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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: Appeal of Planning Commission Approval
of College Ave. Safeway Project

DATE: December 3, 2012

City Administrator
Approval

Deanna J. Santana

Date

12/13/12

COUNCIL DISTRICT: #1

RECOMMENDATION

Staff recommends that the City Council adopt:

Resolution denying the Appeals A12-146 & A12-148, and approving the Major Conditional Use permits, Design Review and Minor Variances for a revised project based upon an agreement between the appellants and the applicant that includes a new Safeway grocery store of no more than 45,500 square feet and retail of no more than 9,500 square feet under case numbers CMDV09-107, TPM-09889, and ER09-0006 and certification of the EIR and addendum for the College Avenue Safeway project located at 6310 College Avenue

REASON FOR SUPPLEMENTAL

The supplemental report is being provided as a result of a tentative agreement between the Appellants and the Project Applicant, which was presented to the City Council at the November 13, 2012 public hearing on the appeal. Since that hearing the Project Applicant has revised the project to be consistent with the tentative agreement, while remaining consistent with the required findings for approval. This supplemental report outlines the proposed changes to the project and describes how the revised project is consistent with the required findings for project approval.

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OUTCOME

If the City Council adopts the recommended resolution denying the appeals and approving the revised project, the project entitlements as approved by the Planning Commission on July 25, 2012 would be modified so that the revised project would become the approved project, and the certification of the project EIR (together with an Addendum to the EIR) would be upheld.

BACKGROUND/LEGISLATIVE HISTORY

The appeal appeared before the City Council for action on November 13, 2012. At the meeting, Councilmember Brunner presented an outline of a tentative agreement between the project Appellants and the Project Applicant. The agreement resulted in the revised project now proposed, which would reduce the proposed Safeway grocery to no more than 45,500 square feet and additional retail to a maximum of 9,500 square feet. The primary design change would move the Safeway to the ground floor and parking would be moved to the rooftop of the building. The public hearing on the matter was not closed and staff was directed to return to City Council with the revised project plans and all necessary updated findings, conditions of approval, and CEQA documentations.

ANALYSIS

Staff has reviewed the revised project (*Attachment A*) that was designed based upon the tentative agreement between the appellants and the applicant. Staff believes that the revised proposal is consistent with the required Conditional Use permit, Variance and Design Review criteria required to approve the project and revised findings have been attached (*Attachment B*). Staff has also made slight modifications to the Conditions of Approval to better reflect the revised project (*Attachment C*).

The revised project includes the following changes to the plans that were approved by the Planning Commission on July 25, 2012 as follows:

- The proposed Safeway grocery store has been reduced from 51,500 square feet to no more than 45,500 square feet and moved from the second story of the building to the ground floor.
- The additional commercial space (previously proposed to occupy 10,500 square feet) has been moved from the ground floor beneath the Safeway and has been consolidated at the corner of College and Claremont Avenues, and is limited to no more than 9,500 square feet.

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- The previous “walk street” connecting College and Claremont Avenues has been widened into more of a plaza and roughly aligned with 63rd Street across College Avenue.
- The project parking lot has been moved from a partially subterranean garage onto the roof top of the building with at-grade access off of Claremont Avenue and with ramp access from College Avenue. The College Avenue entrance will be located at the northern end of the building. The amount of parking provided for the project has been reduced from 171 to 148, and the Minor Variance request for required off-street parking has increased from 15 to 21.
- The loading berths will be modified so that access will be directly off of Claremont Avenue, with required maneuvering to take place in the right of way in order to back into the enclosed loading dock area. Previously all maneuvers would have taken place on the roof top on the parking deck of the building.
- The general architectural design character of the project will remain similar to that of the previous project, but the Safeway structure will be reduced in scale.

Conditional Use Permits

Staff feels that the revised project design is consistent with the required criteria for the granting of the requested Major Conditional Use permits. The biggest change is the layout of the street fronting retail. Previously, staff had made the findings that the granting of the conditional use permit was consistent with the C-31 Zone due to the creation of an important shopping frontage along College Avenue with multiple shop fronts. The major change in the project redesign with regard to the conditional use permit findings is that the number of shop fronts will be reduced and be centered at the corner of the intersection of College and Claremont Avenues as well as the internal plaza. The Safeway will now be located on the ground floor, so where previously there were numerous storefronts lining College Avenue, it will largely just be Safeway. However, the Safeway will contain an entrance directly on College Avenue and with the inclusion of the other shop spaces at the corner and plaza, staff feels that the project will still create an important shopping frontage to College Avenue, especially as compared to the current situation of the project site with an older suburban style grocery store sitting in the middle of a surface parking lot with a gas station at the corner.

Variations

The two variations requested for the project were a variance to reduce the loading berth from three loading bays to two loading bays and to reduce the amount of required off-street parking from 186 required stalls to 171 stalls. The variance request for loading remains as previously approved by the Planning Commission. Staff still feels that it is a superior design solution to allow the reduction of the required loading bays from three to two since that is essentially all the loading that would be required for the large trucks serving the Safeway store, and Safeway’s smaller trucks – as well as the trucks serving the smaller commercial spaces – will not require

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such large loading berths and will be able to accommodate loading from loading zones on the street as many of the other smaller commercial businesses in the area currently do. The amount of off-street parking for the project has changed with the revised project due to the reduction in the overall square footage for the project. The new required off-street parking is 169 (with the 6.8 credit from excess short term bike parking that will be provided) and the proposed amount of parking to be provided is 148 parking stalls. This increases the variance request from 15 off-street stalls to 21 off-street stalls. Staff still feels that this is an appropriate variance request given that the pedestrian scale improvements at the site are worth the trade off and the overall project provides a superior design alternative than a surface parking lot; also, as part of the project, a number of curb cuts will be eliminated and additional metered on-street parking will be provided along Claremont Avenue.

Design Review

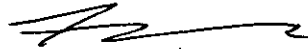
The revised project design still incorporates many of the same uses of materials and has a similar architectural style as the project that was approved by the Planning Commission. The major revision in the project configuration relates to parking and traffic circulation. Previously the parking was primarily going to be provided for in the lower level garage that would have been partially subterranean and located to the rear of the storefronts on College Avenue. The revised plan moves the Safeway to the ground floor and locates the parking to the rooftop of the building. This still meets the same design goals as the previous design in that the auto parking area will not be visible from College Avenue, and the ground floor will still contain a high level of open storefront windows for pedestrian interest.

CEQA

Pursuant to Section 15164 of the State CEQA Guidelines, an Addendum to the EIR has been prepared (**Attachment D**) to respond to CEQA issues regarding the revised project and will be adopted and certified together with, and incorporated into, the EIR. The Revised Project is decreasing in size by approximately 12% and would not increase, and would reduce or avoid significant impacts previously identified in the EIR, and does not create any substantial changes that would involve new significant environmental effects than those identified in the EIR or increase the severity of previously identified significant effects. Neither the Addendum, nor any other evidence added to the EIR or the administrative record subsequent to the circulation of the Draft EIR would trigger any of the circumstances necessitating recirculation of the Draft EIR, as specified in CEQA Guidelines Section 15088.5

For questions regarding this report, please contact Peterson Z. Vollmann, Planner III at (510) 238-6167.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator

Reviewed by:
SCOTT MILLER
Interim Planning & Zoning Director
Environmental Review Officer
Department of Planning and Building

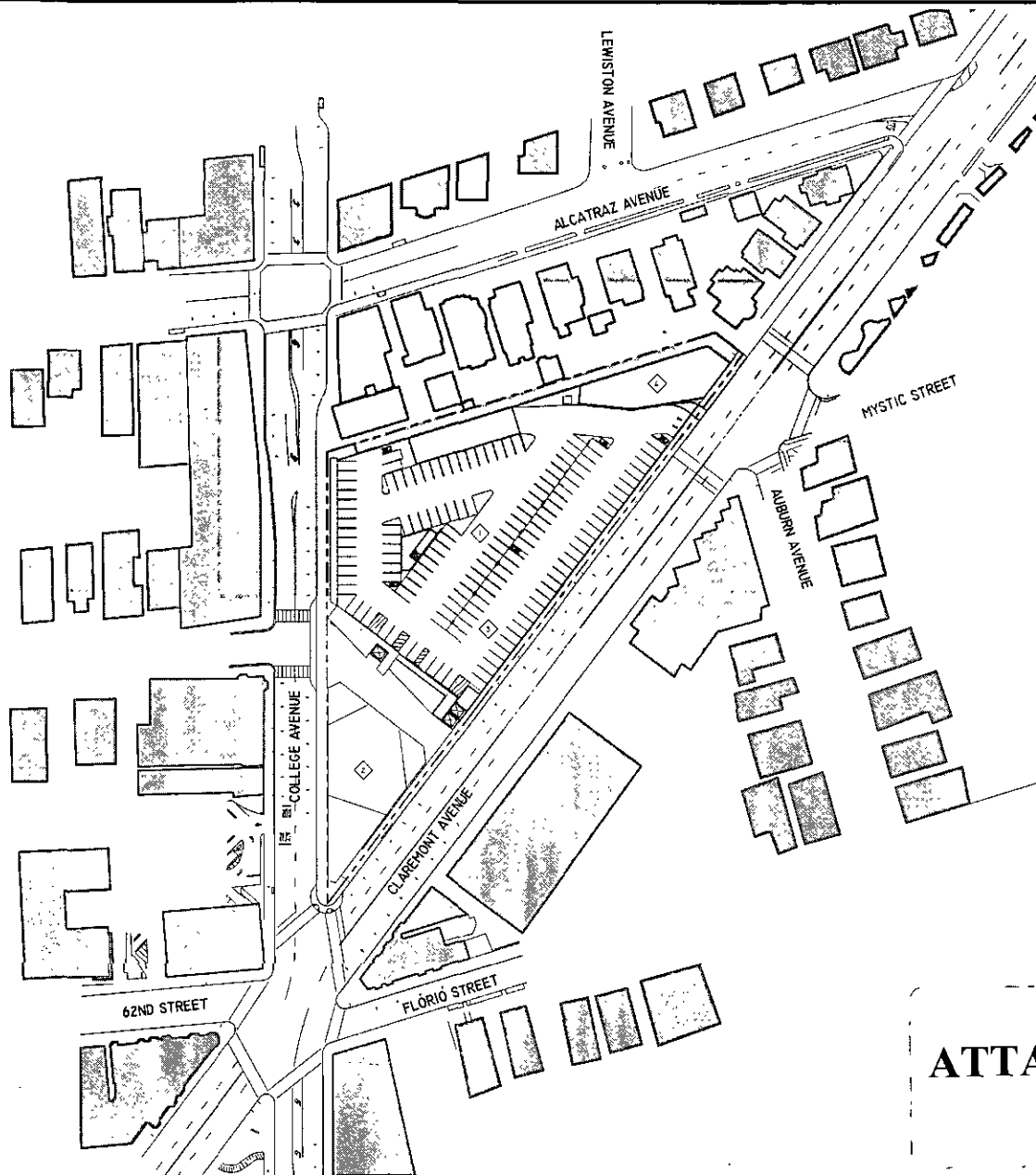
Robert Merkamp, Acting Zoning Manager

Prepared by:
Peterson Z. Vollmann, Planner III
Planning & Zoning Division

Attachments:

- A. Revised Project Plans
- B. Revised Project Findings
- C. Revised Project Conditions of Approval
- D. EIR Addendum

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- KEYNOTES**
- ◇ PROPOSED SAFEWAY PROJECT
 - ◇ SHOPS BUILDING
 - ◇ ROOFTOP PARKING
 - ◇ LOADING DOCK



PROJECT NAME

SAFEWAY.
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2870

CURRENT OWNER SAFEWAY
 TENANT SAFEWAY
 STORE NUMBER 2870
 CONTACT PERSON
 TODD PARSONS
 2818 STORE RIDGE MALL ROAD
 PLEASANTON, CA 94588-3229
 (71) 925-487 2016
 (71) 925-487 2881
 E-MAIL: Todd.Parsons@safeway.com

ASSESSOR'S PARCEL NUMBER 08A07000101

CONSULTANTS



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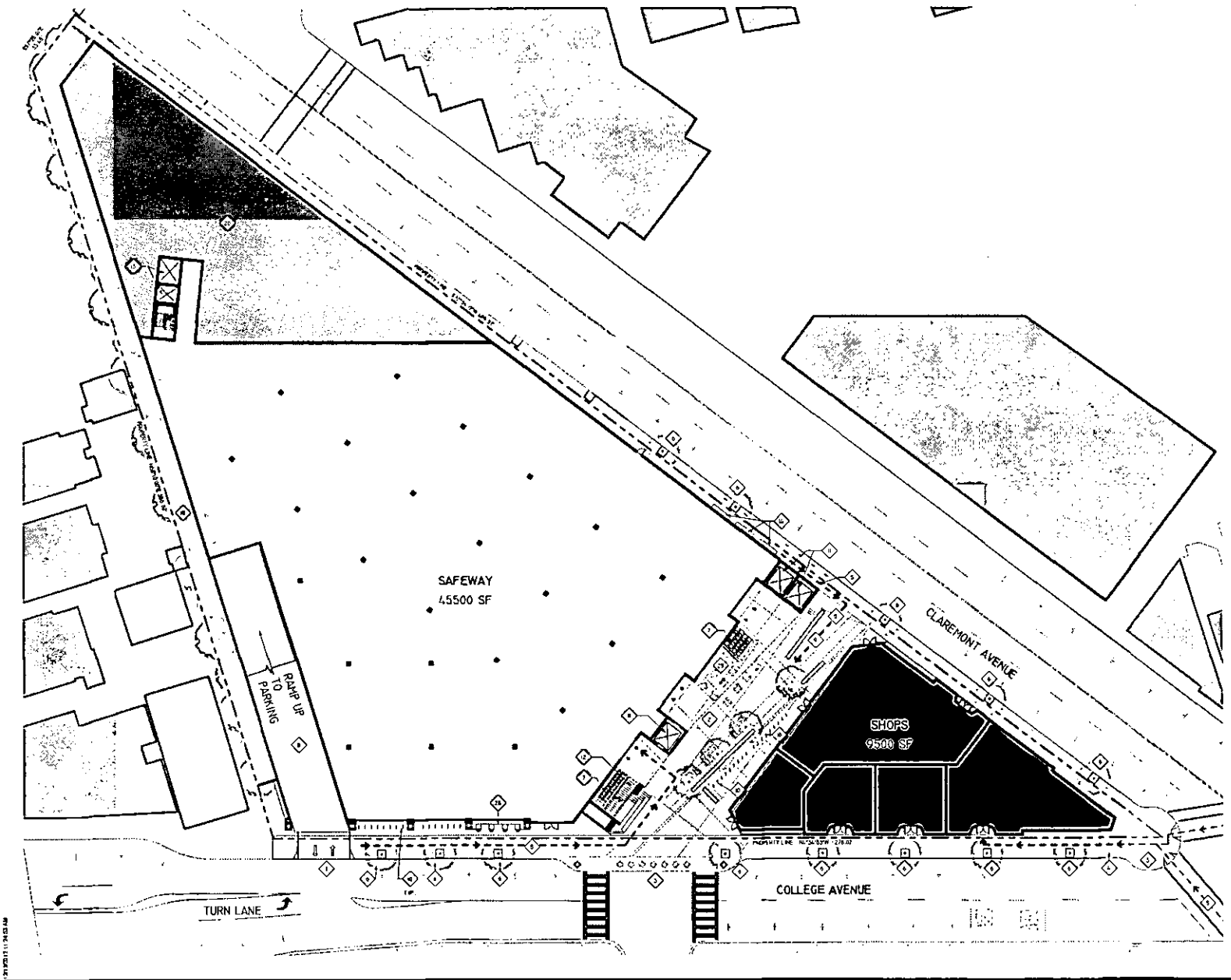
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PROJECT NUMBER 09-003
 SHEET TITLE PROPOSED SITE PLAN

SHEET NUMBER
A1.2

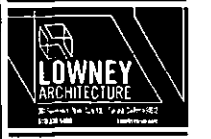
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ATTACHMENT A



KEYNOTES

- ◇ DO CLEAR CUT FOR VEHICLE ACCESS
- ◇ PEDESTRIAN PLAZA
- ◇ PROPOSED BUILD OUT
- ◇ PROPOSED BUS STOP LOCATION
- ◇ ACCESSIBLE PATH OF TRAVEL
- ◇ PROPOSED STREET TREE
- ◇ CART STORAGE
- ◇ (O) VENEZUELA RAMP
- ◇ RAMP TO PLAZA
- ◇ BIKE RACK OR BIKE SPACES PER RACK
- ◇ CUSTOMER ELEVATOR
- ◇ CUSTOMER STAIRS
- ◇ FREIGHT ELEVATOR
- ◇ LONG TERM BIKE STORAGE (A)
- ◇ SECURED STORMWATER TREATMENT WEIATED BASIN
- ◇ CART CORRAL
- ◇ COOLING TOWER
- ◇ AC UNIT
- ◇ TRANSFORMER
- ◇ FILL
- ◇ MECHANICAL UNIT SCREEN
- ◇ DO CLEAR CUT FOR TRUCK ACCESS
- ◇ SMALL DELIVERIES LOADING ZONE
- ◇ ELEVATOR MECHANICAL
- ◇ OUTDOOR SEATING



PROJECT NAME
SAFeway.
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2870

CURRENT OWNER SAFeway
 TERMIT NUMBER SAFeway
 ETCONE NUMBER 2870
 CONTACT PERSON
 TODD PARSONS
 5048 BROWNBRIDGE HALL ROAD
 PUEBLOVISTA, CA 94668-2329
 (415) 481-2276
 E MAIL: Todd.Parsons@lowney.com
 ASSessor'S PARCEL NUMBER: 046A707000101

