 of Findings).

Evidence and Legal Argument No 4: Pertaining to 37 Above

There is no evidence to support the contention that modifications made to the freezer impact or are impacted by truck traffic, unloading, parking, washing and management, or street improvements.

The provisions of this Chapter shall be known as the design review procedure. The purpose of these provisions is to prescribe the procedure for the review of proposals located in areas or on sites, or involving uses, which require special design treatment and consideration of relationships to the physical surroundings. This procedure shall apply to all proposals for which design review is required by the zoning regulations. **(OPC 17.136.010)**

38. If the canopy is retained as it has been constructed, open loading/unloading would occur closer to the property line. (§ III. #2 of Findings).

39. Removing the portion of the canopy that encroaches into the 5 foot setback area and the reduction of the screening wall to its original height (approximately 9 to 10 feet) will move open loading/unloading activities away from the neighbor. (§ III. #2 of Findings).

40. Retaining the canopy along the side property line would increase potential nuisance activities occurring closer to the property line. (§ III. #3 of Findings).

Evidence and Legal Argument No x; Pertaining to 38-40 Above

There is absolutely no evidence, in fact it is totally false, that if the canopy and the loading dock were both to be removed that loading activities would not take place as close to the west property line as they now do. In fact, with the loading dock, each truck is loaded 20 feet east of Appellant's western property line and neighbor to the west. If the dock is removed, Appellant will pull three trucks in instead of one and load all three. The third truck would be right at the property line between Appellant and his neighbor to the west.

CONDITIONS OF APPROVAL

II. Approval of a Minor Conditional Use permit for **Open Non-Residential Facilities** (unpermitted loading dock) under OMC Chapter 17.134, and partial approval for the unpermitted expansion of the canopy.

III. Approval of a Regular Design Review permit for the **unpermitted loading dock** and entry **sliding gate/fence** under OMC Chapter 17.136.

The requirements imposed by the Conditions are totally unrelated to the unpermitted loading dock, canopy, new refrigeration equipment or the gate. Accordingly, imposition of the Conditions of Approval as a condition precedent to allowing the previously unpermitted loading dock and the canopy (except for the west five feet thereof) to remain, constitutes error, abuse of discretion and are not supported by substantial evidence.

Conditions 30-32, 38 & 40

Suprema will not be construction a loading lock on the east side of its building facing Lowell. Conditions 30-32, 38 & 40 therefore bear no relationship to the unpermitted refrigeration equipment, the unpermitted loading dock, the sliding gate or the unpermitted canopy and their requirement is error, abuse of discretion and unsupported by substantial evidence.

DATE this 19th day of February, 2018

Steven J. Hassing
Attorney for Suprema Meats, Inc and 955 57 LLC

DECLARATION OF MIGUEL JARA, JR
IN SUPPORT OF FEBRUARY 19, 2018 APPEAL

I, Miguel Jara, Jr., declare;

1. I am over 18 years of age, am president of Suprema Meats, Inc., and managing member of 955 57th LLC, (“Appellants”), have personal knowledge of each fact stated below and can and will testify to same in court should it become necessary.
2. Suprema has been operating from 955 57th since June of 1996.
3. The area which now serves as the unpermitted loading dock and the surrounding open area contiguous with the loading dock is shown on Exhibits “A”, “B” and “C”, attached hereto. The unpermitted canopy can be seen behind the black truck.
4. The area which now serves as the loading dock has continuously been used by Suprema for loading trucks since June of 1996. The only difference is that trucks being loaded in that area now sit lower than they did before the grade was reduced.
5. On information and belief, meat trucks used that same area for years prior to Suprema opening its business at that location.
6. The dock and open area around it are used for loading and parking.
7. The dock and open area around it are not used for storage.
8. The dock and open area around it are appropriate, incidental, and subordinate to, Appellant’s principal adjoining facility.
9. The dock is a facility which is constructed on the ground at 955 57th.
10. The area which is now the dock is, and always has been, part of the footprint of the facility at 955 57th.
11. The canopy bears no relationship to the amount of loading and unloading and noise at Appellants’ facility.
12. The loading dock has not and will not result in more loading and unloading. Loading is a direct function of orders and unloading, takes place on Lowell and is an indirect function of loading.

13. The loading dock has not added noise. It has done the opposite. Before the dock was put in it took three men fifteen minutes to load one truck. With the dock it takes two men five minutes. Before the dock a pallet jack removed a pallet of product from the freezer, driving it to the back of the truck and then dropping it.

Next a forklift picked the pallet up and placed it into the truck. Once in the truck, a man in the truck, using a hand jack, turned the load around and walked it back towards the front of the truck. The hand jacks are only made with metal wheels that make unwelcome noise when rolled on the aluminum bed of a truck. But with the dock, the pallet jack that removes the product from the freezer moves right into the truck on its polyurethane wheels and puts the load in place. Using the dock is much faster and much quieter than loading trucks without the dock.

Suprema would be loading exactly the same number of trucks with or without the unpermitted dock or canopy which, incidentally, serves to keep a certain amount of noise from reaching the street.

Moreover, use of the dock enables Suprema to load one truck at a time and then park it for the night. Before the dock was built Suprema backed two trucks in for loading and loaded four on 57th or pulled the loaded trucks out so it could load more trucks in the accessory area after which all of the loaded trucks had to be brought back into that area for the night creating additional truck noise.

Accordingly, without the dock there is far more truck noise and traffic impacts than with it.

14. Other than its proximity to the neighbor to the west, the canopy has no relationship to noise, loading, traffic or any other neighborhood impact.

15. The development and implementation of a delivery management plan, transportation improvements, and dock along Lowell all related to unloading, do absolutely nothing with regard to Appellant's uses of the loading dock which is used only to load its own trucks for delivery.

16. To my knowledge there have never been complaints from the neighbors regarding air quality. Because the loading dock lessens the time it takes to load trucks and the number of times trucks must be moved, the dock serves to increase, not decrease, air quality.

17. Appellant has never been found to have created a nuisance, private or public. In fact, the one time that City of Oakland cited Appellant for eleven separate instances of nuisance the City's own Hearing Examiner, on November 19, 2015, chided the City in his written findings and decision, writing;

The City of Oakland has a noise control ordinance. This ordinance should have been used for any alleged noise complaint violations. The fact that it was not used was clear error and/or abuse of discretion.

(see Ex "D" attached)

Even since, City has hired noise experts to try and catch Suprema violating noise ordinances. No noise nuisance citations or notices of violation have been issued.

18. The canopy bears no relationship to open loading or unloading. Removal of any part of the canopy would have no impact on Appellants' operations at or near their west property line. The loading dock is approximately 20 feet east of Appellant's western property line and neighbor to the west. If the dock is removed, Appellant will pull two or three trucks in instead of one causing one truck to be loaded right at the property line between Appellant and his neighbor to the west.

19. Reduction of the screening wall to its original height would have absolutely no effect on Appellants' operations at or near their west property line.

20. The work performed in the freezer area and to the refrigeration equipment has no bearing on loading, noise or traffic which are strictly a function of orders and efficiency provided by the loading dock.

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I executed this declaration in Oakland on the date noted below.

DATED this 19th day of February, 2018

Miguel Jara, Jr.

EXHIBIT “A”



EXHIBIT “B”

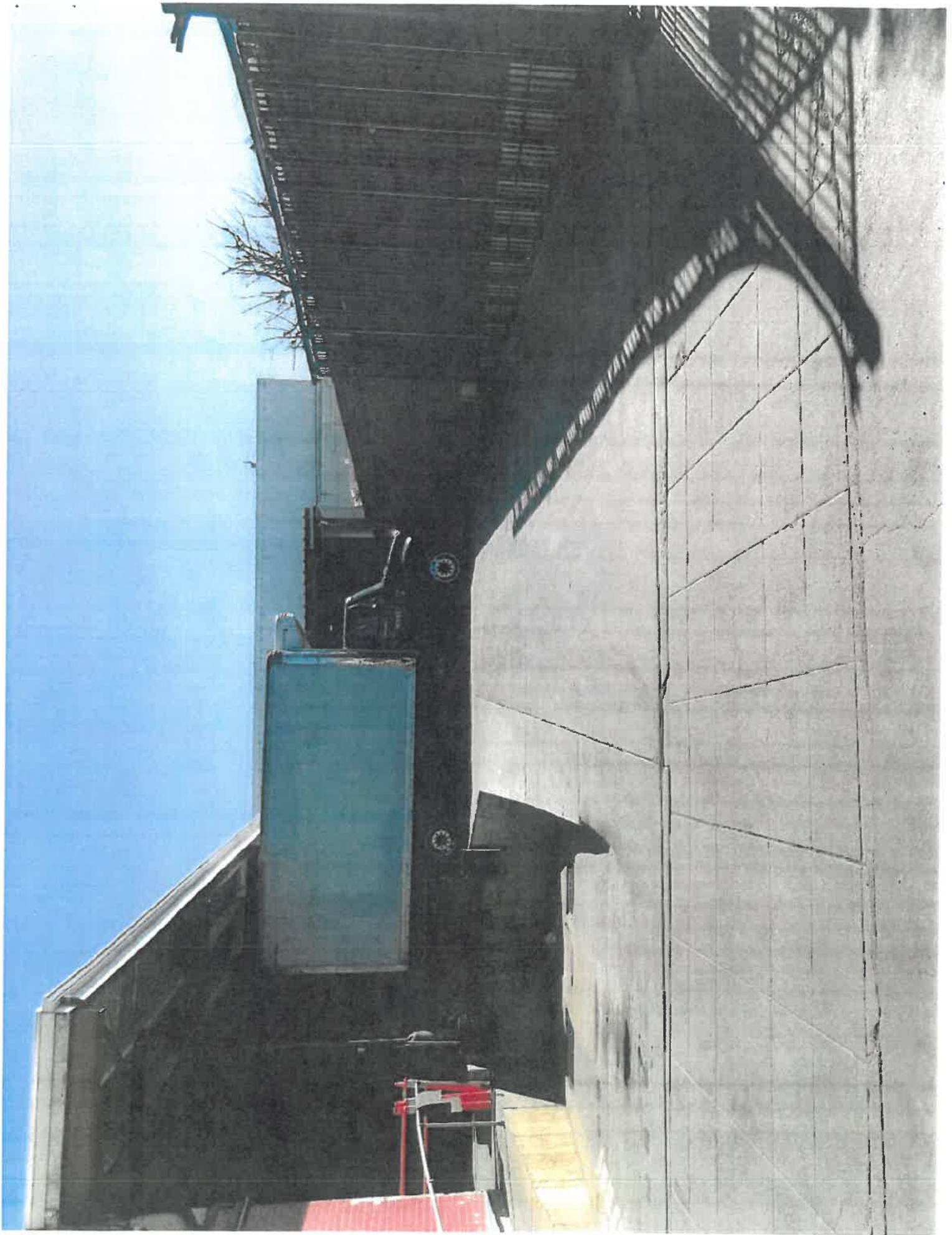


EXHIBIT “C”



EXHIBIT “D”

**Administrative Appeal Hearing,
City of Oakland**

City of Oakland,

vs.