CONSULTANTS

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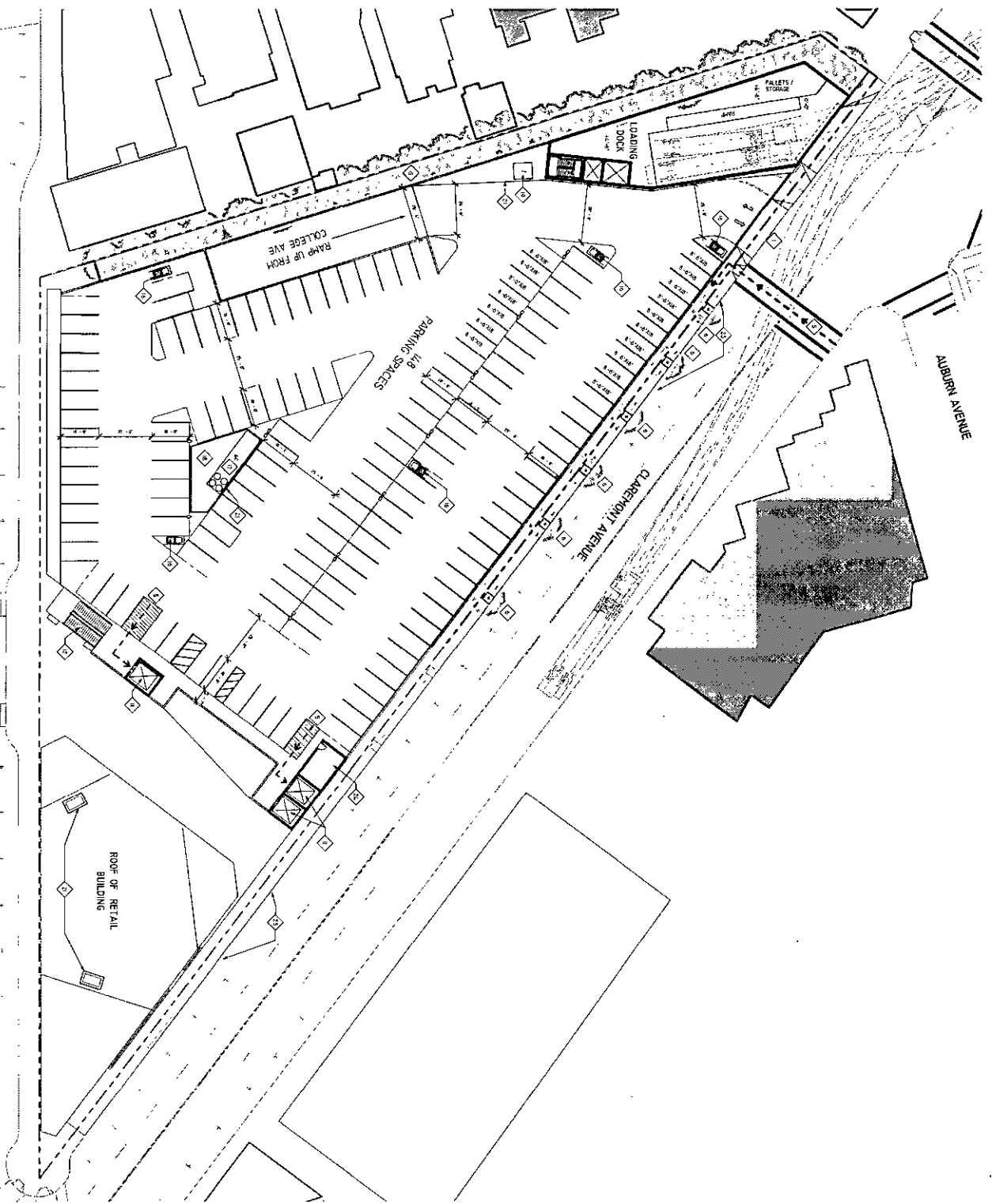
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PLAN LEGEND

- SAFeway
- SHOPS
- PLAZA
- TREES / LANDSCAPE

PROJECT NUMBER 08-003
 SHEET TITLE
 PRELIMINARY GROUND FLOOR PLAN
 SHEET NUMBER
A2.1
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KEYNOTES

- ◊ WALLS CUT FOR RAMP/LADDER
- ◊ REVISIONS
- ◊ PROPOSED RAMP
- ◊ PROPOSED SIGN LOCAL ON
- ◊ ACCESSIBLE PATH OF TRAVEL
- ◊ PROPOSED STREET TREE
- ◊ CURB STRUCTURE
- ◊ ON RAMP/LOAD DOCK
- ◊ SIGN TO BE PLACED
- ◊ SIGN SIGN OF ONE SHOTS 500
- ◊ SIGN
- ◊ OUTSIDE LANDING
- ◊ CUSTOMER STAIRS
- ◊ RAMP/LOAD DOCK
- ◊ LOAD TRUCK BAY STORAGE (A)
- ◊ STORAGE CONTAINERS (B)
- ◊ REVISIONS
- ◊ CURB CORNER
- ◊ CURB CORNER
- ◊ AC CURB
- ◊ TRAMPOLINE
- ◊ FILL
- ◊ MECHANICAL UNIT SCREEN
- ◊ ON CURB CUT FOR TRUCK ACCESS
- ◊ SHALL BE FINISH EXISTING DRIVE
- ◊ TELEPHONE RECONNECT
- ◊ OUTDOOR SEATING

PLAN LEGEND

- SWITCH
- SIENS
- PLUMB
- TRUCK/
- LANDSCAPE

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SAFeway.
6310 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2870

CLIENT: SALES - SAFeway
PROJECT: TRUCK - SAFeway
STORE NUMBER: 2870

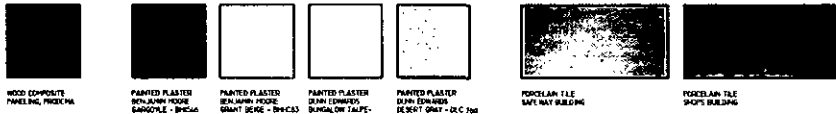
CONTRACT PERSON: SALES
3918 STEVENSON WALK ROAD
PLEASANTON, CA 94588
TEL: 925.462.2881
E-MAIL: Todd.Pearson@safeway.com

ASSISTANT PROJECT MANAGER: SALES
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PROJECT NUMBER: 0200
SHEET NUMBER: 0200
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PRELIMINARY PARKING PLAN
SHEET NUMBER: **A2.2**

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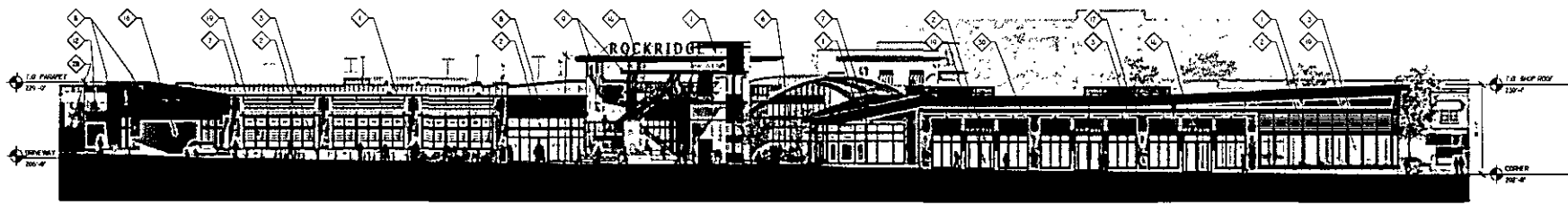
SAFeway MATERIALS PALETTE



WOOD COMPOSITE PANELING, PROCELA
 PAINTED PLASTER BUNGALOW HOUSE GANGWAY - BHW-046
 PAINTED PLASTER BUNGALOW HOUSE GRANT BEIGE - BHW-043
 PAINTED PLASTER BUNGALOW HOUSE DUNGALOW TAUPE - DR-072
 PAINTED PLASTER BUNGALOW HOUSE DESERT GRAY - DDC-704
 PORCELAIN TILE BAYWAY BUILDING
 PORCELAIN TILE SHOP'S BUILDING

KEYNOTES

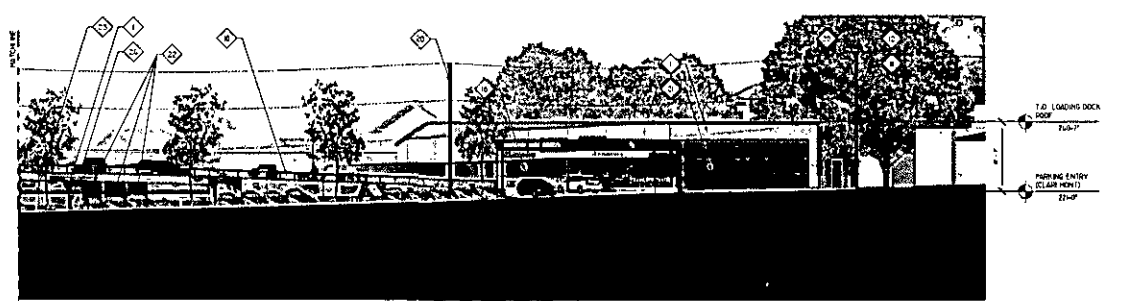
- ◇ PAINTED SMOOTH STUCCO
- ◇ PEDESTAL PLAZA
- ◇ LANDSCAPED RETRACK AND FENCING
- ◇ PARKING ENTRY / EXIT
- ◇ PTD OVERHEAD DOOR
- ◇ FIBER CEMENT BO. LAP SOING
- ◇ DARK ANODIZED ALUMINUM STOREFRONT / F.W.
- ◇ STANDING SEAM METAL ROOF
- ◇ NEW SCREEN TREES, SEE LANDSCAPE DRAWINGS
- ◇ METAL SCREEN
- ◇ GREEN SCREEN
- ◇ BRANDED BRICKS W/ SPARKLE GLAZING
- ◇ PORCELAIN TILE
- ◇ METAL LOANERS
- ◇ LOANER SYSTEM
- ◇ SPLITFACE CPU
- ◇ METAL PANEL
- ◇ METAL PANEL CLAD AWNING
- ◇ CUSTOM SIGNAGE
- ◇ CPU BLOCK
- ◇ WOOD COMPOSITE BRANDBOOK
- ◇ STEEL TRELLIS
- ◇ SIGNAGE T.A.D.
- ◇ CLEAR GLAZING, T.P.
- ◇ CUSTOM PTD STEEL TRELLIS W/ LANDSCAPING
- ◇ POWER POLES
- ◇ SIGNAGE, TYP.



1 COLLEGE AVENUE ELEVATION
1/16" = 1'-0"



2 CLAREMONT AVENUE ELEVATION
1/16" = 1'-0"



3 CLAREMONT AVENUE ELEVATION
(CONTINUED)
1/16" = 1'-0"



PROJECT NAME
SAFeway.
 8310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2870

CURRENT OWNER: SAFeway
 TENANT: SAFeway
 STORE NUMBER: 2870
 CONTACT PERSON: TOSCO PARADES
 3918 STONERIDGE MALL ROAD
 PLEASANTON, CA 94588-0276
 P: 925 467 2076
 F: 925 467 2881
 E-MAIL: Todd.Parades@lowney.com

ASSESSOR'S PARCEL NUMBER: 044707000101

CONSULTANTS

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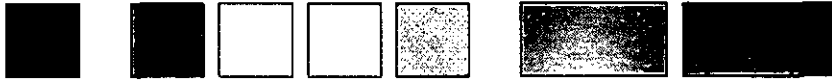
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SHEET NUMBER: **A3.1**

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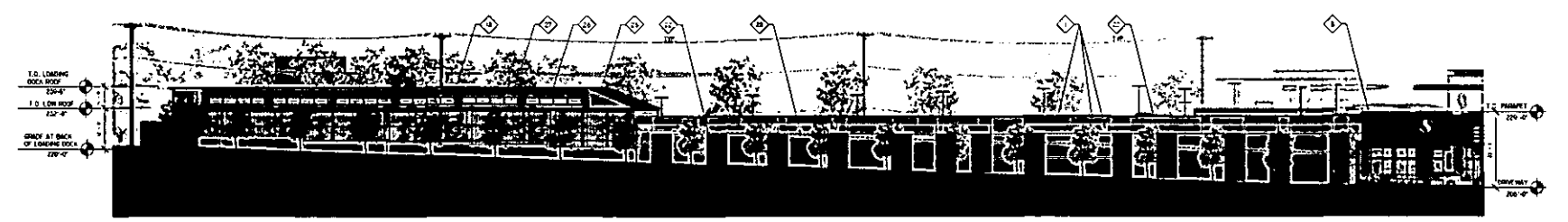
SAFWAY MATERIALS PALETTE



WOOD COMPOSITE PANELING, PROCEMA
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 PAINTED PLASTER BENJAMIN MOORE GRANT BEIGE - 8956A
 PAINTED PLASTER DANN EDWARDS BANGOR TAPE - DE 107
 PAINTED PLASTER DANN EDWARDS DESERT GRAY - DEC 799
 PORCELAIN TILE SAFEWAY BUILDING
 PORCELAIN TILE SHOPS BUILDING

KEYNOTES

- 1 PAINTED BRUSH STUCCO
- 2 DARK ANODIZED ALUMINUM SIGN FRONT / TOP
- 3 PORCELAIN TILE
- 4 METAL PANEL
- 5 WOOD COMPOSITE BRUSHSCREEN
- 6 PLASTER/STUCCO PLAZA
- 7 STANDING SEAM METAL ROOF
- 8 METAL LOUVERS
- 9 METAL PANEL CLAD AIRING
- 10 STEEL TRELLIS
- 11 LANDSCAPED SETBACK AND FENCING
- 12 NEW SCREEN TREES, SEE LANDSCAPE DRAWINGS
- 13 LOUVER SYSTEM
- 14 CUSTOM SIGNAGE
- 15 SIGNAGE T & D
- 16 PARKING EXTERIOR / 1st FL
- 17 METAL SCREEN
- 18 LINEAR PLANTER / BENCH
- 19 CLEAR GLAZING, TYP.
- 20 (3) POWER POLES
- 21 PTU OVERHEAD DOOR
- 22 GREEN SCREEN
- 23 SPLATGLO CHU
- 24 CHU BLOCK
- 25 CUSTOM PTU STEEL TRELLIS BY LANDSCAPING
- 26 FIBER CEMENT BR. LUT BRICK
- 27 TRANSPARENT BRICKS W/ SPANGLER GLAZING
- 28 8' HIGH NEIGHBOR FENCE
- 29 BRUSH CONCRETE
- 30 SCOKOZ, TYP.



1 NORTH ELEVATION
 1/16" = 1'-0"



PROJECT NAME
SAFWAY.
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2870

CURRENT OWNER: SAFWAY
 TENANT: SAFWAY
 STORE NUMBER: 2870
 CONTACT PERSON: TODD PARADIS
 TODD PARADIS
 9818 STONERIDGE MALL ROAD
 PLEASANTON, CA 94588-2229
 P: 925.487.2218
 F: 925.487.2811
 E-MAIL: Todd.Paradis@safeway.com

ASSESSOR'S PARCEL NUMBER: 046A07000101

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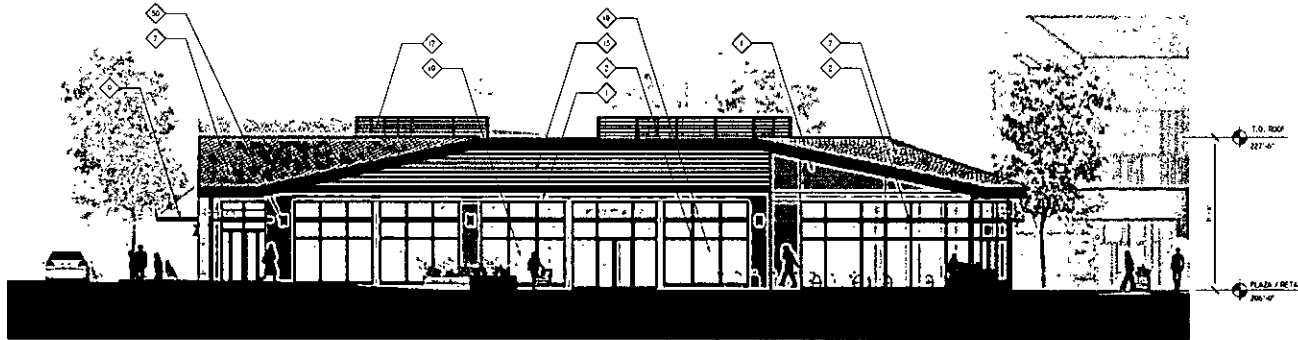
SAFEWAY MATERIALS PALETTE



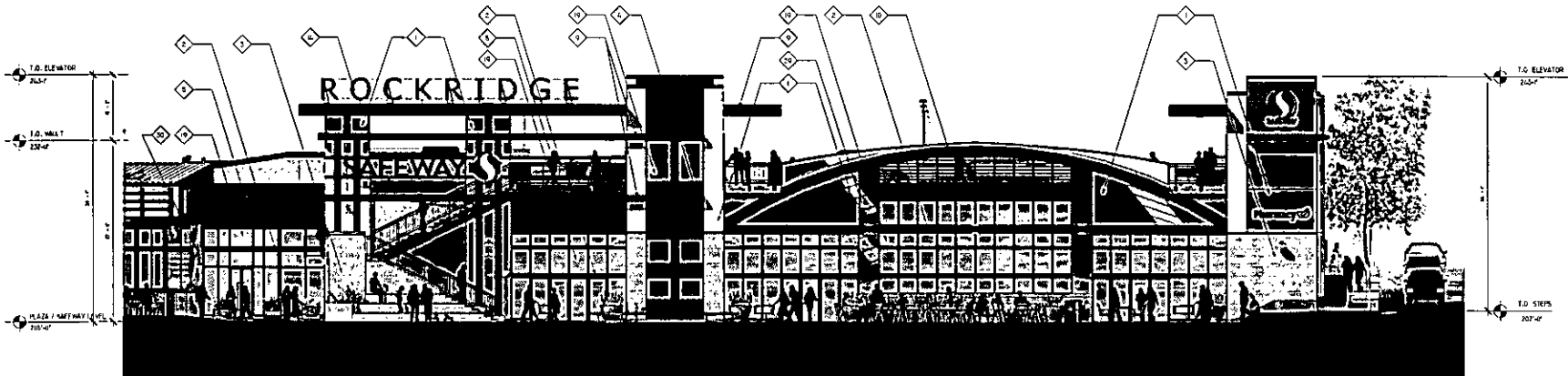
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 PAINTED PLASTER BENJAMIN MOORE GRAY BEAR - 8943CS
 PAINTED PLASTER DUNN EDWARDS BURGALON 1A (UPE-DE 842)
 PAINTED PLASTER DUNN EDWARDS GREYT 0801 - DEC 760
 PORCELAIN TILE SAFEWAY BUILDING
 PORCELAIN TILE SHOPS BUILDING

KEYNOTES

- 1 PAINTED SMOOTH STUCCO
- 2 DARK ANODIZED ALUMINUM STOREFRONT / TYP
- 3 PORCELAIN TILE
- 4 METAL PANEL
- 5 WOOD COMPOSITE FRAMESCREEN
- 6 PEDESTRIAN PLAZA
- 7 STANDING SEAM METAL ROOF
- 8 METAL LOZERS
- 9 METAL PANEL CLAD AWNING
- 10 STEEL TRUSS
- 11 LANDSCAPED SETBACK AND FENCING
- 12 NEW SCREEN TREES, SEE LANDSCAPE DRAWINGS
- 13 LOZNER SYSTEM
- 14 CUSTOM SIGNAGE
- 15 SIGNAGE T.A.D.
- 16 PARKING ENTRY / EXIT
- 17 METAL SCREEN
- 18 LINEAR PLANTER / BENCH
- 19 CLEAR GLAZING, TYP.
- 20 603 POWER POLES
- 21 FTD OVERHEAD DOOR
- 22 GREEN SCREEN
- 23 SPLIFFAZED CHU
- 24 CHU BLOCK
- 25 CUSTOM FTD STEEL TRUSS & SU LANDSCAPING
- 26 FIBER CEMENT 60 LAP SIDING
- 27 TRANSOM WINDOWS W/ SPINDREL GLAZING
- 28 6" HIGH HERRINGBONE FENCE
- 29 SMOOTH CONCRETE
- 30 CONCRETE TYP.



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



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



PROJECT NAME



SAFEWAY.
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2870

CURRENT OWNER SAFEWAY
 TENANT SAFEWAY
 STORE NUMBER 2870

CONTACT PERSON TODD PARAGIS
 5818 STONE RIDGE MALL ROAD
 PLEASANTON, CA 94588-9228
 P: 925 487 2878
 F: 925 487 2811
 E-MAIL: Todd.Paragis@safeway.com

ASSESSOR'S PARCEL NUMBER: 048A7000101

CONSULTANTS

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 SHEET TITLE

ENLARGED EXTERIOR ELEVATIONS

SHEET NUMBER

A3.3

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ATTACHMENT B**FINDINGS FOR APPROVAL**

This proposal meets all the required Use Permit criteria (Sections 17.134.050 & 17.48.100), Minor Variance Criteria (Section 17.148.050) and Design Review Criteria (Section 17.136.050) as set forth below and which are required to approve your application. This proposal does not contain characteristics that require denial pursuant to the Tentative Map Findings (Section 16.08.030) and is consistent with the Lot Design Standards (Section 16.24.040) of the Oakland Subdivision Regulations. Required findings are shown in bold type; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 –CONDITIONAL USE PERMIT FINDINGS:

1. 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 proposed project will demolish the existing approximately 25,000 square foot Safeway grocery store and the abutting auto service station, which currently are set back from the street edge and surrounded by an expansive surface parking lot with numerous curb cuts along the street frontages. The new proposal will rebuild the site with a one-story approximately 45,500 square foot Safeway grocery store with roof top parking and a second commercial building consisting of 9,500 square feet of floor area at the corner of College and Claremont Avenues. The inclusion of the ground floor commercial spaces allows the development to be built to the pedestrian scale by removing the existing surface lot and replacing the College Avenue frontage with a number of commercial store fronts that will relate to the existing and desired context of the successful Rockridge shopping district on College Avenue. The proposal will cover the majority of the project site, which is quite typical for commercial properties in the area, however, given the large size of the site in comparison to other properties along College Avenue, methods were taken to create vertical architectural breaks along the frontage of the building including creating a new “walk street” or pedestrian arcade that breaks up the site and provides connection between College and Claremont Avenues. These measures help to successfully reduce the visual bulk of the project and provide a pedestrian-friendly street edge that does not exist with the current suburban model store and surrounding surface parking lot

An Environmental Impact Report (EIR) was prepared for the project, which identifies numerous traffic impacts in the immediate vicinity of the project site. The EIR also proposes mitigation measures that are able to reduce the impacts to less than significant levels upon implementation. A number of the impacted intersections are located within the City of Berkeley, and thus the City of Oakland does not have jurisdiction and cannot ensure implementation of the mitigation measures. However, Conditions of Approval will require that the project applicant applies to the City of Berkeley to install the identified mitigation measures, or other methods that may be deemed more appropriate by the City of Berkeley.

FINDINGS

The project site is located within a developed area and public utilities are readily available. In addition, the project site is located on the AC Transit 51 line, which is a major trunk line with frequent service providing the site with excellent public transit.

2. 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 proposed development will be an attractive and functional shopping environment that will replace the existing 1960's era auto-oriented development with a new pedestrian-oriented development that establishes numerous commercial store fronts at the sidewalk edge and brings the site back into conformity with the existing and desired visual character of the College Avenue shopping district. Parking will still be provided for the site, but will be situated on the rooftop of the Safeway store to hide it from view of the important pedestrian-oriented College Avenue.

3. 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 development will enhance the area as a neighborhood shopping district by rebuilding the existing grocery store and locating it at the edge of the sidewalk to create an improved pedestrian environment along College Avenue along with the small commercial storefronts that will be located in the corner building on College and Claremont Avenue that would replace the existing gas station.

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

See Design Review findings below.

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

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

Among the General Plan Land Use and Transportation policies and objectives applicable to the proposed Project are the following:

- Objective N1: Provide for healthy, vital, and accessible commercial areas that help meet local consumer needs in the neighborhoods.

- Policy N1.1: Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for small scale, neighborhood-oriented retail.
- Policy N1.2 Placing Public Transit Stops. The majority of commercial development should be accessible by public transit. Public transit stops should be placed at strategic locations in Neighborhood Activity Centers and Transit-Oriented Districts to promote browsing and shopping by transit users.
- Policy N1.4 Locating Large-Scale Commercial Activities. Commercial uses which serve long-term retail needs or regional consumers and which primarily offer high volume goods should be located in areas visible or amenable to high volumes of traffic ...
- Policy N1.5: Designing Commercial Development. Commercial development should be designed in a manner that is sensitive to surrounding residential uses.
- Policy N1.6: Reviewing Potential Nuisance Activities. The City should review any proposed new commercial activities that have the potential to create public nuisance or crime problems, and should monitor those that are existing. These may include isolated commercial or industrial establishments located within residential areas, alcoholic beverage sales activities (excluding restaurants, adult entertainment, or other entertainment activities).
- Policy N1.8: Making Compatible Development. The height and bulk of commercial development in “Neighborhood Mixed-Use Center” and “Community Commercial” areas should be compatible with that which is allowed for residential development.
- Objective N5: Minimize conflicts between residential and non-residential activities while providing opportunities for residents to live and work at the same location.
- Policy N5.2: Buffering Residential Areas. Residential areas should be buffered and reinforced from conflicting uses through the establishment of performance-based regulations, the removal of non-conforming uses and other tools.
- Objective N10: Support and create social, informational, cultural and active economic centers in the neighborhoods.
- Policy N10.1: Identifying Neighborhood “Activity Centers.” Neighborhood Activity Centers⁷ should become identifiable commercial, activity and communication centers for the surrounding neighborhood. The physical design of neighborhood activity centers should support social interaction and attract persons to the area. Some attributes that may facilitate this interaction include plazas, pocket parks, outdoor seating on public and private property, ample sidewalk width, street amenities such as trash cans and benches, and attractive landscaping.

The proposed Project meets the referenced policies and objectives; the general intent of the Neighborhood Center Mixed Use land use designation; and is a good fit for this area because the proposal would rebuild the Safeway grocery store in a more pedestrian-friendly manner and add additional new pedestrian-oriented commercial storefronts at the corner while eliminating one (long established, but now closed) gasoline station and removing the prominence of the Safeway parking lot from the site. The net effect would be to further concentrate commercial opportunities in this successful neighborhood-oriented retail district, which also has good accessibility to the AC Transit 51 Line. Policy N1.4, which addresses Large Scale Commercial activities, defines such activities as those that serve long-term retail needs or regional consumers; this does not characterize the project because, although it is much larger than the existing Safeway store, the proposed store would continue to primarily stock groceries, which are typically replenished by households on a weekly or more frequent

basis (short-term). The store would not be focused on a regional market (a characteristic of large-scale commercial) as there are many other grocery stores in the region.

The proposed project would be consistent with the height and bulk of what would be allowed as a residential development at the site, and the project will establish a landscape buffer between the adjacent homes that front on Alcatraz Avenue. In addition, the new loading area will be enclosed which will also lessen impacts onto adjacent residential uses. The Safeway component will continue to sell alcoholic beverage sales, which has been a long ongoing activity at this site, and is a generally supported activity within full service grocery stores.

SECTION 17.48.100 – C-31 USE PERMIT CRITERIA:

- A. That the proposal will not detract from the character desired for the area.

The desired character of the College Avenue shopping district is that of continuous ground floor commercial spaces that encourage pedestrian-oriented comparison shopping. The development will enhance the area as a pedestrian-oriented shopping district by rebuilding the existing grocery store in a more pedestrian-friendly manner and developing new ground floor commercial spaces at the corner of the site to replace the existing gas station.

- B. That the proposal will not impair a generally continuous wall of building facades.

The proposal will remove an undesirable auto-oriented surface parking lot and auto service station, and replace them with a new development that establishes a generally continuous wall of building facades with pedestrian-oriented commercial store fronts along College Avenue. The project will create a generally continuous wall of building façade where none exists today.

- C. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage.

The proposal will not weaken the concentration and continuity of retail facilities at the ground level, as none such facilities exist at present. The existing site contains an auto-oriented grocery store that sits in the middle of a surface parking lot and an auto service station with numerous curb cuts right at the important intersection of College and Claremont Avenues. The new development will establish a commercial building anchoring the southern corner of the project site, and redevelop the Safeway store in a more pedestrian-friendly manner by locating the project at the edge of the sidewalk. The project increases the concentration and continuity of ground-level retail facilities.

- D. That the proposal will not interfere with the movement of people along an important pedestrian street.

The proposal does include one new curb cut along College Avenue, which is the important major pedestrian street in the area. However, it will be replacing the existing development that at present contains four such curb cuts. The new curb cut will be placed at the northern end of the of the project site to limit impacts on retail activity, and adequate sight lines will be provided so that motorists exiting the site will be able to see pedestrians. The proposed condition will be an improvement over the current situation with four existing curb cuts.

E. That no driveway shall connect directly with the area's principal commercial street unless:

- 1. Vehicular access cannot reasonably be provided from a different street or other way, and;**

Vehicular access cannot reasonably be provided solely from Claremont Avenue. One of the project alternatives studied in the EIR was a project that would not have a driveway on College Avenue. The traffic study results of the alternative showed that without an entrance on College Avenue to accommodate south bound traffic to the site, the intersection of College Avenue and Alcatraz Avenue would contain massive back-ups in queuing as cars attempt to make a left turn on Alcatraz Avenue to get to Claremont Avenue to enter the store. In addition, Alcatraz Avenue is primarily a residential street; therefore, the increased traffic down the street from this alternative scenario would be seen as more of a negative than the presence of one driveway access point on College Avenue.

- 2. Every reasonable effort has been made to share means of vehicular access with abutting properties.**

In the instance of this project two existing sites are being merged into one to accommodate the project, which as a result of the project will reduce the existing number of driveways at the project site.

F. That the amount of off-street parking, if any, provided in excess of the requirements of this code will not contribute significantly to an increased orientation of the area to automobile movement.

The amount of off street parking will not be in excess of that required by the Planning Code, and the parking will be located on the rooftop of the building thus reducing its visual prominence from College Avenue.

G. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.

In general the establishment of a development that removes a surface parking lot and auto service station for a new project that incorporates pedestrian-oriented commercial storefronts along College Avenue is consistent with the intent of the Neighborhood Center Mixed Use General Plan land use classification. See finding #5 above in "General Use Permit Criteria" for consistency with specific General Plan Objectives and Policies.

17.136.050(B) - NON-RESIDENTIAL DESIGN REVIEW CRITERIA:

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 will redevelop an existing site that contains an auto-oriented grocery store that sits in the middle of a surface parking lot as well as an automotive service station with numerous curb cuts on the street. The new development will be a new facility that will fill out the majority of the block and reestablish the grocery store at the edge of the sidewalk and create a new commercial building at the corner of the site with a pedestrian plaza between the two buildings. In addition, the new parking will be provided for on the rooftop of the Safeway so that its presence is obscured, which will minimize any conflict with the pedestrian character of the commercial district.

The proposal will include a new building at the corner of the important and highly visible intersection of Claremont and College Avenues that will contain a “flatiron” type appearance and takes advantage of the acute angle of the intersection as many other buildings in the area do.

The height of the building is consistent with the height of other buildings in the vicinity, and consistent with the height maximum of 35 feet in the C-31 Zone. While the proposed building contains a large portion of the subject block, the design contains a break in the project site for a pedestrian arcade or “walk street” between the Safeway building and the commercial building at the corner that provides a storefront lined pedestrian access between College and Claremont Avenues.

The proposal incorporates high quality and durable exterior materials such as stained concrete bulkheads, dry-stack ledgerstone, smooth finish stucco, metal paneling, and a wood composite such as “parklex” that provide for an overall quality appearance to the project. The commercial store fronts will contain dark anodized aluminum framing, including portions of it on the upper parking level of the building which both helps provide design interest on the tall parapet wall as well as plays off of the tall transom windows seen on other older commercial buildings in the area.

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 proposal will contain high quality and durable exterior materials that will provide for an attractive façade to the buildings. The replacement of the existing surface parking lot and auto service station will transform the site from an auto-oriented relic of the 1960’s into a pedestrian-oriented commercial site that would relate to the pedestrian character of the district by its inclusion of numerous ground floor commercial store fronts replicating the pattern of storefronts across College Avenue.

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.

In general the establishment of a development that removes a surface parking lot and auto service station for a new project that incorporates pedestrian-oriented commercial storefronts along College Avenue is consistent with the intent of the Neighborhood Center Mixed Use General Plan land use classification. See finding #5 above in “General Use Permit Criteria” for consistency with specific General Plan Objectives and Policies.

SECTION 17.148.050 - MINOR VARIANCE FINDINGS:

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

Strict compliance with the required parking regulations would preclude an effective design solution that improves the appearance of the proposed building. The proposed development overall requires 169 off-street parking stalls, whereas only 148 are being provided. Parking is being provided on a rooftop parking deck above the Safeway grocery store building. This design feature is so that the project can have a more pedestrian-oriented design that places the storefront levels at the sidewalks edge versus that of a surface parking lot. By placing the parking on the roof top the parking area becomes more limited, but it does result in a design that has a better design appearance and fits in better with the surrounding commercial district.

Strict compliance with the required three loading berths precludes an effective design solution improving appearance and operational efficiency. The proposed Safeway grocery store would contain 45,500 square feet of floor area, which on its own would not require a third loading berth, but because of the additional commercial space at the corner of the site the project as a whole requires three loading berths. Given that the Safeway store only needs two loading berths, the granting of the variance improves the appearance and operational efficiency of the site by providing a smaller less visually obtrusive loading “structure” at the back corner of the site that only contains two loading berths for Safeway’s larger trucks while allowing loading for Safeway’s smaller trucks and trucks serving the other smaller commercial storefronts to take place from on-street loading zones similar to other smaller businesses in the area versus creating a second auto-oriented loading berth to serve the smaller commercial uses.

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

The basic intent of the commercial parking regulations is to provide ample off-street parking for customers and employees of specific commercial activities. The proposed development overall requires 169 off-street parking stalls, whereas only 148 are being provided. Parking is being provided on a rooftop parking deck above the Safeway store. The amount of parking being provided would meet the requirement for the Safeway store on its own, however with the inclusion of the additional ground floor commercial spaces the amount of parking required by the Planning Code exceeds the amount that is proposed. Strict compliance would preclude an

effective design solution that allowed the inclusion of important ground floor commercial activities in the pedestrian-oriented commercial district of College Avenue. In addition, customers that come to the site will quite likely use the off-street parking provided and patronize multiple stores either at the project site or in the surrounding commercial district, which allows for a shared parking scenario for different activities. Furthermore, none of the proposed commercial storefronts by themselves would trip the threshold for which parking would be provided, and similar other commercial storefronts in the area do not themselves contain any required off-street parking.

The basic intent of the required commercial loading berths is to provide ample loading space for commercial activities. In this instance the main tenant of the site that will require large delivery trucks is Safeway, which will have two dedicated loading berths for the project, which by itself would only require two loading berths and is typical of other stores of the same size, as well as other similar recently approved larger grocery stores such as Whole Foods on Bay Place and Harrison Street. The smaller commercial tenant spaces will be able to utilize existing on street loading zones directly across the street on 63rd Street as other commercial businesses in the district currently use as well as a new loading zone that will likely be provided for along Claremont Avenue. By allowing the reduction of the required loading berth from three to two the general appearance of the rear side of the building facing Claremont Avenue is improved because it minimizes the visual appearance of the loading dock, which in its nature is not a typically attractive design feature on a building.

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 granting of the parking and loading berth variances will not adversely impact the character of the neighborhood, since a reduction in the requirements is making the inclusion of the ground floor commercial spaces at the street frontage as well as other pedestrian amenities a feasible option that makes the proposal more consistent with the oriented character of the College Avenue commercial district.

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

The granting of the variance would not constitute a grant of special privilege, as minor variances are generally granted when proved to create a better design solution to create a more compatible development for the neighborhood or improve operational efficiency.

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

See design review findings above.

16.08.030 - TENTATIVE MAP FINDINGS (Pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act))

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- A. That the proposed map is not consistent with applicable general and specific plans as specified in the State Government Code Section 65451.

In general the establishment of a development that removes a surface parking lot and auto service station for a new project that incorporates pedestrian-oriented commercial storefronts along College Avenue is consistent with the intent of the Neighborhood Center Mixed Use General Plan land use classification. See finding #5 above in “General Use Permit Criteria” for consistency with specific General Plan Objectives and Policies.

- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

In general the establishment of a development that removes a surface parking lot and auto service station for a new project that incorporates pedestrian-oriented commercial storefronts along College Avenue is consistent with the intent of the Neighborhood Center Mixed Use General Plan land use classification. See finding #5 above in “General Use Permit Criteria” for consistency with specific General Plan Objectives and Policies.

- C. That the site is not physically suitable for the type of development.

The subject site is located within an established commercial district, is at present developed with commercial activities and is physically suitable for the proposed commercial development.

- D. That the site is not physically suitable for the proposed density of development.

The existing site is physically suitable to accommodate a development that would include a Floor Area Ratio of less than 1.0, which is below the maximum of 4.0 set forth in the Neighborhood Center Mixed Use General Plan land use designation for the site.

- E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

This site has been previously developed and does not contain any wildlife habitat or waterways.

- F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

There would be no adverse health effects as a result of the proposed development as identified in the EIR for the project. This is a commercial development that would occur within an established commercial district.

- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to

easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)

There are no easements on this property at present to allow public access.

- H. That the design of the subdivision does not provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision

The site has ample southern exposure that will enhance natural solar access and heating and cooling opportunities in the future.

SECTION 16.24.040 – LOT DESIGN STANDARDS

- A. No lot shall be created without frontage on a public street, except lots created in conjunction with approved private access easements.

The merged parcels will have frontage on both College Avenue and Claremont Avenue. No new physical land subdivision would take place as a result of the Map other than the potential for new commercial condominiums.

- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.

The site would not contain side lot lines as it would contain two frontages along two major streets, and contain a rear lot line adjacent to residential properties to the north.

- C. All applicable requirements of the zoning regulations shall be met.

Zoning requirements have been met by meeting the Variance criteria and the Conditional Use permit criteria above for the development.

- D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area.

The merged lot would consist of approximately 90,000 square feet and would far exceed the prevalent lot size in the area.

- E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.

No such characteristics exist at the subject site.