Suprema Meats, Inc.
955 57th St.
Oakland, CA 94608

Building Services Complaint No.
1303769

APN: 015 – 1298 – 009 – 00

Trial Date: August 12, 2015

**Order and Fine for
Violation of Compliance Plan**

_____ /

Findings of Fact

The City of Oakland requested exhibits A through J be entered into evidence. The defendant requested exhibits 1 through 12 be entered into evidence. These exhibits are documents, videotapes, and photographs which accurately reflected the conditions at Suprema Meats, Inc. All the exhibits were entered into evidence, although exhibits G 3–5 were entered for the limited purpose of supporting the city of Oakland's decision that there was probable cause to conclude that the defendant had violated the compliance plan.

Exhibit A is a Google map of 955 57th St., Oakland, CA 94608.

Exhibit B is a copy of the compliance plan entered into the defendant and the city of Oakland on or about October 20, 2014. Inter alia, it states:

“6. Not later than one month from the execution date of this compliance plan, Owner(s) agree to discontinue all delivery staging activities (i.e. movement of vehicles, equipment, and product it into position for loading), vehicle loading and unloading activities, and vehicle and equipment maintenance activities at Suprema's 57th Street open loading facility between the hours of 9 pm and 7 am (daily).

Exhibit C is a copy of a notice of compliance plan violation dated February 17, 2015. These alleged violations were not subject to the hearing because the defendant agreed to pay the \$8000.00 Fine, prior to the hearing.

Exhibit D is a copy of the notice of the compliance plan violation dated June 23, 2015. Parties stipulated that the \$500 fine for June 12 was no longer in issue. This letter assesses \$11,500.00 in penalties on various dates for “9 pm – 7 am Forklift Activity in violation of paragraph 6”

Exhibit E is a CD of videos "Suprema NOV, June 2015".

Exhibit F is the is a copy of the notice of the compliance plan violation dated July 23, 2015. This letter assesses \$11,500.00 in penalties on various dates for "9 pm – 7 am Forklift Activity in violation of paragraph 6 and O.M.C. 1.08".

Exhibit G1 is a CD of videos "Suprema NOV, July 2015"

Exhibit G2 are emails starting from Kim Lucas to Gregory Minor with the date of July 14, 2015

Exhibit G3 is a declaration of Mandip Dhillon

Exhibit G3 is a declaration of Mandeep Kaun

Exhibit G3 is a declaration of Gerald Herbert

Exhibit H are various emails from Gregory Minor to Michael Jara

Exhibit I is an email from Marcela Jara and Rachel Flynn

Exhibit 1 is defendant's copy of the compliance plan

Exhibit 2 is a August 25, 2014 email from the Quesada to Jara

Exhibit 3 is a letter from attorney Hassing to Quesada

Exhibit 4 is a September 16, 2014 email from the city to defendant

Exhibit 5 is an October 8, 2014 email from the city to defendant

Exhibit 6 is a copy of a May 10, 1955 application for permit

Exhibit 7 is a city account details report dated July 28, 2014 showing that defendant obtained its business license on or about June 1, 1996

Exhibit 8 are sound graphs prepared by defendant's sound expert

Exhibit 9 is the resume of defendant's sound expert

Exhibit 10 is a January 1, 2014 email from Gennino to Jamerson

Exhibit 11 is a January 17, 2014 email from Gennino to Jamerson

Exhibit 12 is an email from Candia to Jonsson

Witnesses called by the City:

Kim Lucas of 268 57th St., Oakland, CA testified that she was awoken almost every early morning by noises emanating from defendant's business. Her videotapes of forklift activity were helpful and entered into evidence. I found her to be a credible witness, although clearly not a disinterested one. She testified that she has owned her residence for a couple of years along with her husband. If defendant is forced to relocate; presumably, the Lucas property would go up in value.

Mandip Dhillon lives right next door to defendant's business. It cannot be over emphasized how close defendant's business and his residence are. He testified that he and his children have been awoken almost every early morning by noises emanating from defendant's business. He testified that along with his family, his brother and parents also live in the same house. I found him to be a credible witness, although clearly not a disinterested one. If defendant is forced to relocate; presumably, this property would go up in value.

Mandeep Kaun, Mandip Dhillon's wife, lives right next door to

defendant's business. She testified that she and her children have been awoken almost every early morning by noises emanating from defendant's business. She also testified that her young children may be experiencing significantly poorer health because of being awoken in the early morning hours. She testified that she had lived there since approximately 2011. I found her to be a credible witness, although clearly not a disinterested one. If defendant is forced to relocate; presumably, this property would go up in value.

Gerald Herbert lives right across the street from defendant's business. It cannot be over emphasized how close defendant's business and his residence are. He testified that he is awoken almost every early morning by noises emanating from defendant's business. He testified that he is considering moving because the noise after his one-year lease expires. I found him to be a credible witness, although clearly not a disinterested one. If defendant is forced to relocate; presumably, this property would be more desirable to rent.

Gregory Minor, is an assistant to the city administrator in charge of nuisance abatement. He testified, inter alia, regarding his decision to assess penalties against defendant for compliance plan violations along with violations of OMC 1.08. I found him to be a very credible witness.

Witnesses called by the defendant:

Miguel Jara Jr. testified on behalf of the defendant Corporation. He testified that he was the president and owner of the meat distributor and had been for some 20 years. (The business obtained a business license for the 9552 7th St. location on or about June 1, 1996.) He testified that he employed approximately 30 workers. He testified regarding his agreement to enter into the compliance plan. He also testified that on the dates cited, no product was moved.

I found him to be a credible witness, although clearly not a disinterested one. If defendant is forced to relocate; presumably, his business would suffer the expense of moving and possibly increased cost for the land used by the business.

Derek L. Watry testified as an expert witness on behalf of the defendant Corporation. He testified that he was the president and CEO of Wilson Ihrig and Associates, a firm of acoustic and vibration consultants. He testified that he tested the sound emitted by various activities of defendant. He further testified that at no time during his testing did defendant exceed the levels of noise prescribed by Oakland's noise code. I found him to be a credible expert witness, although clearly not a disinterested one. He was hired to testify for the defendant and it should be emphasized that he is not percipient witness on any of the dates the city wishes to enforce penalties for excessive noise.

Bradley Scott, B.A., M.A. testified as an expert witness on behalf of the defendant Corporation. He testified that he was professor of English for Golden Gate University for some 20 years. He testified as to how the compliance plan should be interpreted from the standpoint or normal use of the English language. I found him to be a credible expert witness, although clearly not a disinterested one. He was hired to testify for the defendant.

Chris Candell was called as a percipient witness by the defendant Corporation. He testified that he works for the city of Oakland in the area of noise readings. He testified that he tested the sound emitted by various activities of defendant, on August 27, 2014, April 21, 2015, and June 2, 2015 and at no time during his testing did defendant exceed the levels of noise prescribed by Oakland's noise code. On June 2, 2015 he recorded noise levels from 4:54 AM to 6:05 AM. During his testing, he recorded noise levels of 37 dB, 47.7 dB, 46 dB, and 48.2 dB. I found him to be a very credible percipient witness.

Bill Casada, zoning inspection supervisor for the city of Oakland was called as a witness by defendant Corporation. He testified that his understanding of the compliance agreement was that no forklift movement was to be allowed from 9 PM to 7 AM. He testified as to how the compliance plan had gone through through various drafts, until the final draft was agreed to. I found him to a very credible witness.

Findings of Fact

The defendant and the City of Oakland entered into a compliance plan on or about October 20, 2014 . Inter alia, it states:

“6. Not later than one month from the execution date of this compliance plan, Owner(s) agree to discontinue all delivery staging activities (i.e. movement of vehicles, equipment, and product it into position for loading), vehicle loading and unloading activities, and vehicle and equipment maintenance activities at Suprema's 57th Street open loading facility between the hours of 9 pm and 7 am (daily).” Suprema Meats, Inc. entered into a compliance plan with the City of Oakland to, inter alia, reduce the amount of noise created by the meat distributor.

I find from the video-graphic and other evidence that there was equipment (a forklift) being moved to position product for loading, and/or there was movement (by hand) of product into position for loading on the following dates:

1. On June 19, 2015, boxes were being moved at approximately 4:15 AM,
2. On June 25, 2015, a man was moving a box at approximately 4:13 AM,
3. On July 2, 2015, boxes were being moved at approximately 4:15 AM,
4. On July 3, 2015, boxes were being moved at approximately 4:19 AM,
5. On July 9, 2015, boxes were being moved at approximately 4:15 AM,

6. On July 13, 2015, boxes were being moved at approximately 4:16 AM.

Any sound made relatively close to someone at 4 o'clock may awaken that person especially if that person has good hearing, such as a child, or is a light sleeper. It may interfere with the comfortable enjoyment of property; however, not every sound constitutes an actionable nuisance even at 4 o'clock in the morning. I could not determine from the evidence presented whether the sound generated was objectively offensive, on the various dates cited. However, on June 2, 2015, Chris Candell, an employee of the city, measured the noise levels from about 4:54 AM until about 6:05 AM. He found no noise code violation. Consequently I find that the defendant did not exceed reasonable noise levels on June 2, 2015, at least during the times tested.

Conclusions of Law

Suprema Meats, Inc. has violated the compliance plan on the foregoing six dates. The City of Oakland's assertions, that the operations of the defendant also violate Oakland municipal code section 1.08, were unproven. The City of Oakland should have used its noise ordinance to prosecute the defendant if there was probable cause that the noise exceeded legal limits.

Under the city of Oakland's interpretation, any noise at 4 o'clock in the

morning could be interpreted as being offensive to the senses so as to interfere with the comfortable enjoyment of life or property under Oakland Municipal Code § 1.08.

In fact, all of the complaining witnesses live extremely close to the defendant and some of them actually live right next door to the defendant. The City of Oakland has a noise control ordinance. This ordinance should have been used for any alleged noise complaint violations. The fact that it was not used was clear error and/or an abuse of discretion. The City of Oakland has adopted local noise regulation as O.M.C. §8.18.010.

On the one date, cited by the city that the City of Oakland had one of its sound technicians measure the noise produced by the defendant, the City of Oakland's sound technician determined that there was no noise code violation. This would appear to explain why the City of Oakland is attempting to prosecute defendant for noise under the general nuisance ordinance, O.M.C. §1.08, rather than the much more specific, local regulation, O.M.C. §8.18. They simply did not have evidence to go forward against the defendant under O.M.C. §8.18. The City of Oakland cites *City of Bakersfield v. Miller* (1966) 64 Cal. 2d 93, 100. Consequently they should be aware that where the municipal legislature has determined that a defined condition or activity is not a nuisance (e.g. under O.M.C. §8.18) it would be the usurpation of the legislative power for a court to

arbitrarily allow enforcement merely because in its independent judgment the noise caused by the violation was significant. In other words, Oakland has adopted O.M.C. §8.18. If there is no noise code violation under that ordinance, it would be a usurpation of the City of Oakland's legislative power to allow this tribunal or any individual, working on behalf of the city, to supplant his or her independent judgment of what constitutes sufficient noise to be a nuisance. Nothing in this opinion, prevents the city, in the future, from sending out a sound technician to determine whether the defendant is violating O.M.C. §8.18 and proceeding accordingly.

Since no nuisance was proven under O.M.C §1.08, There is no need to determine whether California Civil Code § 3482.6 is controlling. (See also *Mohilef v. Janovici* (1996) 51 Cal. App. 4th 267, 306-7; 58 Cal. Rptr, 2d. 721.)

In this particular case the City is requesting \$1000.00 per day as a civil penalty. The City, having proved the violation of the compliance plan, is entitled to charge a \$3500.00 nuisance case fee under Oakland Master fee schedule section B– 10.

Order


The appeal of defendant is hereby denied, in part.

For violations of the agreed compliance plan:

Suprema Meats Inc. is hereby ordered to pay a total fine of \$9500.00 to the City of Oakland. (\$3500.00 under Oakland Master fee schedule section B- 10. AND \$6000.00 for the six days it violated the compliance plan). Neither party is awarded attorney's fees or costs, other than the fine above. This order goes into effect 35 days after mailing of the order.

Dated: November 9, 2015

By:



S. D. Rine
City of Oakland Hearing Officer

**LAW OFFICE OF STEVEN J. HASSING
STEVEN J. HASSING**

916-677-1776
425 CALABRIA CT
ROSEVILLE, CA 95747-5023

6196

96-505/1232
50127

DATE 2-20-18

CHECK # 6196

PAY
TO THE
ORDER OF

City of Oakland

\$ 1622⁵⁷/₁₀₀

Sixteen hundred twenty two + ⁵⁷/₁₀₀

DOLLARS

Security Features Details on Back



UMPQUA
BANK

1-866-4UMPQUA
(1-866-486-7782)

FOR

PLN 14-303 Appeal - Supreme

Kimberly A. Hassing



Steve Hassing

From: Jonsson, Ulla-Britt <UJonsson@oaklandnet.com>
Sent: Wednesday, January 28, 2015 2:21 PM
To: cmiers@mierscottarchitects.com
Cc: Marvin, Betty
Subject: FW: Suprema Meats 012415

Hi Craig,

Here are our historic planner's comments. I think you will find them helpful. Please respond to Betty's questions.

Ulla-Britt

Ulla-Britt Jonsson, Planner
City of Oakland Bureau of Planning
250 Frank H. Ogawa Plaza, Oakland, CA 94612
Direct: (510) 238-3322 | Fax: (510) 238-4730
ujonsson@oaklandnet.com | www.oaklandnet.com/planning

From: Marvin, Betty
Sent: Wednesday, January 28, 2015 1:55 PM
To: Jonsson, Ulla-Britt
Subject: RE: Suprema Meats 012415

Hi, Ulla –
My 2 cents worth:

The original part of this building has a 1944 permit date for a "brick and tile warehouse" 60x180x16' designed by Alben Froberg. Additions at the Aileen Street end date from 1945-46, and the "second floor office area" was added in 1955. The upper story probably looked just as it does now: the Sanborn map shows the office wing as brick below and "Frame 2nd."

The Dc3 rating makes it at least minimally a PDHP (largely because of Froberg, a notable designer of industrial buildings in the mid-20th century).

The totally authentic treatment for the upper story would probably be to patch and paint the stucco or otherwise maintain its appearance as a woodframe addition, but I don't see that a contrasting brick (or paint, or siding, or any other treatment) would be outright wrong. (In fact, if one wanted to get deep into preservation theology, *exactly matching* brick could arguably be "wrong" as False Historic Appearance.) The finding of equal or better design quality is pretty much what Craig is saying in #3, and the drawings look to me as if they meet that.

Here are my questions: Comparing drawings and photos, it appears that they are reshaping and relocating most of the upstairs windows, which isn't explicitly called out on the plans or in any of the discussion (it looks fine, but it ought to be noted, since it's a bigger change and a bigger construction job than just swapping sash). The plans say "replace 2nd flr steel sash windows ... to match ... first floor." It would be good to know what product or manufacturer they are using. Will the roof need reinforcing to support the weight of the brick veneer? And what about the paint on the existing bricks?

OK, I see some of my questions answered in a different email chain:

"The same brick veneer was used to cover the wall next to the driveway. It looks very similar to the brick that is on the building. It's a wire cut brick. This brick has been re-introduced to the market because of the high demand it has. Experience, texture, size and color is almost the same, if the old brick looks faded next to the new brick we can stain it to match it. [I think a slight contrast would be a good thing, as showing how the building has evolved.]

Plaster was not in the original building and it was clearly a mistake using it on the second floor. I have gone out of my way to find matching second floor windows [would like to know specs/supplier, since the need to replace factory sash comes up frequently] and I have ask permission to re-iline them to match the first floor windows.

The brick is the only thing needed to tie-in the whole building. Even if the brick has a slight color difference, the building will look TEN times better if the second floor is finish with veneer brick.

Thanks
MJ

Betty Marvin, Historic Preservation Planner | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 3315 | Oakland, CA 94612 | Phone: (510) 238-6879 | Fax: (510) 238-6538 | Email: bm Marvin@oaklandnet.com | Website: www.oaklandnet.com/planning

Miracle-Gro People's Choice Community Garden Grant - Thank You for Voting!

You can vote once every 24 hours until February 9, so check back tomorrow to cast another vote!

<http://gro1000vote.com/#>

From: Craig Miers [<mailto:cmiers@mierscottarchitects.com>]
Sent: Wednesday, January 28, 2015 11:28 AM
To: Jonsson, Ulla-Britt; Marvin, Betty; Brenyah-Addow, Maurice
Cc: mmjara@comcast.net; sjh@hassinglaw.com; Quesada, Bill; Miller, Scott
Subject: RE: Suprema Meats 012415

Ulla-Britt

1. This is not a Historical Building, and the original date of the first story brick is unknown to us. The second floor addition was constructed approximately in 1955. The plaster vertical face of the second floor is stepped back from the brick course of the first floor. This can be seen on our detail 1/A8.1 on the submittal package you currently have ('the windows only permit').
2. Given the age of the existing brick, if we even found a match, the age would prevent a visible match. Quite frankly I think it could be a different color and be quite acceptable. But Miguel, is looking for one in a close appearance.
3. In either case the addition of a brick veneer to the second floor will greatly enhance the Building and the immediate neighborhood.

Craig

Thank you.
If you have any questions or comments please contact us
Craig Miers, AIA

Craig Miers + George Scott Architects, llp
1624 Santa Clara Drive, Suite 230
Roseville, CA 95661
(916) 780-0100

From: Craig Miers [<mailto:cmiers@mierscottarchitects.com>]
Sent: Saturday, January 24, 2015 2:23 PM
To: Jonsson, Ulla-Britt; Quesada, Bill

Cc: mmjara@comcast.net; sjh@hassinglaw.com

Subject: Suprema Meats 012415

Hi Ulla,

The permit for 'window replacement only' has been approved by the Building Department. We still would like to obtain a permit for the inclusion of plaster repair and thin brick veneer as originally submitted (and ultimately held up by the red-tag) in 2013. Our documents supersedes those submitted in 2013, but I have included a copy of those for your information attached to this email. The upper portion will still be unsightly as the plaster still needs to be repaired and we would like to do that prior to the installation of the brick veneer.

Bill,

Per our discussions over this past summer in when you inquired about timing of Construction of the various proposed work for Suprema. our responses were based on two separate planning packages. From what I understand during this past week both of our planning packages are being considered as one submittal. Again, from what I understand, in this planning review direction, approved items can still be subject to 'appeal' by the neighbors. Thereby eliminating our ability to submit and possible construct the work along Lowell Street sooner.

Our responses during this summer's resolution process will need to be amended and our timing for submittal of documents for review by the Building Department and ultimate Construction will need to be extended. We had submitted two succinct packages, one for the 'conditional use permit' which can be appealed, and one for a straight design review, (The Lowell Street proposed work), which would not be subject to neighborhood appeal and allow us to submit Building Documents sooner and possibly start construction sooner.

Thanks for all your help.

Craig.

Thank you.

If you have any questions or comments please contact us.

Craig Miers, AIA

Craig Miers + George Scott Architects, llp

1624 Santa Clara Drive, Suite 230

Roseville, CA 95661

(916) 780-0100

Steve Hassing

From: Jonsson, Ulla-Britt <UJonsson@oaklandnet.com>
Sent: Monday, February 2, 2015 9:20 AM
To: mmjara@comcast.net
Cc: craig; Marvin, Betty; Brenyah-Addow, Maurice; sjh@hassinglaw.com; Quesada, Bill; Miller, Scott
Subject: RE: Suprema Meats 012415

The "Old English Brick"?

Ulla-Britt

Ulla-Britt Jonsson, Planner
City of Oakland Bureau of Planning
250 Frank H. Ogawa Plaza, Oakland, CA 94612
Direct: (510) 238-3322 | Fax: (510) 238-4730
ujonsson@oaklandnet.com | www.oaklandnet.com/planning

From: mmjara@comcast.net [mailto:mmjara@comcast.net]
Sent: Thursday, January 29, 2015 6:12 PM
To: Jonsson, Ulla-Britt
Cc: craig; Marvin, Betty; Brenyah-Addow, Maurice; sjh@hassinglaw.com; Quesada, Bill; Miller, Scott
Subject: Re: Suprema Meats 012415

This is the stain I was panning to use to match the veneer brick with the old brick :<http://www.dyebrick.com/>

From: "Ulla-Britt Jonsson" <UJonsson@oaklandnet.com>
To: "craig" <cmiers@mierscottarchitects.com>, "Betty Marvin" <BMarvin@oaklandnet.com>, mbrenyah@oaklandnet.com
Cc: mmjara@comcast.net, sjh@hassinglaw.com, "Bill Quesada" <BQuesada@oaklandnet.com>, "Scott Miller" <SMiller@oaklandnet.com>
Sent: Monday, January 26, 2015 8:53:12 AM
Subject: RE: Suprema Meats 012415

Hi Craig,

We have a concern about the brick veneer. It will be placed on the same elevations and above the original brick, which is not a veneer as far as I can tell. It will be difficult to match the color and texture and may therefore detract from rather than enhance the brick facade.

I would like our historic planner, Betty Marvin, to weigh in on this.

At the very least the two brick surfaces need to be separated with a distinct "bellyband".

Betty?

Ulla-Britt Jonsson, Planner
City of Oakland Bureau of Planning
250 Frank H. Ogawa Plaza, Oakland, CA 94612
Direct: (510) 238-3322 | Fax: (510) 238-4730
ujonsson@oaklandnet.com | www.oaklandnet.com/planning

From: Craig Miers [mailto:cmiers@mierscottarchitects.com]
Sent: Saturday, January 24, 2015 2:23 PM
To: Jonsson, Ulla-Britt; Quesada, Bill
Cc: mmjara@comcast.net; sjh@hassinglaw.com
Subject: Suprema Meats 012415

Hi Ulla,

The permit for 'window replacement only' has been approved by the Building Department. We still would like to obtain a permit for the inclusion of plaster repair and thin brick veneer as originally submitted (and ultimately held up by the red-tag) in 2013. Our documents supersedes those submitted in 2013, but I have included a copy of those for your information attached to this email. The upper portion will still be unsightly as the plaster still needs to be repaired and we would like to do that prior to the installation of the brick veneer.

Bill,

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Thanks for all your help.

Craig.

Thank you.

If you have any questions or comments please contact us.