CEQA FINDINGS

I. INTRODUCTION

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; “CEQA”) and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City Council of the City of Oakland (“City Council”) in connection with certification of the Environmental Impact Report (“EIR”) for the Safeway Shopping Center – College and Claremont Avenues Project (“the Project”), SCH #2009112008, and approval of the Project.
2. These CEQA findings are attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval the Project.
3. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

II. PROJECT DESCRIPTION

4. The Project site is located on 2.1 acres at the northwest corner of College and Claremont Avenues and is presently occupied by an existing Safeway store, with approximately 25,000 square feet of floor area, a 96-space surface parking lot, and a vacant gasoline station formerly owned and operated by Union 76. The proposed development studied in the Draft EIR (“DEIR”), referred to herein as the “DEIR Project,” included demolition of the existing store, parking lot and service station and construction of a two-story, approximately 62,000 square foot building that would contain a Safeway store of approximately 51,150 square feet, approximately 10,500 square feet of ground floor retail spaces (for approximately eight retail shops including one restaurant), and a partially below-grade parking garage with about 171 parking spaces.
5. In response to issues raised during a series of public hearings held by the Planning Commission and the Design Review Committee, as well as during numerous meetings with City staff and members of the public, the Project sponsor proposed certain design and site access changes as compared to the DEIR Project. The result was the “Revised Project,” which is more fully described in Chapter 2 of the Response to Comments and Final Environmental Impact Report (“FEIR”). The Revised Project was identical to the DEIR Project in most respects, including the overall size of the Project and the proposed Safeway store. The Revised Project differed from the DEIR Project only with respect to its aesthetic appearance and its proposed treatment of the store driveway and lane configuration at the intersection of 63rd Street and College Avenue.
6. In November 2012, the Project applicant made further changes to the proposed Project to address concerns raised by certain Project opponents. Under this “Updated Project,” the site will be redeveloped with an approximately 45,500 square foot Safeway grocery store building and a second building consisting of 9,500 square feet of retail floor area. Unlike prior iterations of the Project, the Safeway store will be moved to the ground floor and parking will be moved to the rooftop of the Safeway store building under the Updated Project. Customers will be able to enter and exit the rooftop parking area through an at-grade access point on Claremont Avenue and via a ramp access from College Avenue. The number of parking spaces will be reduced from 171 to 148 and the previous “walk street” connecting College and Claremont Avenues will be widened

into a plaza and approximately aligned with 63rd Street across College Avenue. These findings pertain to the Updated Project, and all references in these findings to the “Project” are references to the Updated Project unless the context clearly indicates otherwise.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

7. Pursuant to CEQA and the CEQA Guidelines, a Notice of Preparation (“NOP”) of a Draft Environmental Impact Report and an Initial Study (“IS”) were published on October 30, 2009. The NOP/IS was distributed to state and local agencies, posted at the Project site, and mailed to Oakland property owners within 300 feet of the Project site. The public comment period on the NOP/IS ended on December 1, 2009. On November 18, 2009, the Planning Commission conducted a duly noticed public scoping hearing on the DEIR. The IS concluded that the Project did not have the potential to result in significant impacts to various environmental topics and that these topics would thus not be further studied in the DEIR. These topics included: Aesthetics, Agricultural Resources, Biological Resources, Cultural Resources, Geology/Soils, Hazards & Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Mineral Resources, Population/Housing, Public Services, Recreation and Utilities/Service Systems. Consistent with the conclusions reached by the IS, most of these topics were not studied in the DEIR. However, the categories of Land Use/Planning and Aesthetics were, in fact, examined in the DEIR. See, DEIR, Chapters 4.1 (Land Use, Plans and Policies) and Chapter 4.2 (Visual Quality).

8. A DEIR was prepared for the Project to analyze its environmental impacts. The Notice of Availability/Notice of Release of the DEIR was distributed to appropriate state and local agencies, posted on the Project site, mailed to Oakland property owners within 300 feet of the Project site as well as to any persons who had previously submitted comments on the Project to the City and/or requested to be included in future mailings about the Project, and e-mailed to individuals who had requested specifically to be notified of official City actions on the Project. Copies of the DEIR were also distributed to appropriate state and local agencies, City officials including the Planning Commission and City Council, and made available for public review at the office of the Planning, Building & Neighborhood Preservation Department (250 Frank H. Ogawa Plaza, Suite 2114) and on the City’s website. The DEIR was properly circulated for a 46-day public review period on July 1, 2011. Duly noticed public hearings on the DEIR were held by the Planning Commission on July 20, 2011 and August 3, 2011.

9. The City received written and oral comments on the DEIR. The City prepared responses to comments on environmental issues and made changes to the DEIR. The responses to comments, changes to the DEIR, and additional information were published in the FEIR on July 6, 2012. The DEIR, the FEIR and all appendices thereto constitute the “EIR” referenced in these findings. The FEIR was made available for public review on July 6, 2012, 19 days prior to the duly noticed July 25, 2012 Planning Commission hearing. The Notice of Availability/Notice of Release of the FEIR was distributed to those state and local agencies who commented on the DEIR, posted on the Project site, mailed to Oakland property owners within 300 feet of the Project site as well as to any persons who had previously submitted comments on the Project to the City and/or requested to be included in future mailings about the Project, and e-mailed to individuals who had requested specifically to be notified of official City actions on the Project. Copies of the FEIR were distributed to those state and local agencies who commented on the DEIR and to City officials (including members of the Planning Commission and City Council), and were made available for public review at the office of the Planning, Building & Neighborhood Preservation Department (250 Frank H. Ogawa Plaza, Suite 2114) and on the City’s website. Pursuant to the CEQA Guidelines, responses to public agency comments have been published and made available to all commenting agencies at least 10 days prior to hearing. The Planning Commission

had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR and prior to taking any action on the proposed Project. On July 25, 2012, the Planning Commission voted unanimously to certify the EIR and approve the Revised Project.

10. On August 6, 2012, Berkelyans for Pedestrian Oriented Development and the Rockridge Community Planning Council separately appealed the Planning Commission's actions on the Project to the City Council.

11. At its November 13, 2012 meeting, the City Council held a public hearing on the appeals. At that meeting, Councilmember Brunner discussed the terms of a proposed agreement between the applicant and the appellants whereby the applicant would implement the Updated Project in exchange for the appellants withdrawing their opposition to the Project. The City Council continued the public hearing on the appeals to December 18, 2012, and directed staff to prepare updated plans, findings, conditions of approval and CEQA documents to reflect the Updated Project.

12. The Updated Project is approximately 12% smaller than the prior iteration of the Project studied in the DEIR and the FEIR. Because the Updated Project results in a smaller store and less overall development, it will not result in new or substantially more severe impacts than were previously identified in the DEIR and the FEIR. As such, and in accordance with CEQA Guidelines section 15164, the City prepared an Addendum to the EIR ("Addendum") to address the Updated Project. The City Council has had an opportunity to review the EIR and the Addendum prior to consideration of certification of the EIR and adoption of the Addendum and prior to taking any action on the proposed Project.

IV. THE ADMINISTRATIVE RECORD

13. The administrative record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

- a. The EIR and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by City staff to the Planning Commission and City Council relating to the EIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Planning Commission and City Council by the environmental consultant and subconsultants who prepared the EIR or incorporated into reports presented to the Planning Commission and City Council.
- d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.
- e. All final applications, letters, testimony and presentations presented by the Project sponsor and its consultants to the City in connection with the Project.
- f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.

- g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation, general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- h. The Standard Conditions of Approval for the Project and Mitigation Monitoring and Reporting Program for the Project.
- i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

14. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of City Planning, Planning, Building & Neighborhood Preservation Department, or his/her designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California, 94612.

V. CERTIFICATION OF THE EIR AND ADOPTION OF THE ADDENDUM

15. In accordance with CEQA, the City Council certifies that the EIR has been completed in compliance with CEQA.

16. The City Council finds that none of the conditions described in Section 21166 of the Public Resources Code or Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental environmental impact report have occurred and that therefore an addendum rather than a subsequent or supplemental environmental document is appropriate and that the Addendum is hereby adopted.

17. Specifically, the City Council finds that the changes reflected in the Updated Project do not constitute substantial changes which require major revisions in the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects; nor have there been substantial changes with respect to the circumstances under which the Project will be undertaken which require major revisions of the EIR due to the involvement of new significant environmental effects or the substantial increase in the severity of previously identified significant effects.

18. In addition, the City Council finds that there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence which shows (A) that the Updated Project will have one or more significant effects not discussed in the EIR (there will be no new significant effects); (B) that significant effects previously examined will be substantially more severe than shown in the EIR (the Addendum shows that the effects will be either the same or less); (C) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Updated Project, but the project proponent declines to adopt the mitigation measure or alternative (no such mitigation measures or alternatives have been identified); or (D) that mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to implement the mitigation measure or alternative (no such mitigation measures or alternatives have been identified).

19. The City Council has independently reviewed the record and the EIR and Addendum prior to certifying the EIR and adopting the Addendum and approving the Project. By these findings, the City Council confirms, ratifies, and adopts the findings and conclusions of the EIR and Addendum as supplemented and modified by these findings: The EIR, Addendum and these findings represent the independent judgment and analysis of the City and the City Council.

20. The City Council recognizes that the EIR and/or Addendum may contain clerical errors. The City Council reviewed the entirety of the EIR and Addendum and bases its determination on the substance of the information these documents contain.

21. The City Council certifies that the EIR and Addendum are adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the November 13, 2012 and December 18, 2012 City Council, and the Planning Commission staff reports. The City Council certifies that the EIR and Addendum are adequate to support approval of the Project described in the EIR and Addendum, each component and phase of the Project described in the EIR and Addendum, any alternative to or variant of the Project described in the EIR and/or Addendum, and any minor modifications to the Project or to alternatives to or variants of the Project described in the EIR and/or Addendum.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

22. The City Council recognizes that the FEIR and Addendum incorporate information obtained and produced after the DEIR was completed, and that the FEIR and Addendum contain some additions, clarifications, and/or modifications to the DEIR. The City Council has reviewed and considered the FEIR and Addendum and all of this information. The FEIR and Addendum do not add significant new information to the DEIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not indicate a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the Project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the DEIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the DEIR. Thus, recirculation of the EIR is not required.

23. The City Council finds that the changes and modifications made to the EIR after the DEIR was circulated for public review and comment (including through the FEIR and the Addendum) do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

VII. STANDARD CONDITIONS OF APPROVAL AND MITIGATION MONITORING AND REPORTING PROGRAM

24. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR to reduce significant Project impacts are implemented. The Standard Conditions of Approval and Mitigation Monitoring and Reporting Program (“SCAMMRP”) is attached and incorporated by reference into the November 13, 2012 and December 18, 2012 City Council and the July 25, 2012 Planning Commission, staff reports prepared for the approval of the Project, as the later reports have been modified by the City Council’s December 18, 2012 actions on this item [is included in the conditions of approval for the Project, and is adopted by the City Council. The SCAMMRP satisfies the requirements of

CEQA. To the extent that there are any inconsistencies between SCAMMRP attached to the December 18' approvals and prior versions submitted to and/or approved by the Planning Commission and/or City Council, the version attached and incorporated by reference into these City Council findings of December 18, 2012 shall control.

25. The standard conditions of approval ("SCA") and mitigation measures set forth in the SCAMMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified responsible public agencies. As appropriate, some SCA and mitigation measures define performance standards to ensure that no significant environmental impacts will result. The SCAMMRP adequately describes implementation procedures and monitoring responsibility in order to ensure that the Project complies with the adopted SCA and mitigation measures.

26. The City Council will adopt and impose the feasible SCA and mitigation measures as set forth in the SCAMMRP as enforceable conditions of approval. Implementation of these measures will avoid or substantially lessen all significant impacts of the Project where feasible.

27. The SCA and mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the EIR. In the event a standard condition of approval or mitigation measure recommended in the EIR has been inadvertently omitted from the conditions of approval or the SCAMMRP, that standard condition of approval or mitigation measure is adopted and incorporated from the EIR into the SCAMMRP by reference and adopted as a condition of approval.

VIII. FINDINGS REGARDING ENVIRONMENTAL IMPACTS

28. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the City Council adopts the findings and conclusions regarding impacts, SCA and mitigation measures that are set forth in the EIR and/or the SCAMMRP. These findings do not repeat the full discussions of environmental impacts, mitigation measures, standard conditions of approval, and related explanations contained in the EIR. The City Council affirms, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The City Council adopts the reasoning of the EIR, staff reports, and presentations provided by the staff and the Project sponsor as may be modified by these findings.

29. The City Council recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City Council acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project and its environmental impacts. The City Council has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the City Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

**IX. POTENTIALLY SIGNIFICANT BUT MITIGABLE
ENVIRONMENTAL IMPACTS**

30. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR and the SCAMMRP, the City Council finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. While some of the SCA ensure that the Project will result in no significant impacts, none of the SCA are mitigation measures. Thus, the SCA are not addressed in the findings below, but are included in the SCAMMRP to ensure that they will be implemented. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures:

31. Transportation, Circulation and Parking: The Project would result in significant but mitigable traffic impacts at several roadways and intersections under Existing Conditions, 2015 Conditions and 2035 Conditions. The Updated Project would result in approximately ten percent fewer trips than the version of the Project analyzed in the EIR. In comparison to the intersection analysis presented in the EIR, all study intersections would operate at slightly better conditions due to the fewer trips generated by the Updated Project. However, the Updated Project would continue to result in the same significant but mitigable traffic impacts identified in the EIR. The following summary of these impacts is organized in numeric order by relevant impact statement with the intersection noted for easier comprehension by the reviewer.

a) Impact TRANS-4 (College Avenue/Claremont Avenue)

Under Existing Conditions, the Project would contribute to LOS E operations and increase the average intersection delay by more than 4 seconds, and increase delay for the critical movements of northbound College Avenue and northeastbound Claremont Avenue by more than 6 seconds, during the weekday PM and Saturday midday peak hours at the College Avenue/Claremont Avenue intersection. The Project would also degrade intersection operations from LOS E to LOS F and increase the average intersection delay by more than 4 seconds, and increase delay for a critical movement by more than 6 seconds during the Saturday PM peak hour at the College Avenue/Claremont Avenue intersection. Mitigation Measure TRANS-4 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund, prepare and install the approved plans and improvements. The proposed improvements relate to optimizing the signal timing parameters (i.e., adjusting the allocation of green time for each intersection approach) and coordinating the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group. After implementation of this measure, the intersection would improve to LOS D during the weekday PM peak hour and improve from LOS F to LOS E during the Saturday midday peak hour and continue to operate at LOS E during the Saturday PM peak hour. Although the intersection would continue to operate at an unacceptable level, the Project impact would be reduced to less than significant because the average intersection vehicle delay during the relevant peak hours would be less than under Existing Conditions and the increase in delay for all critical movements would be less than 4 seconds higher than under No Project conditions. No secondary significant impacts would result from implementation of this measure.

b) Impact TRANS-8 (College Avenue/Claremont Avenue)

Under 2015 Conditions, the Project would contribute to LOS F operations, increase the average intersection vehicle delay by more than 2 seconds, and increase delay for a critical movement by more than 4 seconds, during the weekday PM, Saturday midday, and Saturday PM peak hours at the College Avenue/Claremont Avenue intersection. Mitigation Measure TRANS-8 requires implementation of Mitigation Measure TRANS-4. After implementation of this measure, the intersection would continue to operate at LOS F during both weekday PM peak hour and Saturday PM peak hours and at LOS E during the Saturday midday peak hour. Although the intersection would continue to operate at an unacceptable level, the Project impact would be reduced to less than significant because the average intersection vehicle delay during the relevant periods would be less than under 2015 No Project conditions. No secondary significant impacts would result from implementation of this measure.

c) Impact TRANS-14 (College Avenue/Claremont Avenue)

Under 2035 Conditions, the Project would contribute to LOS F operations and increase the intersection volume to capacity (v/c) ratio by more than 0.03 during weekday PM, Saturday midday and Saturday PM peak hours at the College Avenue/Claremont Avenue intersection. Mitigation Measure TRANS-14 requires implementation of Mitigation Measure TRANS-4. After implementation of this measure, the intersection would continue to operate at LOS F during the weekday PM, Saturday midday and Saturday PM peak hours. Although the intersection would continue to operate at an unacceptable level, the Project impact would be reduced to less than significant because the average intersection vehicle delay and v/c ratio during the relevant peak periods would be less than under 2035 No Project conditions. No secondary significant impacts would result from implementation of this measure.

d) Impact TRANS-15 (Forest Street/Claremont Avenue)

Under 2035 Conditions, the Project would contribute to LOS F operations, increasing the average intersection delay by more than 2 seconds and increasing delay for a critical movement by more than 4 seconds during the weekday PM peak hour and contribute to LOS E operations, increasing average delay by more than 4 seconds and increasing delay for the critical northbound movement by more than 6 seconds during the Saturday midday peak hour at the Forest Street/Claremont Avenue intersection. Mitigation Measure TRANS-15 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund, prepare and install the approved plans and improvements. The proposed improvements relate to optimizing the signal timing parameters (i.e., adjusting the allocation of green time for each intersection approach) and coordinating the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group. After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour and remain at LOS E during the Saturday midday peak hour. Although the intersection would continue to operate at an unacceptable level, the Project impact would be reduced to less than significant because during the weekday PM peak hour the average intersection vehicle delay would be less than under 2035 No Project Conditions and during the Saturday midday peak hour the average intersection vehicle delay would be less than the 4 seconds and the critical movement delay would be less than the 6 seconds of delay caused by the Project. No secondary significant impacts would result from implementation of this measure.

e) Impact TRANS-16 (Hudson Street/Manila Avenue/College Avenue)

Under 2035 Conditions, the Project would contribute to LOS E operations, and increase the average intersection delay by more than 4 seconds during the weekday PM peak hours at the Hudson Street/Manila Avenue/College Avenue intersection. Mitigation Measure TRANS-16 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund, prepare and install the approved plans and improvements. The proposed improvements relate to optimizing the signal timing parameters (i.e., adjusting the allocation of green time for each intersection approach) and coordinating the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group. With implementation of this measure, the intersection would improve from LOS E to LOS D and thus the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure.

32. Air Quality: Project construction activities would expose nearby sensitive receptors to substantial levels of PM_{2.5} and toxic air contaminants, which may lead to adverse health impacts. This is considered a significant impact as described in Impact AIR-3. Mitigation Measure AIR-1 requires the applicant to develop a Diesel Emission Reduction Plan that addresses, among others, alternatively fueled equipment, engine retrofit technology, after-treatment products and add-on devices such as particulate filters and/or other options as they become available, capable of achieving a Project wide fleet-average of 70 percent particulate matter reduction compared to the most recent California Air Resources Board fleet average. The plan shall be submitted for review and approval by the City. With implementation of this measure, the calculated maximum excess cancer risk from construction activities would be reduced from 30.9 in one million to 9.3 in one million, and thus reduced to a less than significant level.