Craig Miers, AIA

Craig Miers + George Scott Architects, llp
1624 Santa Clara Drive, Suite 230
Roseville, CA 95661
(916) 780-0100

Steve Hassing

From: Jonsson, Ulla-Britt <UJonsson@oaklandnet.com>
Sent: Thursday, October 30, 2014 2:37 PM
To: Craig Miers
Cc: mmjara@comcast.net; sjh@hassinglaw.com
Subject: RE: Suprema Meats

Good afternoon Craig,
I was simply trying to familiarize myself with the project. But that's OK.
No decisions are being made and you don't have to respond my request for information at this time.
You will receive the incomplete letter before the 30 day completeness period is over.
Ulla-Britt

Ulla-Britt Jonsson, Planner
City of Oakland Bureau of Planning
250 Frank H. Ogawa Plaza, Oakland, CA 94612
Direct: | (510) 238-3322 | Fax: (510) 238-4730
ujonsson@oaklandnet.com | www.oaklandnet.com/planning

From: Craig Miers [mailto:cmiers@mierscottarchitects.com]
Sent: Thursday, October 30, 2014 2:07 PM
To: Jonsson, Ulla-Britt
Cc: mmjara@comcast.net; sjh@hassinglaw.com
Subject: Suprema Meats

Good Afternoon Ulla-Britt,

My name is Craig Miers, and we are the architects working with Miguel on this Design-Review submittal. All the SF (square footage) listed on the application is existing, and we are not planning on any additional enclosed square footage space. This SF of the Facility has existed pre-1970's, pre-current zoning criteria and therefore an existing condition. If no additional SF is added we are not understanding the criteria to meet current parking standards.

Thank you for your attention to this matter.

Craig.

Thank you.
If you have any questions or comments please contact us.
Craig Miers, AIA

Craig Miers + George Scott Architects, llp
1624 Santa Clara Drive, Suite 230
Roseville, CA 95661
(916) 780-0100

From: mmjara@comcast.net [mailto:mmjara@comcast.net]
Sent: Thursday, October 30, 2014 12:55 PM
To: craig
Subject: Fwd: page 3 of application

Hi Craig



CITY OF OAKLAND

BASIC APPLICATION FOR DEVELOPMENT REVIEW

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Zoning Information: 510-238-3911
www.oaklandnet.com/planning

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY!

Please call (510) 238-3940 to schedule an appointment if your project involves any of the following:

- Conditional Use Permit
- Variance
- Regular Design Review
- Parcel Map Waiver
- Tentative Parcel/Tract Map
- New dwelling unit(s)
- 1,000 sq. ft. or more of new floor area/footprint
- Additions ≥ 100% of existing floor area/footprint
- Creek Protection Permit (Category 3 or 4)

Applicants must cancel at least 24 hours in advance of appointment or pay a cancellation fee.

All other projects may be submitted to the zoning counter without an appointment.

Submit applications for Small Project Design Review to station #13 at the zoning counter by signing the sign-up sheet.

1. TYPE OF APPLICATION

(Check all that apply)

Development Permits

- Conditional Use Permit (CUP) (Major or Minor)
- Variance (Major or Minor)
- Regular Design Review (DR)
- Small Project Design Review (DS) (Type 1, 2, 3)
- Special Project Design Review (SP) (West Oakland)
- Design Review Exemption (DRX)
- Tree Preservation or Removal Permit (T)
- Determination (DET)
- Planned Unit Development/Mini-Lot Development

Subdivision Applications

- Parcel Map Waiver (PMW) (Lot Line Adjustment/Merger)
- Tentative Parcel Map (TPM) (subdivision for 1-4 lots)
- Tentative Tract Map (TTM) (subdivision 5 or more lots)

Other Applications

- Request for Environmental Review
- General Plan Amendment Rezoning
- Creek Protection Permit (separate application required)
- State Bill 35 Streamlining
- Other: _____

**FOR AFFORDABLE HOUSING PROJECTS WITH FUNDING DEADLINES, PLEASE INDICATE DATE: _____

**

2. GENERAL INFORMATION

APPLICANT'S NAME/COMPANY: Craig Miers, AIA

PROPERTY ADDRESS: 955 57th Street

ASSESSOR'S PARCEL NUMBER(S): 15-1298-9

EXISTING USE OF PROPERTY: Office/Warehouse

DESCRIPTION OF PROPOSAL (including type of use, hours of operation, number of employees, etc., on additional sheets if needed.):

Replacement of existing second floor windows and replacement of second exterior level finishes. No change to building SF, operation hours or number of employees

TO BE COMPLETED BY STAFF

GENERAL PLAN LAND USE CLASS.: _____

ZONING: _____

SPECIFIC PLAN: Broadway Valdez District Central Estuary Coliseum Area Lake Merritt Station West Oakland

FEES¹:

APPLICATION FEE: \$ _____

POSTER DEPOSIT²: \$ _____

TREE PERMIT FEE: \$ _____

CREEK PERMIT FEE: \$ _____

TOTAL FEES DUE: \$ _____

EXPECTED PROCESSING TIME³:

¹Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. All fees are due at submittal of application.

²For permit applications requiring public notice, a refundable security deposit is required for the on-site poster containing the public notice. Posters MUST be returned within 180 days and in good condition to claim a refund of the deposit.

³Expected processing time is only an estimate and is subject to change without notice due to staff workload, public hearing availability, and the completeness or complexity of the application.

3. PROPERTY OWNER AND APPLICANT INFORMATION

Original signatures or clear & legible copies are required.

Owner: 955 57th LLC Suprema Meats occupant, c/o Miguel Jara
Owner Mailing Address: 955 57th Street
City/State: Oakland, CA Zip: 94608
Phone No.: 510-654-9282 Fax No.: _____ E-mail: mmjara18@gmail.com

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf.


Signature of Property Owner

Applicant (Authorized Agent), if different from Owner: Craig Miers, AIA
Applicant Mailing Address: 1624 Santa Clara Drive, Suite 230
City/State: Roseville, CA Zip: 95661
Phone No.: 916-780-0100 Fax No.: 916-780-0105 E-mail: cmiers@mierscottarchitects.com

I understand that approval of this application does not constitute approval for any administrative review, Conditional Use Permit, Variance, or exception from any other City regulations which are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the Applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the Owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, that after my application has been submitted and reviewed by City staff, it may be necessary for the City to request additional information and/or materials. I understand that any failure to submit the additional information and/or materials in a timely manner may render the application inactive and that periods of inactivity do not count towards statutory time limits applicable to the processing of this application.

I understand that the proposed project and/or property may be subject to other laws, codes, regulations, guidelines, restrictions, agreements, or other requirements of other public agencies within or outside of the City of Oakland, and that the project and/or property may also be subject to requirements enforced by private parties, including but not limited to private easements/agreements and Covenants, Conditions and Restrictions (CC&Rs) of a homeowners association. I am aware that the City recommends that I become fully aware of any other potential requirements before I submit this application and that I comply with all other requirements prior to commencing the proposed project.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT.


Signature of Owner or Authorized Agent

05/14/20
Date

4. PROJECT & LOT INFORMATION

| CALCULATIONS | Existing Pre-Project | Demolition | New Proposed | Total Post-Project | % Change (Existing / Total) |
|---|----------------------|------------|--------------|--------------------|-----------------------------|
| Type/Size of Dwelling Units (Please fill in the number of each type) | | | | | |
| Rooming Units | | | | | |
| Efficiency Units | | | | | |
| 1-Bedroom Units | | | | | |
| 2-Bedroom Units | | | | | |
| 3-Bedroom Units | | | | | |
| ≥ 4-Bedroom Units | | | | | |
| Total Number of Dwelling Units | | | | | |
| Are Any of the Project Units Affordable? If Yes, Please Fill Out the Section Below (include number of each type) | | | | | |
| Market-Rate/Unrestricted Dwelling Units (DU) | | | | | |
| Moderate-Income Restricted DU (80%-120% AMI) | | | | | |
| Low-Income Restricted DU (50%-80% AMI) | | | | | |
| Very Low-Income Restricted DU (30%-50% AMI) | | | | | |
| Extremely Low-Income Restricted DU (<30% AMI) | | | | | |
| Total Affordable Units | | | | | |
| Total Affordable Units located Onsite: | | | | | |
| Other Types of Units/Rooms (if applicable) (not counted towards density) - include number of each type | | | | | |
| Secondary Units | | | | | |
| Live/Work Units | | | | | |
| Work/Live Units | | | | | |
| Mobile Homes | | | | | |
| Hotel Rooms | | | | | |
| Floor Area | | | | | |
| Office Floor Area (square feet) | 3,080 | | 0 | | 3,080 |
| Retail Floor Area (square feet) | | | | | |
| Industrial Floor Area (square feet) Warehouse | 18,565 | | 0 | | 18,565 |
| Other Non-Residential Floor Area (sq. ft.) | | | | | |
| Total Non-Residential Floor Area (sq. ft.) | 21,645 | | | | 21,645 |
| Residential Floor Area (sq. ft.) | | | | | |
| Total Res. & Non-Res. Floor Area (sq. ft.) | | | | | |
| Other Project Information | | | | | |
| Total Building Footprint Area (square feet) | 15,328 | | 0 | | 15,328 |
| Building Height (feet) | 22'-4" | | | | 22'-4" |
| Building Stories (number) | 2 | | | | 2 |
| Total Lot Area (square feet) | 23,014 | | | | 23,014 |
| Number of Lots | 1 | | | | 1 |
| Parking Spaces (number) | | | | | |
| Bicycle Parking Spaces (number) | 0 | | | | 0 |
| New Landscape Square Footage (WELO see pg. 13) | | n/a | | n/a | n/a |
| Setback Slope (for hillside properties only) | | | | n/a | n/a |
| Structure Slope (for hillside properties only) | | | | n/a | n/a |

Definitions For Table 4 on Page 3

“**Building Height**” means the vertical distance measured from any point on top of the facility to a line directly below which meets finished grade on the outside perimeter of the facility, or intersects with a perpendicular plane connecting opposite points of finished grade at the outside perimeter of the facility.

“**Floor Area**” for all projects with **one or two dwelling units on a lot** means the total square footage of all levels of all buildings on the lot, measured horizontally from the outside surface of exterior walls and supporting columns, but excluding: (a) unenclosed living areas such as balconies, decks, and porches; (b) carports that are unenclosed on two or more sides; (c) 440 square feet within an attached or detached garage or carport that is enclosed on three sides or more; (d) non-habitable accessory structures of less than 120 square feet; (e) unfinished understories, attics and basements; and (f) finished basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point. For new floor area, only include new floor area located outside of the existing building envelope.

“**Floor Area**” for all projects **except those with one or two dwelling units on a lot** means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings, or the center line of party walls separating such buildings, but excluding: (a) areas used for off-street parking spaces, loading berths, driveways, and maneuvering aisles; (b) areas which qualify as usable open space in Chapter 17.126; and (c) arcades, porticoes, and similar open areas which are located at or near street level of Nonresidential Facilities, are accessible to the general public, and are not designed or used as sales, display, storage, or production areas. For new floor area, only include new floor area located outside of the existing building envelope.