X. SIGNIFICANT AND UNAVOIDABLE IMPACTS

33. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the SCAMMRP, the City Council finds that the following impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible SCA and mitigation measures, as set forth below. In particular, the City Council finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

34. Transportation, Circulation and Parking – The proposed Project would result in significant and unavoidable traffic impacts at several roadways and intersections under Existing Plus Project Conditions, 2015 Plus Project Conditions and Cumulative 2035 Plus Project Conditions. The Updated Project would result in approximately ten percent fewer trips than the version of the Project analyzed in the EIR. In comparison to the intersection analysis presented in the EIR, all study intersections would operate at slightly better conditions due to the fewer trips generated by the Updated Project. However, the Updated Project would continue to result in the same significant and unavoidable impacts identified in the EIR. The following summary of these impacts is organized in numeric order by relevant impact statement with the intersection and agency or agencies with jurisdiction over the intersection noted for easier comprehension by the reviewer.

a) Impact TRANS-1 (Ashby Avenue/College Avenue) – City of Berkeley/Caltrans Facility

Under Existing Conditions, the proposed Project would contribute to LOS E operations and increase the average intersection vehicle delay by more than 3 seconds during the weekday PM peak hour, and contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the Saturday midday and PM peak hours at the Ashby Avenue/College Avenue intersection. Mitigation Measure TRANS-1 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing these plans. The proposed improvements relate to converting signal control equipment from pre-timed to actuated-uncoordinated operations and optimizing the signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection). After implementation of this measure, the intersection would continue to operate at LOS E during the weekday PM peak hour and improve from LOS F to LOS E during the Saturday midday and PM peak hours. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay during the relevant peak periods would be less than under Existing Conditions. Thus, if Mitigation Measure TRANS-1 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-1 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-1, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

b) Impact TRANS-2 (Alcatraz Avenue/College Avenue) – City of Berkeley Facility

Under Existing Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and contribute to LOS E operations and increase the intersection average delay by more than 3 seconds during the Saturday midday peak hour at the Alcatraz Avenue/College Avenue intersection. Mitigation Measure TRANS-2 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing these plans. The proposed improvements include the following: (a) provide left-turn lanes on northbound and southbound College Avenue by converting the existing angled parking spaces along College Avenue to parallel spaces, (b) convert signal control equipment from pre-timed to actuated-uncoordinated operations and provide protected/permissive left-turn phasing for the north/south approaches, (c) optimize signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection) and (d) consider moving the AC Transit bus stops on both northbound and southbound College Avenue from near-side to far-side of the intersection (i.e., from before the signal to after the signal). After implementation of this measure, the intersection would improve from LOS F to LOS E during

the weekday PM peak hour and from LOS E to LOS D during the Saturday midday peak hour. Thus, if Mitigation Measure TRANS-2 were to be implemented, the impact would be reduced to a less than significant level. Converting the existing angled parking spaces on College Avenue to parallel spaces would result in the elimination of three metered on-street parking spaces based on the detailed design of the mitigation measures presented in the FEIR, which is less than the loss of six parking spaces estimated in the DEIR. Parking demand on this segment of College Avenue is currently at or above capacity. Thus, the loss of these parking spaces would contribute to the expected parking shortage in the area. However, parking demand is not considered a significant environmental impact unless the lack of sufficient parking spaces results in significant secondary traffic or air quality impacts as described in the FEIR. The loss of a relatively small number of parking spaces will not result in significant secondary traffic or air quality impacts as described in the FEIR. No secondary significant impacts would result from implementation of this measure. The mitigation measure would also improve pedestrian safety by providing protected/permissive left-turn phasing on College Avenue and reducing potential conflicts between left-turning automobiles and pedestrians crossing along College Avenue. This impact is considered significant and unavoidable because it is not certain that the measure could be implemented. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to file an encroachment permit application with the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-2. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-2, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

c) Impact TRANS-3 (Alcatraz Avenue/Claremont Avenue) – City of Berkeley Facility

Under Existing Conditions, the proposed Project would contribute to LOS F operations at the side-street stop-controlled eastbound approach at the Alcatraz Avenue/Claremont Avenue intersection which would meet the peak hour signal warrant. Mitigation Measure TRANS-3 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing these plans. The proposed improvements include the following: (a) conduct a complete traffic signal warrant analysis to verify that this location meets the California Manual on Uniform Traffic Control Devices signal warrants, and assuming signal warrants are met, (b) signalize the intersection, providing actuated operation, with permitted left turns and communication conduit/cabling connecting the traffic signal to the proposed traffic signal on Claremont Avenue at Safeway Driveway/Mystic Street/Auburn Avenue. After implementation of this measure, the intersection would operate at LOS B during the weekday PM peak hour and LOS A during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-3 were to be implemented, the impact would be reduced to a less than significant level. Pedestrians crossing at this intersection may experience more delay because they would need to wait for the appropriate signal phase. Pedestrian delay is not a significant impact under CEQA. Moreover, the mitigation measure would improve pedestrian safety by providing a protected pedestrian crossing. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this

intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-3 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-3, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

d) Impact TRANS-5 (Ashby Avenue/College Avenue) – City of Berkeley/Caltrans Facility

Under 2015 Conditions, the Project would degrade intersection operations from LOS E to LOS F and increase the average intersection vehicle delay by more than 3 seconds during the weekday PM peak hour and contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the Saturday midday and PM peak hours at the Ashby Avenue/College Avenue intersection. Mitigation Measure TRANS-5 requires implementation of Mitigation Measure TRANS-1. After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour and continue to operate at LOS F during the Saturday midday and PM peak hours. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay or v/c ratio during the relevant peak periods would be less than under 2015 No Project Conditions. Thus, if Mitigation Measure TRANS-5 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-5 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-5, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

e) Impact TRANS-6 (Alcatraz Avenue/College Avenue) – City of Berkeley Facility

Under 2015 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour, degrade intersection operations from LOS E to LOS F and increase the intersection average delay by more than 3 seconds during the Saturday midday peak, and degrade intersection operations from LOS D to LOS E and increase intersection average delay by more than 2 seconds during the Saturday

PM peak hour, all at the Alcatraz Avenue/College Avenue intersection. Mitigation Measure TRANS-6 requires implementation of Mitigation Measure-TRANS-2. After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour. Although this intersection would continue to operate at an unacceptable level, the average intersection vehicle delay would be less than under 2015 No Project Conditions. The intersection would improve from LOS F to LOS D during the Saturday midday peak hour and from LOS E to LOS C during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-6 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to file an encroachment permit application with the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-6. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-6, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

f) Impact TRANS-7 (Alcatraz Avenue/Claremont Avenue) – City of Berkeley Facility

Under 2015 Conditions, the proposed Project would contribute to LOS F operations at the side-street stop-controlled eastbound approach at the Alcatraz Avenue/Claremont Avenue intersection. Mitigation Measure TRANS-7 requires the implementation of Mitigation Measure TRANS-3. After implementation of this measure, the intersection would operate at LOS B during the weekday PM peak hour and LOS A during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-7 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-7 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-7, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

g) Impact TRANS-9 (Ashby Avenue/College Avenue) – City of Berkeley/Caltrans Facility

Under 2035 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the weekday PM peak hour, Saturday midday

peak hour and Saturday PM peak hour at the Ashby Avenue/College Avenue intersection. Mitigation Measure TRANS-9 requires implementation of Mitigation Measure TRANS-1 and provision of a left-turn lane on southbound College Avenue. After implementation of this measure, the intersection would operate at LOS F during the weekday PM peak hour, Saturday midday peak hour and Saturday PM peak hour. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay during the relevant peak periods would be less than under 2035 No Project Conditions. Thus, if Mitigation Measure TRANS-9 were to be implemented, the impact would be reduced to a less than significant level. The DEIR stated that providing a left-turn lane on southbound College Avenue may result in secondary impacts. This segment of College Avenue currently provides adequate width to accommodate a southbound left-turn lane in addition to the existing southbound and northbound through lanes. However, provision of a southbound left-turn lane would narrow the northbound through lane. As a result, trucks may have difficulty turning right from westbound Ashby Avenue to northbound College Avenue. In addition, buses stopped at the existing bus stop on northbound College Avenue just north of Ashby Avenue may block northbound through traffic on the narrower travel lane. Because there is sufficient roadway width to add the left-turn lane and because the turn lane would improve overall operations at the intersection, the above-mentioned secondary impacts are not significant. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-9 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-9, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

h) Impact TRANS-10 (Ashby Avenue/Claremont Avenue) – City of Berkeley/Caltrans Facility

Under 2035 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the weekday PM peak hour at the Ashby Avenue/Claremont Avenue intersection. This is a significant impact based on the City of Berkeley's significance criteria. Mitigation Measure TRANS-10 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing the plans. The proposed improvements include the following: (a) reconfigure the westbound approach on Ashby Avenue to provide a dedicated left-turn lane and a shared through/right-turn lane, (b) convert signal control equipment from pre-timed to actuated-uncoordinated operations and (c) optimize signal timing parameters (i.e., adjust the allocation of green time for each intersection approach). After implementation of this measure, the intersection would continue to operate at LOS F during the weekday PM peak hour. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay during both peak hours would be less than under 2035 No

Project Conditions. Thus, if Mitigation Measure TRANS-10 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-10 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-10, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

i) Impact TRANS-11 (Alcatraz Avenue/College Avenue) – City of Berkeley Facility

Under 2035 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and Saturday midday peak hour and degrade intersection operations from LOS E to LOS F and increase intersection average delay by more than 3 seconds during the Saturday PM peak hour at the Alcatraz Avenue/College Avenue intersection. This is a significant impact based on the City of Berkeley's significance criteria. Mitigation Measure TRANS-11 requires implementation of Mitigation Measure TRANS-2. After implementation of this measure, the intersection would operate at LOS F during the weekday PM peak hour, LOS E during the Saturday midday peak hour, and LOS D during the Saturday PM peak hour. Although the intersection would continue to operate at an unacceptable level during the weekday PM and Saturday midday peak hours, the average intersection vehicle delay during both periods would be less than under 2035 No Project Conditions. Thus, if Mitigation Measure TRANS-11 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to file an encroachment permit application with the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-11. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-11, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

j) Impact TRANS-12 (Alcatraz Avenue/Claremont Avenue) – City of Berkeley Facility

Under 2035 Conditions, the proposed Project would contribute to LOS F operations at the side-street stop sign controlled eastbound approach at the Alcatraz Avenue/Claremont Avenue intersection during the weekday PM, Saturday midday and Saturday PM peak hours. Mitigation Measure TRANS-12 requires implementation of Mitigation Measure TRANS-3. After implementation of this measure, the intersection would operate at LOS C during the weekday PM peak hour, LOS B during the Saturday midday peak hour and LOS A during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-12 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-12 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and stated its opposition to a prior iteration of the Project (the Revised Project). Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-12, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

XI. FINDINGS REGARDING ALTERNATIVES

35. The City Council finds that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the alternatives to the Project as described in the EIR despite remaining impacts, as more fully set forth in the Statement of Overriding Considerations below.

36. Pursuant to CEQA Guidelines section 15126.6, an EIR must describe a range of reasonable alternatives to a project, or to the location of a project, that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. Among the factors that may result in rejection of alternatives from detailed consideration in an environmental impact report or as part of the project approval process are: (1) failure to meet most of the basic project objectives, (2) infeasibility, or (3) inability to avoid significant environmental impacts. CEQA Guidelines section 15162.6(c). Feasible is defined as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” CEQA Guidelines section 15364.

37. The EIR evaluated a reasonable range of alternatives to the Project that was described in the DEIR. The City of Oakland, as lead agency, specified seven Project alternatives plus the required No Project Alternative for evaluation in the EIR. This range of alternatives was based on applicable planning and zoning regulations, comments from the public received at the Planning Commission meeting on the IS, and the need to consider feasible alternatives with the potential to avoid or lessen significant Project impacts. Based on these considerations, the following alternatives to the proposed Project were evaluated in the EIR: Alternative 1a: Mixed-Use

Alternative with Regular Apartments; Alternative 1b: Mixed-Use Alternative with Senior Housing; Alternative 2: 40,000 Square Foot Reduced-Size Project; Alternative 2a: 35,750 Square Foot Reduced-Size Project; Alternative 2b: 25,250 Square Foot Reduced-Size Project; Alternative 3: Full Project with No Curb Cut on College Avenue; Alternative 4: Full Project with Inbound Only Driveway on College Avenue; and Alternative 5: No Project Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project. CEQA Guidelines section 15126.6 requires that an EIR identify the environmentally superior alternative. Based on its avoidance of the Project's significant traffic impacts, the No Project Alternative would be considered to be the environmentally superior alternative. Pursuant to CEQA Guidelines section 15126.6(e)(2), if the environmentally superior alternative is the no project alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. In accordance with this provision, the EIR selects Alternative 2b, the 25,250 Square Foot Reduced-Size Project, as the next environmentally superior alternative. Unlike the proposed Project, Alternative 2b would not result in any significant unavoidable traffic impacts. However, Alternative 2b would not meet most of the basic Project objectives as required by CEQA Guidelines section 15126.6. Although Alternative 2, the 40,000 Square Foot Reduced-Size Project, would not avoid the Project's significant impacts to the same extent as Alternative 2b, it would meet the Project objectives to a greater degree than Alternative 2b. Therefore, after Alternative 2b, Alternative 2 would be considered to be the next environmentally superior alternative.

38. The City Council certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City Council's independent judgment as to alternatives. The City Council finds that the Project provides the best balance between the Project sponsor's objectives, the City's goals and objectives, and the Project's benefits as described in the Staff Report and in the Statement of Overriding Considerations below. While the Project does result in some significant and unavoidable environmental impacts, the mitigation measures and SCAs contained in the SCAMMRP mitigate these impacts to the extent feasible. Furthermore, based on the conditions of approval described above reflecting the results of collaboration between the applicant and City of Berkeley staff, it appears that the significant and unavoidable traffic impacts may be mitigated to a less than significant level. Since the City of Berkeley controls the timing and implementation of these mitigation measures, however, the impacts are still considered significant and unavoidable. The alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the Project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

39. Alternative 1a: Mixed-Use Alternative with Regular Apartments: Under this alternative, the existing Safeway store would be replaced with a new 45,000 square foot store (i.e., larger than the existing store, but 500 square feet smaller than the store proposed as part of the Updated Project) above parking and a row of seven small commercial shops along the College Avenue frontage. Up to 40 residential units, containing a mix of 1, 2 and 3 bedroom units, would be constructed along the Claremont Avenue frontage. This alternative would result in the same significant unavoidable impacts as the Project. All other impacts would be similar to the proposed Project although construction noise impacts would be increased compared to the Project due to a longer construction period. Like the Project, such construction noise impacts would be reduced to a less than significant level through implementation of SCA. Additional SCA would be applied to the housing component of this alternative to ensure that the City's interior noise standards would be met. Alternative 1a is rejected as infeasible because (a) it would not avoid or substantially lessen any significant environmental impacts of the Project; and/or (b) it would not achieve most of the

basic Project objectives, including those related to: (i) providing enhanced pedestrian amenities since the proposed walkthrough pedestrian plaza connecting College Avenue and Claremont Avenue would be eliminated under this alternative and (ii) establishing a gateway presence at this important intersection in the Rockridge neighborhood due to the elimination of the walkway and reduced prominence of the corner element and locational signage.

40. Alternative 1b: Mixed-Use Alternative with Senior Housing: Like Alternative 1a, Alternative 1b is a mixed-use alternative with a supermarket, small commercial spaces and housing. Under this alternative, the new Safeway store would be 30,000 square feet, i.e., roughly 17 percent larger than the existing store, but 34 percent smaller than the store proposed in the Updated Project. There would be six commercial spaces, occupying 11,820 square feet, which is more than the 9,500 square feet proposed under the Updated Project. This alternative also includes 54 senior housing units (containing a mix of 1 and 2 bedroom units), 4 of which would be located on the ground floor along Claremont Avenue and 50 of which would be developed on the second and third floors along both the College and Claremont frontages. This alternative would result in most of the same significant unavoidable transportation-related impacts as the Project, although the magnitude of the impacts would be reduced compared to the proposed Project. This alternative would avoid the following significant and unavoidable traffic impacts: Impact TRANS-3, and -7. Impacts TRANS-1, -2, -5, -6, -9, -10, -11 and -12 would not be reclassified as they would all still require mitigation that is beyond the jurisdiction of the City of Oakland. All other impacts of this alternative would be similar to the proposed Project except for construction noise impacts, which would be increased due to a longer construction period. Like the Project, such construction noise impacts would be reduced to a less than significant level through implementation of SCA. Additional SCA would be applied to the housing component of this alternative to ensure that the City's interior noise standards would be met. Alternative 1b is rejected as infeasible because (a) it would not avoid or substantially lessen any significant environmental impacts of the Project; and/or (b) it would not achieve most of the basic Project objectives, including those related to: (i) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (ii) creating a more functional and efficient shopping area configuration to eliminate current "pinch points" in Safeway customers' path of travel, (iii) providing enhanced pedestrian amenities since the proposed walkthrough pedestrian plaza connecting College Avenue and Claremont Avenue would be eliminated under this alternative, (iv) establishing a gateway presence at this important intersection in the Rockridge neighborhood due to the elimination of the walkway and reduced prominence of the corner element and locational signage and (v) adding approximately 77 full-time new union jobs at the Safeway store.

41. Alternative 2: 40,000 Square Foot Reduced-Size Project: Under this alternative, the proposed Safeway store would be reduced in size to 40,000 square feet and certain retail components of the proposed Project would be eliminated. All other aspects, including access driveways, would be the same as the Revised Project. Compared to the proposed Project, this alternative would avoid the following significant and unavoidable traffic impacts: Impacts TRANS-3, -7 and -10. Impacts TRANS-1, -2, -5, -6, -9, -11 and -12 would not be reclassified from significant and unavoidable as they would all still require mitigation that is beyond the jurisdiction of the City of Oakland. However, the magnitude of these impacts would be reduced compared to the proposed Project. All other impacts would be similar to the proposed Project. Alternative 2 is rejected as infeasible because (a) it would not avoid or substantially lessen several significant environmental impacts of the Project and/or (b) it would not achieve most of the basic Project objectives, including those related to: (i) replacing the existing 1960s suburban style development with a modern, urban design that de-emphasizes the prominence of surface-level parking as the existing store and site would likely be remodeled and reconfigured instead of redeveloped under this

alternative, (ii) creating a mixed-use retail development project that promotes pedestrian activity and comparison shopping at the College/Claremont corner, (iii) providing more street-front retail opportunities similar in scope and scale to the retail frontage on College Avenue, (iv) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (v) creating a more functional and efficient shopping area configuration to eliminate current “pinch points” in Safeway customers’ path of travel, and (vi) adding approximately 77 full-time new union jobs at the Safeway store.

42. Alternative 2a: 35,750 Square Foot Reduced-Size Project: Alternative 2a consists of a new one-story 25,000 square foot store with rooftop parking and loading docks along Claremont Avenue; a 10,000 square foot building on College Avenue that would contain 5,000 square feet of ground floor commercial and 5,000 square feet of office on the second floor; and a 750 square foot café/deli building and plaza on the south corner of the Project site. The alternative would feature surface parking and landscaping. Access would be provided through two driveways on Claremont Avenue and a driveway on College Avenue opposite 63rd Street. Compared to the proposed Project, this alternative would avoid the following significant and unavoidable traffic impacts: Impact TRANS-1, -3, -5, -7, -10 and -12. Impacts TRANS-2, -6, -9, -11 would not be reclassified from significant and unavoidable as they would all still require mitigation that is beyond the jurisdiction of the City of Oakland. However, the magnitude of these impacts would be reduced compared to the proposed Project. All other impacts would be similar to those of the proposed Project. Alternative 2a is rejected as infeasible because (a) it would not avoid or substantially lessen some significant environmental impacts of the Project; and/or (b) it would not achieve most of the basic Project objectives, including those related to: (i) replacing the existing 1960s suburban style development with a modern, urban design that de-emphasizes the prominence of surface-level parking, (ii) creating a mixed-use retail development project that promotes pedestrian activity and comparison shopping at the College/Claremont corner due to the lack of sufficient retail space, (iii) providing more street-front retail opportunities similar in scope and scale to the retail frontage on College Avenue, (iv) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (v) creating a more functional and efficient shopping area configuration to eliminate current “pinch points” in Safeway customers’ path of travel, and (vi) adding approximately 77 full-time new union jobs at the Safeway store.

43. Alternative 2b: 25,250 Square Foot Reduced-Size Project: Alternative 2b would expand and renovate the existing Safeway store building, add a 2,000 square foot loading dock and a 750 square foot café/deli building and plaza on the south corner of the Project site. The alternative would feature surface parking and landscaping. Access would be provided through two driveways on Claremont Avenue and a mid-block driveway on College Avenue. Compared to the proposed Project, this alternative would avoid the significant and unavoidable traffic impacts associated with the Project. All other impacts would be similar to those of the proposed Project. Alternative 2b is rejected as infeasible because it would not achieve most of the basic Project objectives, including those related to: (i) replacing the existing 1960s suburban style development with a modern, urban design that de-emphasizes the prominence of surface-level parking, (ii) creating a mixed-use retail development project that promotes pedestrian activity and comparison shopping at the College/Claremont corner, (iii) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (iv) creating a more functional and efficient shopping area configuration to eliminate current “pinch points” in Safeway customers’ path of travel and (v) adding approximately 77 full-time new union jobs at the Safeway store.

44. Alternative 3: Project with No Curb-Cut on College Avenue: This alternative assumes that a 51,150 square foot Safeway store and 10,500 square feet of other commercial uses would be developed. However, the Project would not have vehicular access to and from College Avenue under this alternative. While this alternative would generate approximately 10% more vehicular trips than the Updated Project, all vehicular access would be through Claremont Avenue, and traffic patterns around the site would be modified. Compared to the proposed Project, Alternative 3 would result in the same significant and unavoidable traffic impacts, although the following impacts would be increased compared to the Project: Impacts TRANS-2, -3, -6, -7, -11 and -12. Additional improvements would also be needed to mitigate Impact TRANS-12. In addition, Impacts TRANS-4, -8 and -14, which can be mitigated under the proposed Project, would be significant and unavoidable under this alternative. All other impacts would be the same as with the proposed Project. Alternative 3 is rejected as infeasible because (a) it would not avoid or substantially lessen any significant environmental impacts of the Project and/or (b) it would not achieve the basic Project objective of retaining an important vehicular access point from College Avenue.

45. Alternative 4: Project with Inbound Only Driveway on College Avenue: This alternative assumes that a 51,150 square foot Safeway store and 10,500 square feet of other commercial uses would be developed. However, the Project would have inbound only access from College Avenue. Vehicles from northbound and southbound College Avenue would be able to turn into the Project driveway on College Avenue opposite 63rd Street. However, vehicles would not be able to exit the Project site onto College Avenue. Instead, all vehicles would exit the site to Claremont Avenue. While this alternative would generate approximately 10% more vehicular trips than the Updated Project, all outbound vehicular access would be through Claremont Avenue, and traffic patterns around the site would be modified. Compared to the proposed Project, Alternative 4 would result in the same significant and unavoidable traffic impacts. Impacts TRANS-12 and -14 would be increased compared to the proposed Project and Impacts TRANS-2, -6, -11 would be reduced compared to the proposed Project. All other impacts would be the same as with the proposed Project. Alternative 4 is rejected as infeasible because (a) it would not avoid or substantially lessen any significant environmental impacts of the Project and/or (b) it would not accomplish the basic Project objective of retaining an important vehicular access point from College Avenue to the same degree as the proposed Project since it would only allow inbound traffic on College Avenue.

46. Alternative 5: No Project Alternative: Under this scenario, the Project site would not be redeveloped. The current Safeway store and parking lot would remain as they are and no aspect of the proposed Project would be constructed. It is also assumed that the Safeway store would remain open for the foreseeable future, providing groceries and related products for its customers. With the No Project Alternative, the former gas station on the site would not be demolished and could be re-opened and/or re-used. Alternative 5 would not result in any significant impacts. Alternative 5 is rejected as infeasible because it would not accomplish any of the basic Project objectives.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

47. The City Council finds that each of the following specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations that follow. Each individual benefit/reason presented below constitutes a separate and independent basis to override each and

every significant unavoidable environmental impact, and, when the benefits/reasons are viewed collectively, provide an overall basis to override each and every significant unavoidable environmental impact.

48. The Project will develop a high-quality commercial/retail project which implements many of the City-wide General Plan goals, objectives, and policies including, among others, Land Use and Transportation Element Objectives N1, N10, T2, T6 and Policies N1.1, N1.2, N1.5, N1.6, N1.8, N5.2, N10.1, T2.2., T6.2; Pedestrian Master Plan Policies 1.1, 2.3, and 3.2 and Actions 1.1.1 and 2.3.1, 3.2.1, 3.2.2, 3.2.3.

49. The Project will revitalize the College Avenue/Claremont Avenue corner by replacing 1960s suburban style development with a modern, urban design that de-emphasizes surface-level parking and establishes a gateway presence at this important intersection in the Rockridge neighborhood. The Project would fill in a gap in what is otherwise a continuous row of storefronts lining College Avenue between Alcatraz Avenue and the Rockridge BART station by transforming a gas station, parking lot and blank wall (that currently take up over half of the block) into a row of pedestrian-oriented retail shops comparable to storefronts in neighboring blocks.

50. The Project will allow for a grocery store that offers a more comprehensive range of retail services and products to nearby residents and other Safeway customers.

51. The Project will enhance pedestrian activity at the College Avenue/Claremont Avenue intersection by, among others, consolidating and reducing the number of driveway entrances serving the Project site, creating publicly accessible open space areas where none currently exist, and designing structures with a pedestrian scale similar to that of the surrounding neighboring commercial buildings along College Avenue.

52. The Project will greatly improve the aesthetics of the site and the entire southern end of the College Street shopping district by providing well-designed buildings that reduce the visibility of parking areas, enhanced site landscaping (including creation of a landscaped buffer between the Project and the residential lots to the north), and undergrounding of utilities.

53. The Project will promote the City's transit-first goals by providing an enhanced selection of necessary household goods (as well as other small-scale merchandise and services) in a transit-rich area near the Rockridge BART line and multiple AC Transit lines and will further promote the use of alternative transportation by providing new bus stops, constructing various pedestrian improvements (including bulbouts, walkways, crosswalks, widened/repared sidewalks, upgraded ramps and benches), and installing long-term and short-term bike parking in excess of City standards.

54. The Project will provide a 10 foot secured landscaped area with mature trees and other vegetation between the store and the northern property line, which forms a common boundary with a residential neighborhood, thus providing an important and appropriate buffer between the commercial and residential land uses where none currently exists.

55. The Project will replace the vacant gas station, perceived by some as visually unattractive and incompatible with surrounding land uses, with a restaurant filled with natural light and with a landscaped patio with tables for outdoor dining.

56. The Project will add many temporary construction jobs and approximately 108-128 jobs for other workers after Project construction (including 77 full-time new union jobs at the Safeway store), thereby achieving a better job-housing balance in the City.

57. The Project will result in increased property tax and sales tax revenues to the City and County in an estimated amount of approximately \$422,500 per year.

58. The Project will meet the contemporary energy and green building objectives of the City and the State by incorporating several energy-efficient (or “green”) features or components, including in the areas of lighting, refrigeration systems, display cases, heating/cooling systems and facilities.

ATTACHMENT C**CONDITIONS OF APPROVAL****1. Approved Use*****Ongoing***

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and the revised plans attached to the Supplemental City Council Agenda Report for the December 18, 2012 City Council Hearing on the appeal of the project, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall require prior written approval from the Director of City Planning or designee.
- b) This action by the City Council, on appeal of the decision by the Planning Commission (“this Approval”) includes the approvals set forth below. This Approval includes: **Major Conditional Use Permits, Minor Variances, Regular Design Review, and Vesting Tentative Parcel Map**

2. Effective Date, Expiration, Extensions and Extinguishment***Ongoing***

Unless a different termination date is prescribed, this Approval shall expire two years from the approval date, 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 permit, 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 for this project may invalidate this Approval if the said extension period has also expired.

3. Scope of This Approval; Major and Minor Changes***Ongoing***

The project is approved pursuant to the **Planning Code and Subdivision Ordinance** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance with other Requirements***Prior to issuance of a demolition, grading, P-job, or other construction related permit***

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. 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 of Approval 3.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

5. Conformance to Approved Plans; Modification of Conditions or Revocation***Ongoing***

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, Conditions/ Mitigation Measures or project description relating to the Approvals 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 Approvals or alter these Conditions/ Mitigation Measures if it is found that there is violation of any of the Conditions/ Mitigation Measures 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 Conditions of Approval.

6. **Signed Copy of the Conditions/ Mitigation Measures**

With submittal of a demolition, grading, and building permit

A copy of the approval letter and Conditions/ Mitigation Measures shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

7. **Indemnification**

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the 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 applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. **Compliance with Conditions of Approval**

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval and all applicable adopted mitigation measures set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. **Severability**

Ongoing

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

10. Job Site Plans***Ongoing throughout demolition, grading, and/or construction***

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval and/or mitigations, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management***Prior to issuance of a demolition, grading, and/or construction permit***

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

12. Landscape Requirements for Street Frontages.***Prior to issuance of a final inspection of the building permit***

On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet and does not interfere with access requirements, a minimum of one (1) twenty-four (24) inch box tree shall be provided for every twenty-five (25) feet of street frontage, unless a smaller size is recommended by the City arborist. The trees to be provided shall include species acceptable to the Tree Services Division.

13. Landscape Maintenance.***Ongoing***

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

14. Underground Utilities***Prior to issuance of a building permit***

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

15. Improvements in the Public Right-of-Way (General)***Approved prior to the issuance of a P-job or building permit***

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and/or mitigations and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.
- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition and/or mitigations.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

16. Improvements in the Public Right-of Way (Specific)***Approved prior to the issuance of a grading or building permit***

Final building and public improvement plans submitted to the Building Services Division shall include the following components:

- a) Install additional standard City of Oakland streetlights on College Avenue and Claremont Avenue.
- b) Remove and replace any existing driveway that will not be used for access to the property with new concrete sidewalk, curb and gutter.
- c) Reconstruct drainage facility to current City standard.
- d) Provide separation between sanitary sewer and water lines to comply with current City of Oakland and Alameda Health Department standards.
- e) Construct wheelchair ramps that comply with Americans with Disability Act requirements and current City Standards at all crosswalk locations adjacent to the project site.
- f) Remove and replace deficient concrete sidewalk, curb and gutter within property frontage for all street frontages.
- g) Provide adequate fire department access and water supply, including, but not limited to currently adopted fire codes and standards.

17. Payment for Public Improvements***Prior to issuance of a final inspection of the building permit.***

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

18. Compliance Matrix***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a Conditions/ **Mitigation Measures** compliance matrix that lists each condition of approval and/or mitigation measure, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions and/or mitigations. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

19. Construction Management Plan***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division for review and approval a construction management plan that identifies the conditions of approval and mitigation measures related to construction impacts of the project and explains how the project applicant will comply with these construction-related conditions of approval and mitigation measures.

20. Parking and Transportation Demand Management***Prior to issuance of a final inspection of the building permit.***

The applicant shall submit for review and approval by the Planning and Zoning Division a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The applicant shall implement the approved TDM plan. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel shall be considered. Strategies to consider include the following:

- a) Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement
- b) Construction of bike lanes per the Bicycle Master Plan; Priority Bikeway Projects
- c) Signage and striping onsite to encourage bike safety
- d) Installation of safety elements per the Pedestrian Master Plan (such as cross walk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient crossing at arterials
- e) Installation of amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.
- f) Direct transit sales or subsidized transit passes
- g) Guaranteed ride home program
- h) Pre-tax commuter benefits (checks)
- i) On-site car-sharing program (such as City Car Share, Zip Car, etc.)
- j) On-site carpooling program
- k) Distribution of information concerning alternative transportation options

- l) Parking spaces sold/leased separately
- m) Parking management strategies; including attendant/valet parking and shared parking spaces

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

Ongoing throughout demolition, grading, and/or construction

During construction, the project applicant shall require the construction contractor to implement all of the following applicable measures recommended by the Bay Area Air Quality Management District (BAAQMD):

- a) Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). 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 possible.
- 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. as soon as feasible. In addition, building pads should be laid as soon as possible after grading 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 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) 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.
- i) Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.
- j) All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- k) All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.

- l) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- m) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- n) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.
- o) Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.
- p) Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- q) The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- r) All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- s) Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
- t) Minimize the idling time of diesel-powered construction equipment to two minutes.
- u) The project applicant shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate matter (PM) reduction compared to the most recent California Air Resources Board (CARB) fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as they become available.
- v) Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).
- w) All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- x) Off-road heavy diesel engines shall meet the CARB's most recent certification standard.

22. Days/Hours of Construction Operation

Ongoing throughout demolition, grading, and/or construction

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving 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. Monday through Friday.

- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) 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.
- g) Applicant shall use temporary power poles instead of generators where feasible.

23. Noise Control

Ongoing throughout demolition, grading, and/or construction

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- 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) Stationary noise sources shall be located as far from adjacent receptors 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.
- d) 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.

24. Noise Complaint Procedures

Ongoing throughout demolition, grading, and/or construction

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and
- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

25. Interior Noise

Prior to issuance of a building permit and Certificate of Occupancy

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise

reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls), and/or other appropriate features/measures, shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval prior to issuance of building permit. Final recommendations for sound-rated assemblies, and/or other appropriate features/measures, will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phases. Written confirmation by the acoustical consultant, HVAC or HERS specialist, shall be submitted for City review and approval, prior to Certificate of Occupancy (or equivalent) that:

- (a) Quality control was exercised during construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed; and
- (b) Demonstrates compliance with interior noise standards based upon performance testing of a sample unit.
- (c) Inclusion of a Statement of Disclosure Notice in the CC&R's on the lease or title to all new tenants or owners of the units acknowledging the noise generating activity and the single event noise occurrences. Potential features/measures to reduce interior noise could include, but are not limited to, the following:
 - i. Installation of an alternative form of ventilation in all units identified in the acoustical analysis as not being able to meet the interior noise requirements due to adjacency to a noise generating activity, filtration of ambient make-up air in each unit and analysis of ventilation noise if ventilation is included in the recommendations by the acoustical analysis.
 - ii. Prohibition of Z-duct construction.

26. Operational Noise-General

Ongoing.

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

27. Construction Traffic and Parking

Prior to the issuance of a demolition, grading or building permit

The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

- a) A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane

- closure procedures, signs, cones for drivers, and designated construction access routes.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
 - c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.
 - d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
 - e) Provision for accommodation of pedestrian flow.

Major Project Cases:

- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- g) Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's 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 issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.
- h) Any heavy equipment brought to the construction site shall be transported by truck, where feasible.
- i) No materials or equipment shall be stored on the traveled roadway at any time.
- j) Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.
- k) All equipment shall be equipped with mufflers.
- l) Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.

28. Erosion and Sedimentation Control

Ongoing throughout demolition grading, and/or construction activities

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. 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.

29. Hazards Best Management Practices***Prior to commencement of demolition, grading, or construction***

The project applicant and construction contractor shall ensure that construction of Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

- a) Follow manufacture's recommendations on 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) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
- 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 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 notification of 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.

30. Waste Reduction and Recycling

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency.

Prior to issuance of demolition, grading, or building permit

Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at

www.oaklandpw.com/Page39.aspx or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

Ongoing

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

31. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)

Ongoing

All mitigation measures identified in the College Avenue Safeway Project EIR are included in the Standard Condition of Approval and Mitigation Monitoring Program (SCAMMRP) which is included in these conditions of approval and are incorporated herein by reference, as Attachment C as conditions of approval of the project. The Standard Conditions of Approval identified in the College Avenue Safeway Project EIR are also included in the SCAMMRP, and are therefore, not repeated in these conditions of approval. To the extent that there is any inconsistency between the SCAMMRP and these conditions, the more restrictive conditions shall govern. The project sponsor (also referred to as the Developer or Applicant) shall be responsible for compliance with the recommendation in any submitted and approved technical reports, all applicable mitigation measures adopted and with all conditions of approval set forth herein at its sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or condition of approval, and subject to the review and approval of the City of Oakland. The SCAMMRP identifies the time frame and responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. Prior to the issuance of a demolition, grading, and/or construction permit, the project sponsor shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

32. Pile Driving and Other Extreme Noise Generators

Ongoing throughout demolition, grading, and/or construction

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and

the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

- a) Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- b) 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;
- c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- d) 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
- e) Monitor the effectiveness of noise attenuation measures by taking noise measurements.

33. Lighting Plan

Prior to the issuance of an electrical or building permit

The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

34. Asbestos Removal in Structures

Prior to issuance of a demolition permit

If asbestos-containing materials (ACM) are found to be present in building materials to be removed, demolition and disposal, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health &

Safety Code 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.

35. Tree Removal During Breeding Season

Prior to issuance of a tree removal permit

To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 31, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

36. Tree Removal Permit

Prior to issuance of a demolition, grading, or building permit

Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right-of-way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.

37. Tree Replacement Plantings

Prior to issuance of a final inspection of the building permit

Replacement plantings shall be required for erosion control, groundwater replenishment, visual screening and wildlife habitat, and in order to prevent excessive loss of shade, in accordance with the following criteria:

- a) No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- b) Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye) or *Umbellularia californica* (California Bay Laurel) or other tree species acceptable to the Tree Services Division.
- c) Replacement trees shall be at least of twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon

- size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- d) Minimum planting areas must be available on site as follows:
 - i. For Sequoia sempervirens, three hundred fifteen square feet per tree;
 - ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.
 - e) In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
 - f) Plantings shall be installed prior to the issuance of a final inspection of the building permit, subject to seasonal constraints, and shall be maintained by the project applicant until established. The Tree Reviewer of the Tree Division of the Public Works Agency may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the project applicant's expense.

38. Tree Protection During Construction

Prior to issuance of a demolition, grading, or building permit

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

- a) Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- c) No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree

reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.

- d) Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- e) If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Agency of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- f) All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

39. Archaeological Resources

Ongoing throughout demolition, grading, and/or construction

- a) Pursuant to CEQA Guidelines section 15064.5 (f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.
- b) In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light 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) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- c) Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until

the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

40. Human Remains

Ongoing throughout demolition, grading, and/or construction

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines 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 Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. 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.

41. Paleontological Resources

Ongoing throughout demolition, grading, and/or construction

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

42. Erosion and Sedimentation Control Plan

Prior to any grading activities

- a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.660 of the Oakland Municipal

Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

Ongoing throughout grading and construction activities

- b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

43. Site Review by the Fire Services Division

Prior to the issuance of demolition, grading or building permit

The project applicant shall submit plans for site review and approval to the Fire Prevention Bureau Hazardous Materials Unit. Property owner may be required to obtain or perform a Phase II hazard assessment.

44. Phase I and/or Phase II Reports

Prior to issuance of a demolition, grading, or building permit

Prior to issuance of demolition, grading, or building permits the project applicant shall submit to the Fire Prevention Bureau, Hazardous Materials Unit, a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer.

45. Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment

Prior to issuance of any demolition, grading or building permit

The project applicant shall submit a comprehensive assessment report to the Fire Prevention Bureau, Hazardous Materials Unit, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing

materials (ACM), lead-based paint, and any other building materials or stored materials classified as hazardous waste by State or federal law.

46. Environmental Site Assessment Reports Remediation

Prior to issuance of a demolition, grading, or building permit

If the environmental site assessment reports recommend remedial action, the project applicant shall:

- a) Consult with the appropriate local, State, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps.
- b) Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.
- c) Submit a copy of all applicable documentation required by local, State, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II environmental site assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans.

47. Lead-based Paint Remediation

Prior to issuance of any demolition, grading or building permit

If lead-based paint is present, the project applicant shall submit specifications to the Fire Prevention Bureau, Hazardous Materials Unit signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: Cal/OSHA's Construction Lead Standard, 8 CCR1532.1 and DHS regulation 17 CCR Sections 35001 through 36100, as may be amended.