“**Footprint**” means the total land area covered by all structures on a lot, measured from outside of all exterior walls and supporting columns, including residences, garages, covered carports, and accessory structures, except that the following shall not be considered in determining footprint:

1. The portions of any uncovered and unenclosed decks, porches, landings, or patios, not including railings, which are less than thirty (30) inches above finished grade;
2. The portions of any uncovered and unenclosed balconies and stairways, including railings, which are less than six (6) feet above finished grade;
3. Eaves and roof overhangs; and
4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition.

“**Market-Rate/Unrestricted Dwelling Units**” are residential units for which the rent/price is set by the real estate market and not limited to certain household incomes.

“**Restricted Dwelling Units**” are residential units for which the rent/price is legally restricted to households earning a certain income expressed as a percentage of the Area Median Income or AMI. For more information, visit the Housing and Community Development Department’s website at <https://www.oaklandca.gov/services/housing/index-a-2/housing-policies-plans-and-data/rent-and-income-limits-for-affordable-housing>

“**Setback Slope**” means the slope between edge of pavement and the front setback line, at the midpoint and perpendicular to the front property line.

“**Structure Slope**” means the steepest slope across building footprint measured from one side of the building to another.

5. IMPERVIOUS SURFACE INFORMATION

PROJECT CHARACTERISTICS: (check one)

- (1) The project will create or replace **10,000 square feet or more** of new or existing impervious surface area* (not including projects involving one single-family dwelling).
- (2) The project will create or replace **5,000 square feet or more but less than 10,000 square feet** of new or existing impervious surface area* AND involves the following:
- Auto servicing, auto repair, or gas station;
 - Restaurant (full service, limited service, or fast-food); or
 - Uncovered parking (stand-alone parking lot or parking serving an activity; including uncovered parking garages).
- If you checked (1) or (2) the project is considered a “Regulated Project” and must comply with NPDES C.3 stormwater requirements. You must submit a completed **Stormwater Supplemental Form** and a **Preliminary Post-Construction Stormwater Management Plan** with your application (see page 14).
- (3) The project will create or replace **2,500 square feet or more but less than 5,000 square feet** of new or existing impervious surface (including projects involving one single-family dwelling), unless the project meets the definition of (1) or (2) above.
- If you checked (3) site design measures to retain stormwater on-site are required. Refer to the City’s “Overview of Provision C.3” for more information. <https://www.oaklandca.gov/documents/overview-of-provision-c-3-requirements-for-stormwater-management>
- (4) None of the above.

* *Impervious Surface* – Any surface that cannot be effectively (easily) penetrated by water. Permeable paving (such as permeable concrete and interlocking pavers) underlain with permeable soil or permeable storage material, and green roofs with a minimum of three inches of planting media, are not considered impervious surfaces. Do not include existing impervious surface to be replaced as part of routine maintenance/repair activities when calculating the amount of new/replaced impervious surface.

6. TREE PRESERVATION ORDINANCE

Pursuant to the Tree Preservation Ordinance (§12.36 O.M.C.) a Tree Preservation/Removal Permit is required for any proposed construction activity (including buildings, driveways, paths, decks, construction vehicle routes, sidewalk improvements, & perimeter grading) within 10 feet of a Protected Tree, even if such trees are not being removed or if they are located on a neighbor's property.

The following are Protected Trees:

- a. Any Coast Live Oak tree that is larger than 4 inches dbh*
- b. Any tree (except Eucalyptus) that is larger than 9 inches dbh* (Eucalyptus trees and up to 5 Monterey Pines per acre are not considered Protected Trees under this section. Monterey Pines must be inspected and verified by the Public Works Agency – Tree Division prior to their removal. Contact the Tree Division at (510) 615-5934 for more information or to schedule an inspection).
- c. Any tree of any size located in the public right-of-way (including street trees).

I ATTEST THAT: (check one)

- (1) There are no existing Protected Trees anywhere on the subject property or within 10 feet of the proposed construction activities** (including neighbor's properties or the adjacent public right-of-way).
- (2) There are Protected Trees on the subject property or within 10 feet of the proposed construction activities**, and their location is indicated on the site plan and landscape plan **and** (check one);
- (a) No Protected Trees are to be removed and No construction activity** will occur within 10 feet of any Protected Tree.
 - (b) No Protected Trees are to be removed and Construction activity** will occur within 10 feet of any Protected Tree.
 - (c) Protected Trees will be removed.

If you checked (2b) or (2c), a Tree Preservation/Removal Permit is required. Please complete the section below.

DESCRIPTION OF TREES (Identification numbers and letters must be consistent with the Tree Survey, see submittal requirements in Section 8)

| Trees proposed for removal | | | Trees <u>not</u> proposed for removal but located within 10 feet of Construction Activity** | | |
|-----------------------------------|---------|------|--|---------|------|
| # | Species | dbh* | # | Species | dbh* |
| 1 | | | A | | |
| 2 | | | B | | |
| 3 | | | C | | |
| 4 | | | D | | |
| 5 | | | E | | |
| 6 | | | F | | |
| 7 | | | G | | |

Reason for removal/impacting of trees: _____

* *dbh*: "diameter at breast height" is determined by measuring the trunk at 4'-6" from the ground. Multi-trunked trees are measured by combining the diameters of all trunks at 4'-6" from the ground.

** *Construction Activity*: Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading, or demolition.

7. CREEK PROTECTION ORDINANCE

Pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (§13.16 O.M.C.) a Creek Protection Permit is required for any proposed construction activity occurring on a Creekside property. The extent to which your development will be regulated by the Creek Protection Ordinance depends upon the location and type of proposed work.

WHAT IS A CREEK?

"A Creek is a watercourse that is a naturally occurring swale or depression, or engineered channel that carries fresh or estuarine water either seasonally or year around."

A creek must include the following two components:

1. The channel is part of a contiguous waterway. It is hydrologically connected to a waterway above or below the site or is connected to lakes, the estuary, or Bay. Creek headwaters, found at the top of watersheds, are connected in the downhill direction. Additionally, creeks in Oakland are often connected through underground culverts. Only the open sections of creeks are subject to the permit, and
2. There is a creek bed, bank and topography such as a u-shape, v-shape channel, ditch or waterway (identified through field investigation, topographical maps, and aerial photos). To help with identification in the field a creek may also have the following features (the absence of these features does NOT mean there is no creek):
 - A riparian corridor, which is a line of denser vegetation flowing downhill. This is sometimes missing due to landscaping or vegetation removal practices, landslide or fire.
 - The channel has a bed with material that differs from the surrounding material (i.e. more rocky, or gravelly, little or no vegetation).
 - There are man-made structures common to waterways, - for example bank retaining walls, trash racks, culverts, inlets, rip rap, etc.

I ATTEST THAT: (check one)

- (1) **I do not know if there is a Creek on or near the proposed project site.** I have submitted a request for a Creek Determination by the City of Oakland (separate form and fee required).
- (2) **No Creek exists on or near the project site; (check one)**
- (a) Based on my review of the characteristics of the project site, as well as all relevant maps and plans, and the Creek Determination criteria provided in the "What is a Creek?" section above; or
- (b) Based on the attached report prepared by a relevant licensed professional.
- However, if the City determines that a Creek exists on or near the project site, a Creek Protection Permit is required.*
- (3) **A Creek DOES exist on or near the project site and; (check one)**
- (a) The proposed project only entails interior construction and/or alterations (including remodeling), and therefore requires a **Category 1 Creek Permit** (this is a no fee permit and only requires distribution of educational materials); or
- (b) The proposed project entails exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek, and therefore requires a **Category 2 Creek Permit** (this permit requires a site plan and distribution of educational materials); or
- (c) The proposed project entails (a) exterior work that is located between 20 feet from the top of the Creek bank and 100 feet from the centerline of the Creek, and/or (b) exterior work that includes earthwork involving more than three (3) cubic yards of material located beyond 20 feet from the top of the Creek bank, and therefore requires a **Category 3 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review); or
- (d) The project entails exterior work conducted from the centerline of the Creek to within 20 feet from the top of the Creek bank, and therefore requires a **Category 4 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review and a hydrology report).

The Creek Permit requirements for your project are subject to verification by the City of Oakland and may differ from what you have indicated above. Additionally, you are responsible for contacting and obtaining all required permits from the relevant state and federal permitting agencies for Category 3 and Category 4 Creek Permits.

8. HAZARDOUS WASTE AND SUBSTANCES STATEMENT

STATE GOVERNMENT CODE SECTION 65962.5 (f): Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list.

Please refer to the following State-maintained websites:

<https://calepa.ca.gov/SiteCleanup/CortescList/http://geotracker.waterboards.ca.gov/>

or contact the CalEPA at (916) 323-2514 to determine if your project is on any list of properties containing hazardous waste, toxic substances or underground fuel tanks. **NOTE: YOU MUST REVIEW ALL LISTS**

- I have reviewed **ALL** the lists and my site does **not** appear on them (sign below). **City Verification Required**
 My site does appear on the list(s) (please complete the flowing statement and sign below).

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Name of applicant: _____

Applicant's address: _____

Phone number: _____

Address of site on list: _____

Local agency (city/county): _____

Specify any list pursuant to Section 65962.5 of the Government Code: _____

Regulatory identification number: _____

Date of list: _____

Status of regulatory action: _____

Signature of Owner or Authorized Agent

Date

9. RECYCLING SPACE REQUIREMENTS

Applicants are required to provide sufficient space for the storage and collection of recyclable materials to comply with Ordinance No. 11807 – Recycling Space Allocation Requirements. This space should be in addition to that provided for garbage service.

Affected projects:

1. New multifamily buildings in excess of five (5) units
2. New commercial and industrial projects that require a building permit
3. New public facilities
4. Additions and alternations for a single or multiple permits that add 30% or more to the gross floor area

Requirements:

For residential projects, two (2) cubic feet of storage per unit, with a minimum requirement of not less than ten (10) cubic feet. Additionally, Oakland Municipal Code Section 8.28.140 requires the provision of 32 gallons or 4.3 cubic feet of storage per unit for garbage. For affected commercial, industrial and public facility project, two (2) cubic feet of storage and collection space per each one thousand (1,000) square feet of the total gross building footage, with a minimum requirement not less than ten (10) cubic feet. For these projects, the space for storage and collection of garbage varies based on the type and operation of the facility. Space for storage of recyclables should be separated into the following categories: paper and cardboard (mixed together); plastic bottles, glass bottles and metal cans (mixed together); and organics/plant material.

10. GREEN BUILDING ORDINANCE

If GreenPoint Rater is required, this sheet must be filled in and signed by the GreenPoint Rater along with the checklist and is due at the Intake appointment or over the counter approval, the submittal will not be accepted if this is not complete at intake and the applicant will need to come back for another appointment.

If there is an addition and/or remodel that total over 1,000 square feet, the project is over 1,000 square feet, or there is a new unit; a GreenPoint Rater is required. Please read the guidelines from the code as listed below.

Pursuant to the Ordinance 'Sustainable Green Building Requirements for Private Development,' (Chapter 18.02 of the Oakland Municipal Code), a Green Building Permit is required for any proposed construction activity within certain categories. The extent to which your development will be regulated by the Green Building Ordinance depends upon the location, type of proposed work, and size of proposed work.

A. PROPERTY ADDRESS: _____

B. PROJECT TYPE OF DEVELOPMENT (check one):

| | | |
|---|---|-----------------------------------|
| <input type="checkbox"/> New Construction | <input type="checkbox"/> New Construction-Mixed Use | <input type="checkbox"/> Addition |
| <input checked="" type="checkbox"/> Existing Building | <input type="checkbox"/> Tenant Improvement | <input type="checkbox"/> Remodel |
| <input type="checkbox"/> Historic | <input type="checkbox"/> Landscape Project | |

C. TOTAL NEW AND ALTERED FLOOR AREA (square feet): _____

I, THE APPLICANT/OWNER, ATTEST THAT: (check one)

- (1) I have reviewed the Green Building Ordinance and the project **DOES NOT** fall within the list of applicable project types.
- (2) I have reviewed the Green Building Ordinance and the project **MUST** comply with the ordinance, AND I'm submitting the required additional green building materials with this application.
- (3) I have reviewed the Green Building Ordinance and the project must comply with the ordinance, AND I'm submitting the required additional green building materials with this application, but a GreenPoint Rater or LEED AP is not required as the project uses the Small Commercial Checklist or the Bay Friendly Basic Checklist.

D. Name of Greenpoint Rater (required for Greenpoint Rated Projects)*: _____

Name of LEED Accredited Professional (AP)(required for LEED projects) * _____

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

RATING SYSTEM: _____ # OF POINTS THE PROJECT IS ANTICIPATED TO RECEIVE: _____

E. GREEN BUILDING FEATURES NOT SHOWN ON PLANS BUT PART OF CHECKLIST (include additional sheets if needed): _____

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Green Building Ordinance and attain green building certification. I, hereby further certify under the penalty of perjury, that I: 1) have no vested financial interest in the project other than my green building services, 2) have reviewed the project and appropriate green building checklist, and 3) attest that to the best of my knowledge the proposed project would likely comply with City of Oakland's Green Building Ordinance and attain green building certification.

X _____
Signature of the GreenPoint Rater or LEED Accredited Professional **Date**

This permit is issued pursuant to all provisions of City of Oakland Ordinance No. 13040 C.M.S., "Sustainable Green Building Requirements for Private Development." This permit is granted upon the express condition that the permittee shall be responsible for all claims and liabilities arising out of work performed under this permit or arising out of permittee's failure to perform the obligations with respect to this permit. The permittee shall, and by acceptance of this permit agrees to defend, indemnify, save and hold harmless the City, its officers and employees, from and against any and all suits, claims or actions brought by any reason for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under this permit or in consequence of permittee's failure to perform the obligations with respect to this permit. Violations of the provisions of the Green Building Ordinance are subject to fines and penalties specified under Section 20-3.030 of the Ordinance.

TO BE COMPLETED BY CITY STAFF:
CASE NUMBER(S): _____ CASE PLANNER'S NAME: _____
Note to Case Planner: Please route a copy of this form to the green building coordinator in the Planning and Zoning Division.

11. PUBLIC ART FOR PRIVATE DEVELOPMENT REQUIREMENTS

Effective February 9, 2015, Ordinance No. 13275 requires a public art allocation for private developments. (OMC Chapter 15.78). The following reflects the Ordinance updated through Ordinance No. 13491, which was adopted by the City Council on June 15, 2018.

Applicant information

Name: _____
Phone: _____
Email: _____

Project information

Address: _____
Number of dwelling units: _____
Floor area of nonresidential: _____
Floor area of residential: _____

Not Applicable.

Applicability

The public art for private development requirement applies to:

- 1) Private non-residential developments of 2,000 square feet or more of new floor area that are subject to Regular Design Review approval; and
- 2) Private residential developments of 20 or more new dwelling units that are subject to Regular Design Review approval.

The public art requirements do not apply to affordable housing if the developer demonstrates that they would cause the project to be economically infeasible.

Contribution Requirements

- 1) For non-residential developments, at least 1.0% of "building development costs."
- 2) For residential developments, at least 0.5% of "building development costs."

The "building development cost" is the construction cost declared on the building permit application and accepted by the Building Official.

CHECK ONE OF THE FOLLOWING COMPLIANCE METHODS:

- On-site art Art in the public right of way within .25 miles from the site In-lieu contribution Combination of in-lieu payment and on-site cultural space and/or art gallery Contribution to City-owned art facility within 0.5 miles from site

Compliance Methods

Compliance with art requirement shall be demonstrated when filing the Building Permit application through one of the following:

- 1) An approved public art plan and contractual agreement to install the artwork at the site or in the public right of way within .25 miles from the site. Note that development in the public right of way requires additional permits and approval from the City's Public Art Advisory Committee. The installation of the artwork must be complete prior to issuance of certificate of occupancy; or
- 2) Full payment of an in-lieu contribution; or
- 3) Provide up to 75% of the contribution as follows, with the remaining to be fulfilled through an in-lieu payment*:
 - a. Space within the development project that is generally open to the public during regular business hours for use as a rotating art gallery can satisfy up to 25% of total contribution; and/or
 - b. A minimum of 500 square feet of arts and cultural programming space within the development that is made available to the public can satisfy up to 50% of the total contribution; or
- 4) Capital improvements to a City-owned arts facility(s) within 0.5 miles of the development.

*All proposals must be approved by the City in advance. Please contact Kristen Zaremba, the Public Art Coordinator, at kzaremba@oaklandca.gov or (510)238-2155 for more information regarding approval of a public art plan or compliance requirements.

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Public Art Requirements Ordinance.

X _____
Signature of Applicant

Date

12. RESIDENTIAL TENANT PROTECTIONS

The City of Oakland has laws to protect residential tenants, including the Rent Adjustment Ordinance (OMC Chap. 8.22, Article I), Just Cause Eviction Ordinance (OMC Chap. 8.22, Articles II & III), Tenant Protection Ordinance (OMC Chap. 8.22, Article V) and Code Compliance Relocation Ordinance (OMC Chap. 15.60). These laws may apply to development projects under certain circumstances.

| | Yes | No |
|--|--------------------------|--------------------------|
| <p>A. Will the project affect existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units?</p> <p>➤ If "Yes," go to Question B.</p> <p>➤ If "No," you do not need to complete the remainder of this section.</p> | <input type="checkbox"/> | <input type="checkbox"/> |
| <p>B. Are there existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units; or did residential tenants occupy the affected residential units within the past 12 months?</p> <p>➤ If "Yes," go to Question C.</p> <p>➤ If "No," you do not need to complete the remainder of this section.</p> | <input type="checkbox"/> | <input type="checkbox"/> |
| <p>C. Will existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units, be temporarily or permanently evicted or relocated due to the project, or were residential tenants previously occupying the affected units within the past 12 months temporarily or permanently evicted or relocated due to the project?</p> <p>➤ If "Yes," provide the information below about these units and complete the remainder of this section.</p> <p>1) Number of Affected Units: _____</p> <p>2) Number of Affected Tenants: _____</p> <p>➤ If "No," you do not need to complete the remainder of this section.</p> | <input type="checkbox"/> | <input type="checkbox"/> |

D. Project Information (to be completed if Questions A-C above are marked "Yes"):

- 1) Property Address: _____
- 2) Assessor's Parcel Number: _____
- 3) Applicant's Name: _____
- 4) Applicant's Address: _____
- 5) Applicant's Phone: _____ 6) Applicant's Email: _____

Existing and former tenants on the site may be entitled to protections and benefits, including relocation payments and the right to return to previous units. The property owner may be required to submit evidence of compliance with applicable tenant protection laws upon the request of the City. **For more information, please contact the Oakland Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland, California, 94612; (510) 238-6182.**

To be completed by staff:

Case Number(s): _____ Case Planner's Name: _____ Date: _____

Note to Case Planner: If Questions A, B, or C are marked "Yes," please route a copy of this page to the Housing and Community Development Department.

13. COMMUNITY ENGAGEMENT

Although community engagement is important for all development projects requiring discretionary approval, it is especially important for larger projects, controversial projects, and projects with the potential to cause substantial community impacts. Applicants proposing the following project types will be required to submit a written statement to the City describing the community engagement efforts undertaken to date:

| | Yes | No |
|---|--------------------------|-------------------------------------|
| <p>A. Does the application involve any of the following?</p> <ul style="list-style-type: none"> • New residential project with 100 or more dwelling units; • New nonresidential project with 100,000 square feet or more of floor area; • New Planned Unit Development (PUD); • New subdivision of 25 or more lots; • Proposed regulatory change (Development Agreement, Rezoning, and/or General Plan Amendment); or • Any other new project requiring discretionary approval that the Planning Bureau has determined may potentially cause substantial community impacts. <p>➤ If "Yes," complete Section B below.</p> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

B. Community Engagement Efforts. Please summarize community engagement efforts undertaken to date concerning the project, community input received concerning the project, and how the project has or has not been modified in response to community input (attach additional sheets if necessary):

For approximately the past six years the community has pressed the owner to take action to improve the exterior appearance of the 57th street side of the building, legalize modifications to the height of the freezer area and provide for other interior improvements construction without permits. On October 18, 2014 the owner and Suprema Meats, Inc. entered into a compliance plan with the City of Oakland in which Owner agreed to apply for permits to perform exterior improvements to the exterior of the front of the building to enhance its appearance. However, the City refused to issue the necessary permits pending a hearing on application for a Conditional Use Permit to maintain a loading dock and canopy. That hearing did not take place until December 2019. When the application was rejected Owner and Suprema Petitioned the Superior Court for a writ of Mandate. Following the December, 2019 hearing the City informed Owner that new permits would be required to legalize the improvements reflected in the present application. No further contact has been made with the community. Base on prior input from neighbors owner assumes that they are in favor of aesthetic improvements to the front of the building, are opposed to the increase in height of the freezer area and likely don't care about the interior improvements.

The loading dock on 57th and the canopy (except the west five feet) are being addressed in the pending petition and are not implicated by this application.

14. SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Planning staff reserves the right to require additional plans and information as needed for certain development proposals.