48. Other Materials Classified as Hazardous Waste

Prior to issuance of any demolition, grading or building permit

If other materials classified as hazardous waste by State or federal law are present, the project applicant shall submit written confirmation to Fire Prevention Bureau, Hazardous Materials Unit that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of such materials.

49. Health and Safety Plan per Assessment

Prior to issuance of any demolition, grading or building permit

If the required lead-based paint/coatings, asbestos, or PCB assessment finds presence of such materials, the project applicant shall create and implement a health and safety

plan to protect workers from risks associated with hazardous materials during demolition, renovation of affected structures, and transport and disposal.

50. Best Management Practices for Soil and Groundwater Hazards

Ongoing throughout demolition, grading, and construction activities

The project applicant shall implement all of the following Best Management Practices (BMPs) regarding potential soil and groundwater hazards.

- a) Soil generated by construction activities shall be stockpiled onsite in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state and federal agencies laws, in particular, the Regional Water Quality Control Board (RWQCB) and/or the Alameda County Department of Environmental Health (ACDEH) and policies of the City of Oakland.
- b) Groundwater pumped from the subsurface shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Oakland, the RWQCB and/or the ACDEH. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building (pursuant to the Standard Condition of Approval regarding Radon or Vapor Intrusion from Soil and Groundwater Sources
- c) Prior to issuance of any demolition, grading, or building permit, the applicant shall submit for review and approval by the City of Oakland, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the ACDEH, have granted all required clearances and confirmed that the all applicable standards, regulations and conditions for all previous contamination at the site. The applicant also shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the Standard Condition of Approval requiring a Site Review by the Fire Services Division pursuant to City Ordinance No. 12323, and compliance with the Standard Condition of Approval requiring a Phase I and/or Phase II Reports.

51. Radon or Vapor Intrusion from Soil or Groundwater Sources

Ongoing

The project applicant shall submit documentation to determine whether radon or vapor intrusion from the groundwater and soil is located on-site as part of the Phase I documents. The Phase I analysis shall be submitted to the Fire Prevention Bureau, Hazardous Materials Unit, for review and approval, along with a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer. Applicant shall implement the approved recommendations.

52. Stormwater Pollution Prevention Plan (SWPPP)***Prior to and ongoing throughout demolition, grading, and/or construction activities***

The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.

53. Post-Construction Stormwater Management Plan***Prior to issuance of building permit (or other construction-related permit)***

The applicant shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The applicant shall submit with the application for a building permit (or other construction-related permit) a completed Construction-Permit-Phase Stormwater Supplemental Form to the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater management plan, for review and approval by the City, to manage stormwater run-off and to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.

- a) The post-construction stormwater management plan shall include and identify the following:
 - i. All proposed impervious surface on the site;
 - ii. Anticipated directional flows of on-site stormwater runoff; and
 - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - iv. Source control measures to limit the potential for stormwater pollution;
 - v. Stormwater treatment measures to remove pollutants from stormwater runoff; and
 - vi. Hydromodification management measures so that post-project stormwater runoff does not exceed the flow and duration of pre-project runoff, if required under the NPDES permit.

- b) The following additional information shall be submitted with the post-construction stormwater management plan:

- i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
- ii. Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e. non-landscape-based) stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures and/or the range of pollutants expected to be generated by the project.

All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The applicant is not required to include on-site stormwater treatment measures in the post-construction stormwater management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.

Prior to final permit inspection

The applicant shall implement the approved stormwater management plan.

54. Maintenance Agreement for Stormwater Treatment Measures

Prior to final zoning inspection

For projects incorporating stormwater treatment measures, the applicant shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:

- i. The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense.

55. Stormwater and Sewer.

Prior to completing the final design for the project's sewer service

Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay

additional fees to improve sanitary sewer infrastructure if required by the Sewer and Stormwater Division. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.

PROJECT SPECIFIC CONDITIONS

56. Master Sign Program Required

Prior to Certificate of Occupancy

Prior to certificate of occupancy for the project the applicant shall submit a Master Sign Program pursuant to Planning Code Section 17.104.070 to develop a comprehensive sign program for all of the tenant spaces within the proposed development if business sign area for the property exceeds 200 square feet of sign area. Regardless a Small Project Design Review shall be submitted that shows the proposed sign area and plans for the additional commercial tenant spaces.

57. Transportation Improvements in the City of Berkeley

While the EIR for the proposed project identifies the impacts to four intersections within the City of Berkeley as Significant and Unavoidable due to the location of the intersection outside of the City of Oakland's jurisdiction, the EIR has identified traffic improvement measures that if implemented would reduce the impacts at each of these intersections to Less than Significant. These intersections are as follows:

- College Avenue/ Alcatraz Avenue
- Claremont Avenue/ Alcatraz Avenue
- College Avenue/ Ashby Avenue
- Claremont Avenue/ Ashby Avenue

a. College Avenue / Alcatraz Avenue Intersection

Prior to Issuance of a Building Permit

The applicant shall file an encroachment permit application with the City of Berkeley Public Works, Transportation Engineering Division to implement the following improvement measures at the intersection of College Avenue and Alcatraz Avenue, substantially in accordance with the plan in Attachment *F* of the July 25, 2012 Planning Commission staff report and designed to the satisfaction of the City of Berkeley Public Works Director:

- Provide left-turn lanes on northbound and southbound College Avenue by converting the existing angled parking spaces along College Avenue to parallel spaces.

- Convert signal control equipment from pre-timed to actuated-uncoordinated operations and provide protected (or protected/permitted, if preferred by the City of Berkeley) left-turn phasing for the north-south approaches. The signal control equipment shall be designed to applicable standards in effect at the time of construction.
- Optimize signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection).
- Move the AC Transit bus stops on both northbound and southbound College Avenue from the near side to the far side of the intersection (i.e., from before the signal to after the signal).

The plan would also include eliminating the existing AC Transit bus stop on eastbound Alcatraz Avenue just west of College Avenue and replacing it with two parallel parking spaces.

If the encroachment permit and any other necessary approvals are approved by both the City of Berkeley and any other agencies having jurisdiction over the intersection and bus stops, and such approvals are subject only to terms and conditions that are consistent with those placed upon similar projects within the City of Berkeley, then the applicant shall install the improvement measures listed above within one year after receipt of the encroachment permit. The issuance of the encroachment permit and the permit work may take place after issuance of the Certificate of Occupancy.

b. Claremont Avenue/ Alcatraz Avenue Intersection

Prior to Issuance of a building permit

Prior to issuance of a building permit for the project, the project applicant shall do one of the following:

- i. File an encroachment permit application with the City of Berkeley Public Works, Transportation Engineering Division to install the improvements identified in Mitigation Measure TRANS-3.
- ii. Commit funds in an amount equal to \$234,900 (the estimated cost of the improvements proposed as Mitigation Measure TRANS-3 in the EIR), to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-3 or other alternative traffic improvement measures at the intersection of Claremont Avenue and Alcatraz Avenue, which shall be used by the City of Berkeley within one year of receipt of the Certificate of Occupancy for the project. Any portion of the funds that is not used by the City of Berkeley within this period shall be returned to the project applicant.

c. College Avenue/Ashby Avenue & Claremont Avenue/Ashby Avenue Intersections

Prior to Issuance of a building permit

Prior to issuance of a building permit for the project, the project applicant shall do one of the following:

- File an encroachment permit application with the City of Berkeley Public Works, Transportation Engineering Division to install the improvements identified in Mitigation Measures TRANS-1, TRANS-9, and TRANS-10
- Commit funds in an amount equal to \$213,800 (the estimated total cost of the improvements proposed as Mitigation Measures TRANS-1, TRANS-9, and TRANS-10 in the EIR), to be used by the City of Berkeley to install the improvements identified in Mitigation Measures TRANS-1, TRANS-9, and TRANS-10 or other alternative traffic improvement measures at the intersection of College Avenue and Ashby Avenue and the intersection of Claremont Avenue and Ashby Avenue, which shall be used by the City of Berkeley within one year of receipt of the Certificate of Occupancy for the project. Any portion of the funds that is not used by the City of Berkeley within this period shall be returned to the project applicant.

58. **Parking**

In order to address any parking deficits at and around the project site and potential for intrusion in the adjacent residential neighborhoods, the applicant shall implement the following measures:

a) **Time Limit on Parking**

Ongoing

With the exception of parking for employees at the project site, a time limit of two hours or shall be applied to the off-street parking stalls in the project site.

b) **Automated Parking Counting System**

Ongoing

The applicant shall install an automated parking counting system including variable message signs to inform motorists of the number of parking spaces available in the underground parking garage.

c) **Parking Meters on Claremont Avenue**

Prior to Certificate of Occupancy

The applicant shall apply to the City of Oakland to have parking meters installed along the Claremont Avenue frontage of the project site.

d) Availability of Parking in the Parking Lot

Ongoing

All parking spaces in the parking lot of the project site shall be made available to the general public under the following terms:

- Parking spaces shall be made available free of charge to the customers of all merchants in the College Avenue shopping district.
- There shall be no dedication or designations of any particular individual tenant, as all spaces shall be available to all customers (except for required disabled parking spaces).
- The owner of the project site shall have the right to further limit the duration of parking by restricting parking to one hour for non-grocery store customers..
- If in the future the project site owner determines that it is necessary to request further parking limitations on non-grocery store customers, the property owners within 300 feet of the project site shall be notified and the request shall be subject to approval to the Director of Planning & Zoning with an appeal to the Planning Commission, if necessary.

e) Termination of Condition of Approval

Upon demolition of at least 75% of the project floor area

The parking requirements set forth in this Condition of Approval #58 shall terminate and be of no further force or effect at such future time as at least seventy-five percent (75%) of the Project's floor area is demolished.

59. Bicycle Parking***Prior to issuance of a building permit***

The applicant shall submit a refined bicycle parking plan for review by the Planning & Zoning Division that takes into account the following:

- Consider locating the long-term bicycle parking to the edges of the upper level parking lot. Ensure proposed spaces do not require bicyclists to dismount from bicycles in the drive aisle.
- Ensure the long-term bicycle parking in the parking lot do not block drivers sight distance.
- Ensure the short-term bicycle parking on sidewalks do not block pedestrian circulation.

60. Side Street Traffic Monitoring***Prior to issuance of a building permit***

Project applicant shall provide a plan to be approved by the Director of Planning & Zoning to monitor traffic volumes and speeds on the following roadways before construction of the project and within one year after certificate of occupancy of the proposed project:

- 62nd and 63rd Street between College Avenue and Colby Street
- Hillegass Avenue and Colby Street between Claremont Avenue and Alcatraz Avenue
- Mystic Street
- Auburn Avenue, Manoa Street, and Rockwell Street between Mystic Street and Florio Street
- Alcatraz Avenue between College and Claremont Avenues
- Woolsey Street between Benvenue and Eton Avenues
- Eton Avenue between Woolsey Street and Claremont Avenue
- Benvenue Avenue between Woolsey Street and Alcatraz Avenue

In consultation with local residents, and in accordance with all legal requirements, appropriate traffic calming measures, such as speed humps, should be considered if and when excessive traffic volumes or speeding are observed. These potential improvements shall be funded by the project applicant.

61. Limiting Operational Noise

Ongoing

The applicant shall install the following measures to further reduce operational noise impact to adjacent neighbors:

- The College Avenue driveway ramp shall avoid use of a polished (squeaky) concrete slab surface. Application of a sound-absorptive material to the ramp walls to further reduce noise from vehicle movements on the ramp should also be considered.
- Shopping cart power washing activities shall be conducted within the enclosed loading dock area, or at the far end of the service deck, or other location away from residential neighbors.

62. Grocery Store Building Doors

Ongoing

So long as a grocery store use occupies the Grocery Store Space (the 45,500 square foot General Food Sales Activity as shown in the approved plans), then when the store is open between the hours of 6 AM and 10 PM, the public exit and entrance door(s) to the Grocery Store Space directly from College Avenue will remain unlocked. The store operator shall have the right to close and lock such public exit and entrance door(s) when open for business between the hours of 10 PM and 6 AM. All doors may be closed and locked when Safeway is not open for business.

63. Project Driveways***Prior to Issuance of a Building Permit***

The following measures should be considered as part of the final design of the project driveways:

- Design the Claremont Avenue driveway approach similar to a typical intersection approach with raised curb returns, the driveway surface lower than the sidewalk, and ADA compliant ramps to ensure that pedestrians recognize the driveway as part of a signalized intersection.
- Provide different paving material for the segment of sidewalk crossing the driveways.
- Ensure adequate sight distance between automobiles entering and exiting the driveway and pedestrians on the sidewalk.
- If feasible, provide a pedestrian refuge area on the west side of Claremont Avenue between the parking driveway and the loading dock.

64. Physical Specifications of the Updated Approved Project***Ongoing***

- a) If constructed, the project shall be built substantially in accordance with the design drawings attached to the supplemental staff report submitted for the December 18, 2012, City Council hearing.
- b) The main floors of both the Safeway grocery store (the “Grocery Store”) and the additional retail shop (“Other Retail”) space shall be on the ground level, with rooftop parking above the building that contains the Grocery Store.
- c) The Project shall incorporate rooftop parking, an enclosed loading dock (which may or may not have a roof), and a private plaza between approximately the intersection of 63rd Street and College Avenue on one end and Claremont Avenue on the other end. The plaza will be open for public use, subject to such rules and regulations as Safeway may reasonably impose to (a) prevent interference with the conduct of business by the occupants of the Project, (b) restrict activities not related to, and otherwise safeguard, the Project’s essential commercial purposes, and (c) preserve a safe, clean and inviting shopping experience. The parking and loading areas will be screened from view in accordance with Chapter 17.110 of the City’s Planning Code, and these areas, together with all vehicle ramps, shall be designed to comply with the City’s Standard Conditions of Approval AES-1 (Shielding of Lighting) and NOISE-6 (Operational Noise – General).
- d) The gross retail square footage of the Project shall be limited to 55,000 square feet of floor area, measured pursuant to the definition of “floor area,” as such term is defined in Section 17.09 of the Oakland Planning Code as of the date of this Agreement. The square footage within the Project shall be allocated as follows:
 - The floor area of the Grocery Store component of the Project (the “Grocery Store Space”) shall be limited to a maximum of 45,500 square feet; and

- In addition to the Grocery Store, the Project may contain up to 9,500 square feet of other retail space (the “Other Retail Space”).
- e) A buffer area, at least ten feet wide and including a physical barrier to public access at both ends, shall be constructed along the entire northern border of the Project site, separating the Project from adjacent neighboring properties to the north.
- f) In excavating, grading, and filling with soil currently on site, Safeway shall comply with all applicable conditions of approval, including those addressing the handling of toxic or potentially toxic substances.

APPROVED BY:

City Council: _____ (date) _____ (vote)

ADDENDUM TO ENVIRONMENTAL IMPACT REPORT FOR THE SAFEWAY SHOPPING CENTER-COLLEGE AND CLAREMONT AVENUES, OAKLAND, CALIFORNIA

File No. ER09-0006

December 18, 2012

1. Updated Project

On July 25, 2012, the Oakland Planning Commission certified an EIR for a proposal to replace an existing Safeway store and closed gasoline service station located at 630 College Avenue in the City of Oakland with a larger Safeway store and additional retail space (the "EIR Project"). This certification was appealed by two separate parties to the Oakland City Council, and the appeals were scheduled to be heard on November 13, 2012. At that hearing, the City Council was informed that Safeway (the project sponsor) and the appellants had reached a tentative agreement that included certain physical modifications to the EIR Project, and the hearing on the appeal was continued to December 18, 2012, in order for those modifications to be integrated into the project design. The resulting project (the "Updated Project") is scheduled to be considered by the City Council at its hearing on December 18, 2012 in the context of the appeal.

This addendum has been prepared to evaluate the environmental effects of Updated Project as compared to those of the EIR Project. The changes reflected in the Updated Project do not alter the land use approvals that the project sponsor seeks and that were discussed in the EIR for the EIR Project.

The Updated Project is approximately 12 percent smaller than the EIR Project. Because the Updated Project results in a smaller store and less overall development, it will not result in new or substantially more severe impacts than were previously identified in the EIR. As such, and in accordance with CEQA Guidelines Section 15164, this addendum has been prepared to address the Updated Project.

No new information of substantial importance has been brought forth since publication of the Draft EIR or the Planning Commission approval that would create any new significant impacts not previously identified in the EIR, increase the severity of previously identified environmental impacts, alter the feasibility of any mitigation measure or alternatives not adopted by the project applicant, or establish any mitigation measures or alternatives that would reduce environmental impacts not adopted by the project applicant; therefore none of the circumstances specified in CEQA Guidelines Section 15088.5 requiring recirculation of the Draft EIR are present; specifically, there are no significant new impacts that would result from the Updated Project, nor a substantial increase in the severity of an environmental impact that would result from the Updated Project, nor a feasible alternative or mitigation measure that the Updated Project proponent has declined to adopt that would reduce environmental impacts of the Updated Project, and the Draft EIR was sufficient to provide meaningful public review and comment.

None of the circumstances requiring preparation of subsequent environmental review under State CEQA Guidelines Section 15162 or 15163 are present in that there are no substantial changes with respect to the project or the circumstances under which the Updated Project is being undertaken that would involve new

significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects nor any new information of substantial importance as specified in CEQA Guidelines Section 15162(a)(3).