**The following items are required for ALL applications unless otherwise noted.
Each and every item is required at the time of application submittal.
APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.
All fees are due at the time of application submittal.**

- (1) **Basic Application for Development Review**
This application form signed and completed (including impervious surface, protected tree, creek information, the Hazardous Waste and Substances Statement, and green building sections). Original signatures or clear & legible copies are required.
- (2) **Supplemental Forms and Findings**
Explanation describing how the proposal complies with City requirements (forms provided by staff).
- DRX, DS, DR, or SP supplemental findings.
 - CUP and/or Variance supplemental findings.
 - TPM/TTM supplemental findings.
 - Other extra CUP or DR findings, such as alcohol, ground floor use, extra units, telecom (mini, micro, macro), etc.
 - Specific Plans Design Guidelines Checklist (Broadway Valdez District, Central Estuary, Lake Merritt Station, or West Oakland).
 - Affordable Housing Density Bonus Requirements and Checklist.
- (3) **Assessor's Parcel Map**
Available at the City of Oakland Engineering Services or Zoning counters, the County Assessor's Office, 1221 Oak St. or the County Assessor's website at <http://ac.gov.org/MS/prop/index.aspx>
- (4) **Photographs** (Photographs placed in a secure envelope or mounted on a board folded to a size no larger than 9" x 12")
- Color photographs showing the existing structure or lot as seen from across the street and from the front, side and rear property lines. Label each photograph with the view pictured (e.g., front, side, rear, across the street).
 - Color photographs showing the 20 nearest neighbors from the street (5 nearest lots on either side, 10 nearest lots across the street). Label each photograph with the address pictured.
- (5) **Plans** (see supplemental requirements for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW) applications).
- Two (2) stapled and folded sets of full-sized plans and Two (2) additional sets of reduced plans (11" x 17") are required for all applications. For Major Permits, a color 11"x17" rendering **MUST** be submitted.
 - For all projects that will require a presentation before a Board or Commission you will be required to provide **fifteen (15) color sets** of your final plans sized at 11"x17" at least **three weeks** before your scheduled hearing date or as directed by Planning staff.
 - Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
 - Include north arrow, date prepared and scale.
 - Acceptable drawing scales are: 1/4" = 1', 3/16" = 1', 1/8" = 1', and 1" = 10'. Other scales may be appropriate, but should be discussed with Planning staff before filing. Also, please limit the range of scales used, so Planning staff can more easily analyze your project in relation to adjacent properties.
 - Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - Show all encroachments over the public Right-of-Way.
 - All submittals are required to provide an electronic submission of the all required submittal items at time of intake. Plan sets will have two copies submitted, one (1) low resolution and one (1) high resolution in .PDF format. Each item will be scanned separately and clearly identified. For each revision of the project, the applicant will be required to submit both a paper and electronic submittal of all the material being revised as directed by Planning staff.
- (a) **Survey** (required only for the following project types listed below)
- Must be no more than 3 years old from the time of submittal – date of survey must be included.
 - Must be prepared by a California State licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982).
 - **Include the wet stamp and signature** of the Land Surveyor or Civil Engineer who prepared the survey.
 - Include the applicable surveyor's statement in accordance with the Professional Land Surveyors Act.
 - In addition to paper copies, the survey must also be submitted on a CD.

Required for all new buildings, including Secondary Units Type 2 and >100% footprint additions to existing buildings (except small non-habitable buildings):

- Full boundary & topographic survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, and dimensions to property lines of all existing buildings and similar structures.

Required for any building or addition within any required setback:

- Applicable line survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, & dimensions to property line of existing buildings & similar structures adjacent to relevant property line.

Required for any building or addition located on a lot with a slope of 20% or more:

- Site topography for all areas of proposed work and for all existing driveways, buildings, and similar structures.
- Location and dimensions for all existing driveways, buildings, and similar structures.

(b) **Site Plan**

- Location and dimensions of all property boundaries.
- Location and dimensions of all existing and proposed buildings, decks, stairs, and patios. see A2.1
- Dimensions of all existing and proposed building setbacks from property lines.
- Location of building footprints and approximate height of buildings on adjacent lots.
- Location, dimensions, and paving materials of all adjacent sidewalks, curbs, curb-cuts (including curb-cuts on adjacent neighbor's lots), and streets.
- Location and dimension of all existing and proposed driveways, garages, carports, vehicle parking spaces, bicycle parking spaces, maneuvering aisles, wheel-stops, pavement striping/markings, and directional signage. Indicate existing and proposed paving materials.

NA Location, height, and building materials of all existing and proposed fencing and walls.

NA Location, height (including top and bottom elevation measurements), and building materials of all existing and proposed retaining walls.

NA Location and size (dbh) of all existing trees and indication of any trees to be removed, include trees on neighboring properties that are within 10 feet of construction.

NA Location of drainage ways, creeks, and wetlands (check with the Engineering Services Division for this information)

NA Roof plan showing roof slope and direction, and location of mechanical equipment, ducts, and vents.

NA For projects located on a lot with a slope of 20% or more: Show existing and proposed topographic contours overlaid with proposed roof plan and indicating roof ridge spot elevations.

For multi-family residential projects: Show the location, dimension, slope, and site area of all existing and proposed Group Usable Open Space and Private Usable Open Space, including a summary table of site area.

For projects in all Residential, Commercial, and Industrial Zones, including the CIX-1A Zone, show any building to be demolished both historic and non-historic.

Location and size of storage area for recycling containers (see page 7 for more information).

NA (c) **Landscape Plan** (required for new buildings, new dwellings, and residential additions of more than 500 sq. ft.)

- Indicate any existing landscaping and new landscaping.
- Indicate the size, species, location, and method of irrigation for all plantings.
- Include the square footage of new landscaping, if over 500 square feet or over 2,500 square feet of new landscaping please provide all requirements per the Water Efficiency Landscape Ordinance (WELO), visit <https://water.ca.gov/LegacyFiles/wateruseefficiency/docs/MWEL09-10-02.pdf>
- Include all existing and proposed groundcovers, driveways, walkways, patios, and other surface treatments.

(d) **Floor Plan**

- Include complete floor plan of all floors of entire building, including existing and proposed work
- Label all rooms (e.g., bedroom, kitchen, bathroom), and include dimensions of room sizes.
- Show the location of all existing and proposed doors, windows, and walls.
- Location of and distance to all adjacent property boundaries.
- For non-residential projects: show all existing and proposed seating areas, mechanical/kitchen equipment, and/or other major functional components of the proposed project.

(e) **Elevations** (required only for new construction, additions, or exterior alterations)

- Show all structure elevations (front, sides and rear) that will be affected by the proposed project.
- For additions/alterations: label existing and new construction, as well as items to be removed.
- Identify all existing and proposed exterior materials - including roofing, roof eaves, eave brackets, siding, doors, trim, sills, windows, fences, and railings. Show details of proposed new exterior elements.
- Show any exterior mechanical, duct work, and/or utility boxes.
- Include dimensions for building height and wall length.

(f) **Cross Sections** (required only for buildings or additions located on a lot with a slope of 20% or more)

- Include all critical cross sections, including at least one passing through the tallest portion of the building.
- Include floor plate and roof plate elevation heights.
- Location of and distance to all adjacent property boundaries.

- Label the location of the cross-sections on the site plan.
- NA (g) Tree Survey** (required only for projects which involve a Tree Preservation/Removal Permit [see page 5])
 - **Three (3)** folded full-sized plans are required (in addition to the plans required under No. 5 above).
 - Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
 - Include north arrow, date prepared and scale (Tree Survey should be drawn to the same scale as the Site Plan).
 - Include the name & phone number of person preparing the plan(s). As appropriate or required, include the stamp & "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - For new construction on an undeveloped lot: include the stamp and "wet signature" of the licensed architect, landscape architect and/or civil engineer preparing the survey.
 - Indicate the size (dbh), species, and location of all protected trees within 30 feet of development activity on the subject lot, regardless of whether or not the protected trees are included on any tree preservation/removal permit application.
 - Label all protected trees that are located within 10 feet of construction (including trees located on neighbor's properties or the adjacent public right-of-way) with the matching number or letter from the Tree Preservation/Removal Permit application (see section 6 of this application).
- NA (h) Shadow Study (for DS-III projects and other two-story DR projects for one- and two-units)**
 - Include a roof plan of proposed house/addition with adjacent homes and show the shadows at different times of the day as shown in the Design Review Manual for One- and Two-Unit Residences on page 2.1 and 2.2.
- NA (i) Grading Plan** (required only if the project proposes any site grading)
 - Show proposed grading plan and/or map showing existing and proposed topographic contours (this may be combined with the Site Plan for small projects with only minor grading).
 - Include an erosion & sedimentation control plan.
 - Include a summary table of all proposed excavation, fill, and off-haul volumes.

The following are required only for non-residential, mixed-use, and/or multi-family residential projects.

- (j) **Sign Plan** (required only for non-residential and mixed-use projects)
 - Include fully dimensioned color elevations for all proposed signs.
 - Indicate proposed sign location(s) on site plan
 - Indicate proposed material(s) and method of lighting for all proposed signs.
- (k) **Lighting Plan** (required only for non-residential, multi-family residential, and mixed-use projects)
 - Show the type and location of all proposed exterior lighting fixtures (this may be combined with the Site Plan for small projects).
- (l) **Materials & Color Board** (required only for non-residential, multi-family residential, and mixed-use projects involving new construction or an addition/alteration that does not match existing materials and colors).
 - Limit board(s) to a maximum size of 9" x 12". Large projects (generally more than 25 dwelling units or 50,000 square feet of floor area) should also submit a large sized materials & color board (24" x 36") for use at public hearings.
 - Include samples of proposed exterior building materials and paint colors.
 - Include manufacturer's brochures as appropriate.
- (m) **Three-dimensional Exhibits** (required only for large projects with more than 25 dwelling units or 50,000 square feet of floor area).
 - Provide color perspective drawings showing the project from all major public vantage points, or provide a scale model of the proposed project.
- NA(6) Preliminary Post-Construction Stormwater Management Plan*** (required only for "Regulated Projects" subject to NPDES C.3 stormwater requirements [see page 4 for more information])
 - Show location and size of new and replaced impervious surface.
 - Show directional surface flow of stormwater runoff.
 - Show location of proposed on-site storm drain lines.
 - Show preliminary type and location of proposed site design measures, source control measures, and stormwater treatment measures.
 - Show preliminary type and location of proposed hydromodification management measures (if applicable).

* Please refer to the Stormwater Supplemental Form for more information concerning NPDES C.3 requirements. The Stormwater Supplemental Form must also be submitted with the application.
- NA (7) Preliminary Title Report or deed not more than 60 days old** (required for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW), Rezoning, and General Plan Amendment applications, and any application where the owner information does not match the current Alameda County Assessor's records)

- (8) **Fees** (all fees are due at the time of application submittal)
 - Additional fees may be required if the project changes or based on staff's environmental determination.
- (9) **Additional Telecom Information Required** (See full requirements in Chapter 17.128 in the Oakland Planning Code)
 - For the whole parcel, indicate the total number of existing and proposed antennas and equipment cabinets, their location, and the carriers they serve (please include all wireless carriers). Also indicate area, height, and width of all equipment cabinets and antennas (existing and proposed).
 - Additional Telecom CUP & DR findings for either: Mini, Micro, Macro, Monopole, or Tower (See definitions in 17.10.860).
 - Include Radio Frequency emissions report (RF), see Section 17.128.130 for requirements.
 - If a revision, please include previous approved case number if applicable and can be obtained.
 - If swapping out & replacing existing antennas, include existing & proposed heights of antennas (per Federal Section 6409).

For any questions regarding this application, visit the Zoning Counter or call the Zoning Information Line:

Zoning Counter:

250 Frank H. Ogawa Plaza, 2nd Floor Oakland CA 94612
Mon, Tues, Thurs & Friday: 9am-Noon & 2pm-4pm
Wednesday 9:30am-Noon & 2pm-4pm

Zoning Information Line:

(510) 238-3911
Mon, Tues, Thurs & Friday: 9am-Noon & 2pm-4pm
Wednesday 9:30am-Noon & 2pm-4pm

To obtain an electronic PDF fillable copy of this form please visit
<https://www.oaklandca.gov/documents/development-review-basic-application>



TAHOE BLUE
SRI: 33 • LRV: 14

**HORIZONTAL
METAL TRIM
ASC BUILDING
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ZINCALUME® Plus⁴
SRI: 64 • LRV: 67

**VERTICAL METAL
SIDING
ASC BUILDING
PRODUCTS
'ZINCALUME'**



**EXISTING
BRICK**

29 APRIL 2020

SUPREMA MEAT COMPANY

955 57TH STREET
OAKLAND, CALIFORNIA

COLOR BOARD



ARCH
1000 10th Street, Suite 100
Oakland, CA 94612
510.464.1000
www.arch.com

george
SCOTT
CTS
1000 10th Street, Suite 100
Oakland, CA 94612
510.464.1000
www.cts.com

Steve Hassing

From: Lei, Jasmin <JLei@oaklandca.gov>
Sent: Friday, August 21, 2020 10:11 AM
To: Craig Miers
Cc: August, Karen
Subject: 955 57th St (B2002151)- Application Status

Hi Craig,

Hope you're doing well. My apologies for long wait and thank you for being patient with us.

Your plans are currently under review with the plan checker. I will contact you later today to let you know of the status.

We had some difficulties figuring out the project address. DRX200655 was under 5655 Lowell St but the plans submitted to Building was under 955 57th St.

Karen- I've created the record under 955 57th St per what's written on the permit application. I believe that is where the work is being done and referenced DRX200655 on the record. Hopefully that works!

Thank you,

Jasmin Lei
Permit Technician I
City of Oakland Planning and Building Department
250 Frank Ogawa Plaza, 2nd Floor, Oakland, CA 94612
(510) 238-2316

**** COVID-19 Update:** Conditions and information relating to Planning and Building Department's operations are changing rapidly. Please check our [priority services during shelter-in-place webpage](#) for regular updates."

The website has our most updated information.

DRX200655 - DRX @ 5655 LOWELL ST (aka 955 57th St)

Menu Save Reset Update View Log Reports Help

The Record updated successfully

Record #
DRX200655 **Opened Date**
05/21/2020

Status
Approved

Type
Planning/Applications/Counter/DR Exemption

Application Name
DRX @ 5655 LOWELL ST (aka 955 57th St)

Assigned to Department Current Department **Assigned to Staff** Current User
Zoning Review  Karen August 

Description
DRX @ 5655 LOWELL ST (aka 955 57th St)

Repair, replacement of siding and windows as shown in plans.

Used address: 955 57th St
Legal address:

Parcel Number: 015 129800900
Address: 5655 LOWELL ST
Building Area Sq. Ft.: 16,016
Lot Size Sq. Ft.: 23,014.00
LandUse Discription: Light industrial

[check spelling](#)

| | | |
|-----------------------|-------------------|----------------|
| Total Invoiced | Total Paid | Balance |
| 84.92 | 84.92 | 0.00 |

System ID
20CAP-00000-11873

From: Lei, Jasmin <JLei@oaklandca.gov>
Sent: Friday, September 4, 2020 12:33 PM
To: Craig Miers <cmiers@mierscottarchitects.com>
Cc: M Jara <mmjara18@gmail.com>
Subject: Re: 090420 Suprema 955 57h Street B2002151

Hi Craig,

Please let Miguel know so I can enter that information into our records.

For the time, please have him sign and return the attached Contractor's Declaration and 1-page County Acknowledgment form (stating that you have read over the Health Officer Order).

Thank you,

Jasmin Lei
Permit Technician I
City of Oakland Planning and Building Department
250 Frank Ogawa Plaza, 2nd Floor, Oakland, CA 94612
(510) 238-2316

**** COVID-19 Update:** Conditions and information relating to Planning and Building Department's operations are changing rapidly. Please check our [priority services during shelter-in-place webpage](#) for regular updates."

The website has our most updated information.

From: Craig Miers <cmiers@mierscottarchitects.com>
Sent: Friday, September 4, 2020 12:22 PM
To: Lei, Jasmin <JLei@oaklandca.gov>
Cc: M Jara <mmjara18@gmail.com>
Subject: 090420 Suprema 955 57h Street B2002151

Good Afternoon Jasmin
The address is 955 57th Street, (B2002151).
(I let Miguel know that you still needed Contractor's Name and License Number.

Thanks, be safe.
Craig.

Thank you.
If you have any questions or comments please contact us.
Craig Miers, AIA

Craig Miers + George Scott Architects, llp
1624 Santa Clara Drive, Suite 230
Roseville, CA 95661
(916) 780-0100

From: Lei, Jasmin <JLei@oaklandca.gov>
Sent: Friday, September 4, 2020 12:01 PM

To: M Jara <mmjara18@gmail.com>
Cc: Craig Miers <cmiers@mierscottarchitects.com>
Subject: Re: Suprema

Hi Miguel,

Can you let me know what address this is for? I can check on the status.

Thank you,

Jasmin Lei
Permit Technician I
City of Oakland Planning and Building Department
250 Frank Ogawa Plaza, 2nd Floor, Oakland, CA 94612
(510) 238-2316

**** COVID-19 Update:** Conditions and information relating to Planning and Building Department's operations are changing rapidly. Please check our [priority services during shelter-in-place webpage](#) for regular updates."

The website has our most updated information.

From: M Jara <mmjara18@gmail.com>
Sent: Thursday, September 3, 2020 3:20 PM
To: Lei, Jasmin <JLei@oaklandca.gov>
Cc: Craig <cmiers@mierscottarchitects.com>
Subject: Suprema

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Jasmin

When can I pick up my stamped plans. Do I have to do anything else ???

Thanks

Miguel jara
Suprema Meat

Steve Hassing

From: PermitInfo <PermitInfo@oaklandca.gov>
Sent: Thursday, October 21, 2021 12:01 PM
To: Craig Miers
Subject: Re: Planning submittal 955 57th Street, 102121

Craig,

OK with zoning, with this email -- no zoning permit / fee required for this project at this time -- apply for building permit when ready, with this email included, at:

permitinfo@oaklandca.gov

Aubrey Rose AICP
Planner III

*

Zoning OK
5655 Lowell St aka 955 57th St
Roof screen
ABR 10-21-2021

*****Please note that these emails are not reviewed in conversation format nor is it reviewed by the same person, so please include all required attachments in all new emails or replies if you are trying to provide additional supporting documentation. Thank you.*****

From: Craig Miers <cmiers@mierscottarchitects.com>
Sent: Thursday, October 21, 2021 10:48 AM
To: PermitInfo <PermitInfo@oaklandca.gov>
Subject: Planning submittal 955 57th Street, 102121

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Good Morning.

Attached is our submittal for the Planning Department to add a roof screen along Lowell for the Building located at 955 57th Street.

1. Planning Application
2. Planning Documents
3. Illustration of proposed deck material
4. We did not include a photo of the deck material, per the request not to send any photographs.

Please let us know if there are any other documents you need for this submittal.

Thank you.



CITY HALL • 1 Frank H. Ogawa Plaza • 11th FLOOR • OAKLAND, CALIFORNIA 94612

City Administrator's Office
Nuisance Abatement Division

Greg Minor, *Assistant to the City Administrator*

TTY/TDD (510) 238-2007
FAX (510) 238-7084
Voicemail (510) 238-6370

PROPOSED COMPLIANCE PLAN

I. RECITALS

A. Following an administrative hearing to determine whether the activities of 955 57th Street, LLC and Suprema Meats, Inc. (collectively "Suprema") at 955 57^h Street, Oakland, California (the "Property") constitute a public nuisance, on October 25, 2021 Independent Hearing Officer Nathaniel Dunn affirmed that the activities at the Property constitute a public nuisance and concluded that the status quo is unsustainable.

B. Hearing Officer Dunn ordered that within thirty (30) days of the service of the Decision, the City of Oakland offer Appellant 955 57th Street LLC, the owner of the Property, a proposed compliance plan providing specific conditions under which the Property's current use would not constitute a public nuisance. Hearing Officer Dunn specifically required that the compliance plan (a) set forth clear and reasonable restrictions concerning noise and hours of operations which balance Appellant and Suprema's right to continue their longstanding use of the Property with the rights of their neighbors to peacefully enjoy their own properties; and (b) set forth clear and reasonable guidelines for Appellant and Suprema to follow in order to preserve the public right of way.

C. Without waiving any of its rights, including but not limited to challenging the underlying administrative hearing decision with an action for administrative mandamus, , the City of Oakland hereby offers Appellant this Proposed Compliance Plan.

II. NOISE MITIGATION

- A. Suprema's business hours shall be limited to 7am-9pm, Monday-Friday, with no business activity on Saturday and Sunday.
- i. Therefore, between the hours of 9pm and 7am, Suprema shall not load, start, or move any vehicles, forklifts, or pallet jacks at the Property or in the public right of way.
- B. Suprema shall comply with the City of Oakland's performance standards for noise and with the noise ordinance located at Oakland Municipal Code (OMC) sec. 17.120.050 and OMC sec. 8.18, respectively.
- C. Suprema shall phase out all diesel delivery trucks delivering and leaving the Property within two years of the execution of this compliance plan. The size of replacement hybrid or electric trucks shall be equivalent to the existing Suprema delivery trucks (i.e. Class 7). Upon purchase of each hybrid or electric delivery truck, Suprema shall remove one conventional truck.

- D. Within three months of the execution of this Compliance Plan, Suprema shall replace the existing metal gate along 57th Street with a gate that does not make a loud squealing noise upon opening or closing of the gate.

□

III. PREVENT UNLAWFUL ENCROACHMENT OF THE PUBLIC RIGHT OF WAY

- A. Comply with the City of Oakland’s restrictions against blocking the public right of way prescribed by OMC Chapter 1.08, Title 10, and Title 12.
- B. Maintain a Delivery Truck Management Plan to prevent delivery trucks traveling to and from Suprema from using 57th street and other nearby local streets where truck traffic is prohibited, and to prevent all delivery trucks from parking on 57th street when waiting to be unloaded.
- C. Suprema shall clearly post signs along its warehouse and entrance that include the following:
 - i. Direct trucks that have arrived outside of business hours where they can park overnight;
 - ii. Provide 24-hour Suprema and truck parking contact information; and
 - iii. Prohibit engine idling.

IV. ADDITIONAL STRATEGIES

This Proposed Compliance Plan does not prohibit Suprema from pursuing additional strategies to mitigate excessive noise or obstruction of the public right of way, provided Suprema applies for and obtains any required permits and complies with all laws. This includes, but is not limited to, applying for permits to open a portion of its property along Lowell Street to transition its operations from the open facility on 57th Street to within the Properties boundaries on the Lowell Street side.

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V. MONITORING COMPLIANCE

- A. Within thirty (30) days of the execution of this agreement, Suprema shall install and/or maintain functioning cameras on the Property to monitor traffic in and around the Property. Video footage from these cameras shall be available to City of Oakland staff within 48 hours of a request and the cameras shall be capable of storing at least two weeks' worth of footage.
- B. Within thirty (30) days of the execution of this agreement, Suprema shall install noise monitoring equipment in at least two locations at its property and offsite, as determined by City of Oakland staff, to measure noise produced by Suprema's operations. Suprema shall then provide monthly reports regarding the noise measurements at these locations that include decibel levels, duration, and time of day.
- C. Within thirty (30) days of the execution of this agreement, Suprema shall submit a performance bond to the City of Oakland in the amount of \$50,000.
- D. Suprema shall pay \$500 for each violation of the Proposed Compliance Plan pursuant to the Notice to Abate and the October 25, 2021 Hearing Decision.

CITY OF OAKLAND

57TH STREET LLC

Print Name: _____

Name: _____

Signature: _____

Signature: _____

Date: _____

Date: _____