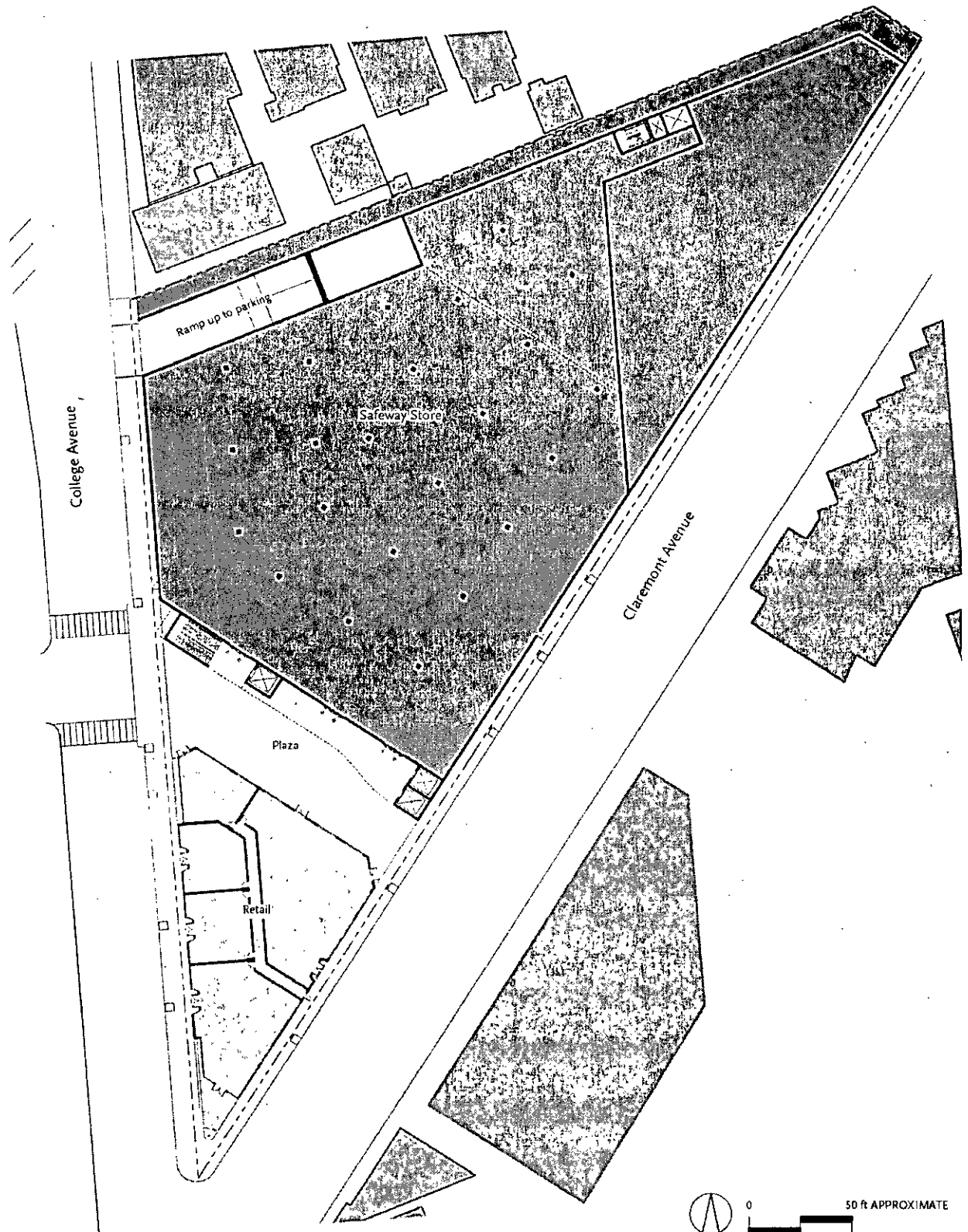
1.2 BACKGROUND OF THE DEIR PROJECT AND THE UPDATED PROJECT

As discussed in Chapter 2 (Summary) and Chapter 3 (Project Description) of the July 25, 2012, EIR, the EIR analyzed a project submitted to the City by the project sponsor on May 6, 2009, and a revised project submitted July 3, 2012. The original project had been the subject of public hearings on November 18, 2009 (EIR scoping session before the Planning Commission), July 20, 2011 (first public hearing before the Planning Commission regarding the DEIR), August 3, 2011 (continued public hearing regarding the DEIR), and October 12, 2011 (Planning Commission Design Review Committee meeting). As noted in the DEIR, the NOP for the project was issued on October 30, 2009, and consistent with CEQA, that continues to establish the baseline conditions for environmental review.

Like the EIR Project, the Updated Project would involve removal of all the existing landscaping plants, including all 21 of the existing trees planted along the Claremont and College Avenue sidewalks adjacent to the site, and demolition of all of the existing buildings on the site: the approximately 24,260-square-foot single-story Safeway store with 106-space parking lot, and a closed former Union 76 gasoline station with an approximately 1,120-square-foot shop, covered service area, and canopied gasoline pump area.

The total retail square footage of the Updated Project would be approximately 7,567 square feet (about 12 percent) smaller than that of the EIR Project. The Updated Project includes the following modifications to the EIR Project (see Figures 1 and 2):

- The proposed Safeway grocery store has been reduced from 51,510 square feet to no more than 45,500 square feet and moved from the second story of the building to the ground floor.
- The additional commercial space (formerly proposed to occupy approximately 10,657 square feet) has been moved from the ground floor beneath the proposed Safeway Supermarket and has been consolidated in a separate building at the corner of College and Claremont Avenues, and is limited to no more than 9,500 square feet.
- The previous pedestrian “walk street” connecting College and Claremont Avenues has been widened into a plaza and roughly aligned with 63rd Street across College Avenue to the west.
- The parking for the Updated Project has been moved from a partially subterranean garage onto the rooftop of the Safeway building with at-grade access off of Claremont Avenue and with ramp access from College Avenue. The College Avenue entrance will be located at the northern end of the building.
- The parking lot will feature a stucco parapet wall around the perimeter. On the north side, the parapet height varies from six feet (at College) up to eight feet six inches (at the loading dock). On College, it will range from four feet to six feet in height. On Claremont, the four-foot high façade will incorporate steel railing as well.



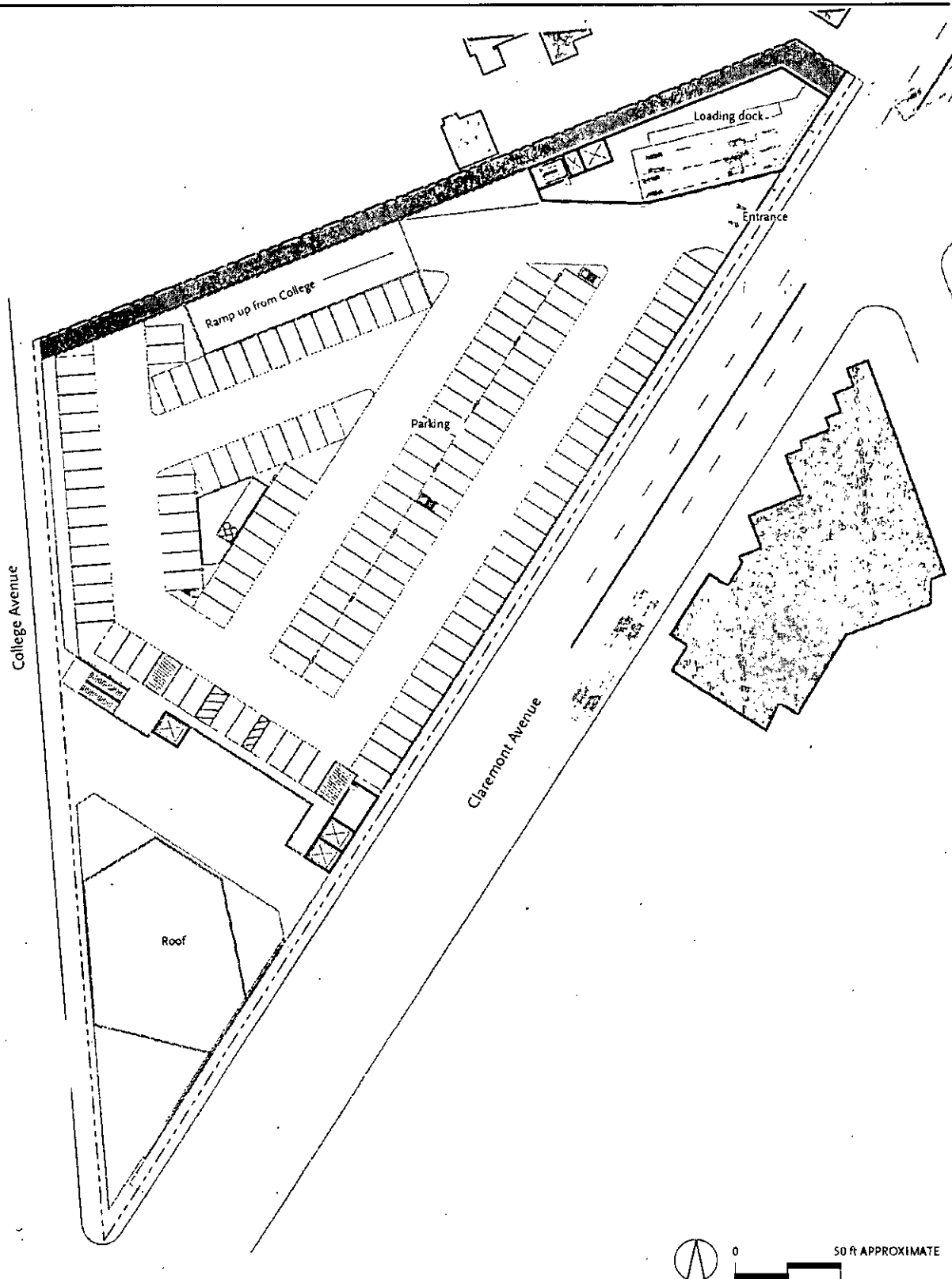
Source: Lowley Architecture

12-10-12

Safeway Shopping Center
 College and Claremont Avenue, Addendum to the EIR
 Case File Number ER09-0006

Revised Safeway Level Plan Figure 1

December 10, 2012



Source: Lowney Architecture

12-10-12

Proposed Parking Level Plan Figure 2

- The amount of parking provided for the Updated Project has been reduced from 171 to 148, and the Minor Variance request for required off-street parking has increased from 15 to 21 so that food-oriented uses may be included in the other retail space.
- Short-term bicycle parking for 68 bicycles would be distributed throughout the project site.
- The loading berth will be modified so that access will be directly off of Claremont Avenue, with required maneuvering to take place in the west bound lane with traffic control signals allowing trucks to back into an enclosed loading dock and exit back on Claremont Avenue. Previously all maneuvers would have taken place on the roof top on the parking deck of the building.
- Pedestrians would directly access the commercial tenants from the sidewalks on College Avenue and Claremont Avenue as well as the pedestrian plaza. Access to Safeway from the parking garage would be provided via elevators and stairs.
- The general architectural character of the project will remain similar to that of the previous project, but the Safeway structure will be reduced in scale and the commercial corner building increased in size.
- The building area formerly used for the eliminated driveway lane would be repurposed as part of the ground floor Safeway building.
- Eliminate the northbound left-turn lane on College Avenue at 63rd Street that was proposed by the EIR Project, and prohibit the existing left-turn movement from northbound College Avenue to westbound 63rd Street by one of the two methods discussed below.
- Prohibit the existing left-turn and through movements from eastbound 63rd Street to northbound College Avenue and project driveway.

The EIR Project and the Updated Project would also make the following modifications to the transportation system surrounding the project site:

- Signalize the Claremont Avenue/Mystic Street/Safeway Driveway intersection.
- Provide pedestrian bulb-outs on the east side of the 63rd Street/Safeway Driveway/College Avenue intersection on both the north and south crosswalks across College Avenue.
- Provide a pedestrian bulb-out on the project corner of the College Avenue/Claremont Avenue intersection.
- Move the existing bus stop from south of Claremont Avenue to north of Claremont Avenue.
- Provide a short pedestrian only plaza between College Avenue and Claremont Avenue near the south end of the project site with fronting retail uses.

The Updated Project would also modify slightly the appearance of the project buildings to reflect design-related input that the project sponsor has received from City decision-makers, City staff, and members of the public. These changes, most of which address comments regarding the degree of visual interest of the building facades and the appearance of the restaurant building at the south of the site, include the following main components:

- Adjust the color scheme of the buildings to appear darker and more substantial.
- Redesign the mullions on the Safeway level of the College Avenue and Claremont Avenue façades to add louvers and provide more variation in their size and location.
- Change the material of the wall behind the restaurant on the walking street from plaster-and-wood to stone.
- Substitute stained concrete for plaster at the base of the restaurant building.
- Revise signage and lower the roofline of the store wall fronting Claremont Avenue.

In all other respects, the Updated Project would resemble the EIR Project. Project timing would remain the same. The project objectives for the Updated Project are the same as for the EIR Project. Figures 3 through 8 on the following pages show the site plan, floor plans, elevations, sections, and architectural renderings for the Updated Project.

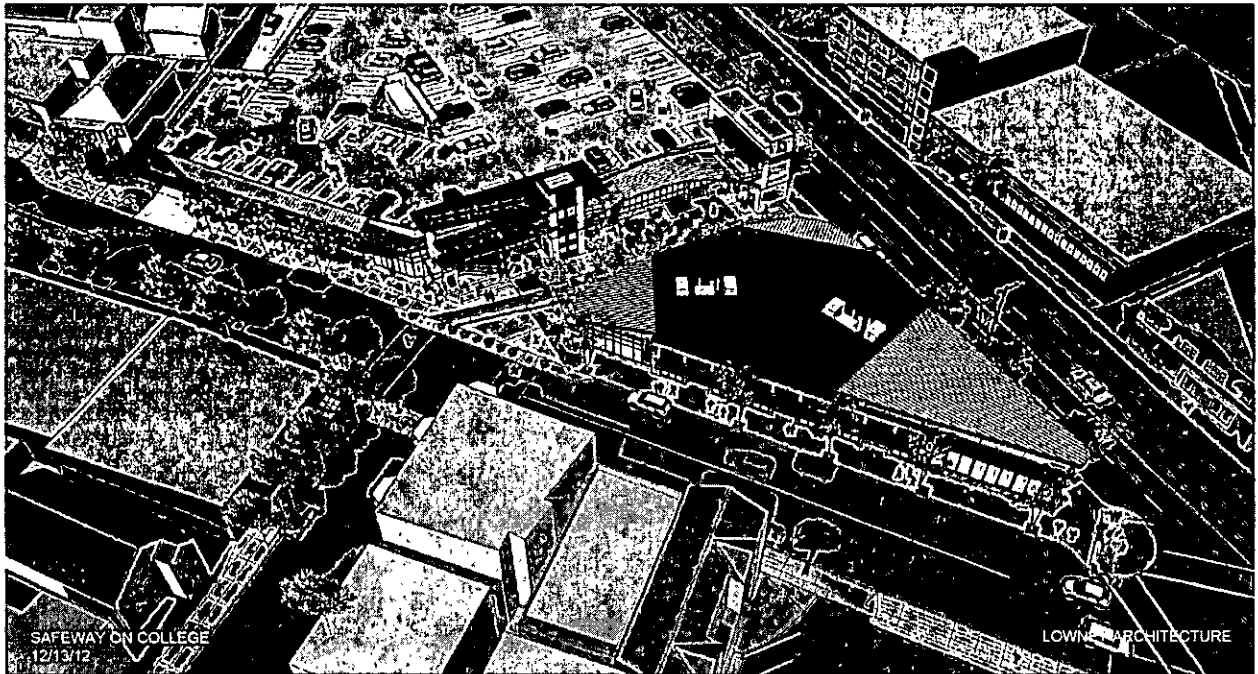
- The Updated Project would modify the store driveways as follows: A full access unsignalized mid-block driveway on College Avenue between 63rd Street and Alcatraz Avenue would replace the driveway previously proposed opposite 63rd Street. The driveway in the Updated Project would result in loss of two on-street parking spaces on the east side of College Avenue in order to provide adequate sight distance for the driveway. In addition, City of Berkeley is currently determining if a left-turn pocket should be provided on southbound College Avenue at the driveway for the Updated Project. The provision of a left-turn pocket would result in loss of one additional parking space on the east side of College Avenue. This left-turn lane would reduce delay at the intersection and the likelihood that automobiles or buses would be delayed behind vehicles waiting to turn left into the site.
- A full access signalized driveway on Claremont Avenue opposite Mystic Street and Auburn Avenue. This driveway is in approximately the same location as the northern of the two driveways along Claremont that were proposed in the EIR; however, the Updated Project would eliminate the second, previously-proposed mid-block driveway on Claremont Avenue and would only provide one driveway on Claremont Avenue.

2 Public Agency Approvals

This addendum is intended to be used to supplement the EIR to provide CEQA clearance for all required discretionary actions for the Updated Project. The Updated Project requires the same project approvals and considerations as discussed in the DEIR on pages 3-26 to 3-27. Portions of the Updated Project also would require review and approval by the same public and quasi-public agencies and jurisdictions as discussed in the DEIR on pages 3-26 and 3-27.



View of project from 63rd Street & College Avenue



View from above project looking east

Source: Lowney Architecture

12/30/12

Revised Architectural Renderings Figure 3



View of plaza from College Avenue at 63rd Street



View of plaza from Claremont Avenue

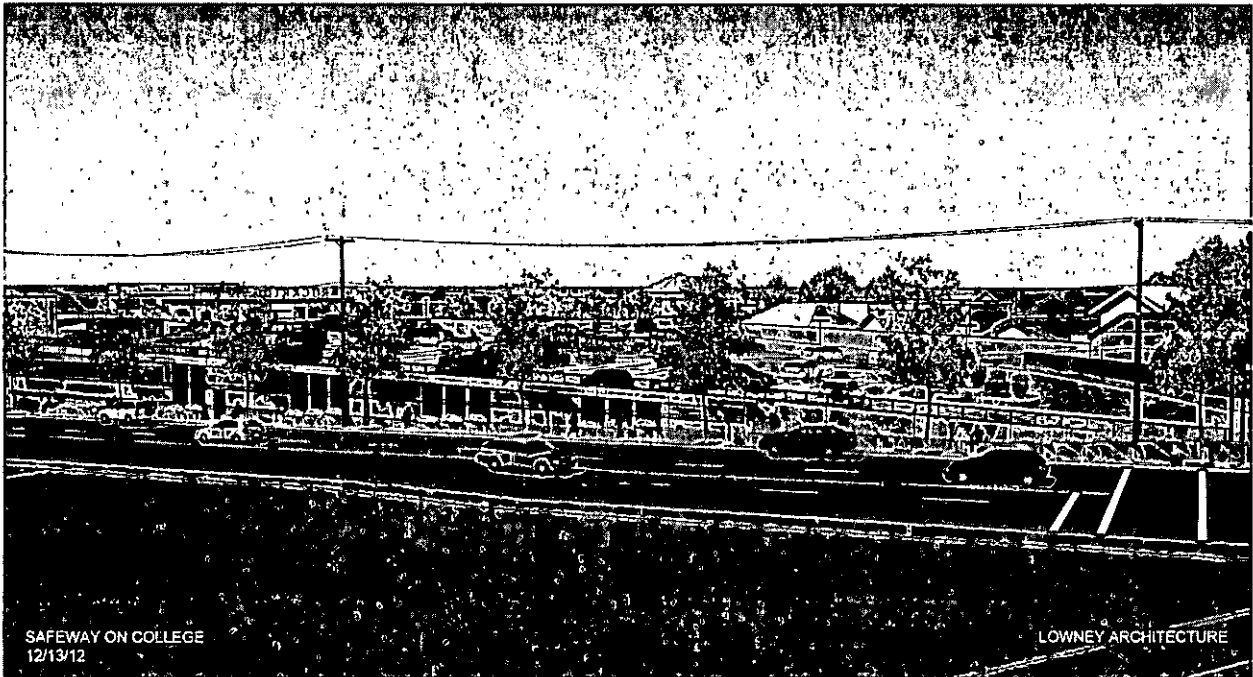
Source: Lowney Architecture

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Revised Architectural Renderings Figure 4



View looking east at Safeway from above plaza



View across parking garage looking west from Claremont Avenue

Source: Lowney Architecture
12/10/12

Revised Architectural Renderings Figure 5



View of garage entrance from College Avenue



View along College Avenue from parking entrance

Source: Lowney Architecture
12-10-12

Revised Architectural Renderings Figure 6



SAFEWAY ON COLLEGE
12/13/12

LOWNEY ARCHITECTURE

View of looking southwest along Claremont Avenue



SAFEWAY ON COLLEGE
12/13/12

LOWNEY ARCHITECTURE

View of looking northeast along Claremont Avenue

Source: Lowney Architecture

12-10-12

Revised Architectural Renderings Figure 7



View of Safeway looking northeast along Claremont Avenue



View of Safeway showing parking entrance looking southwest along Claremont Avenue

Source: Lowney Architecture

12-16-12

Revised Architectural Renderings Figure 8

3. Environmental Effects of the Updated Project

The Updated Project would have fewer impacts than those identified and analyzed in the EIR for the project as originally proposed and the revised project (the EIR Project). Pursuant to Section 15164 of the State CEQA Guidelines, this Addendum to the EIR has been prepared to respond to CEQA issues regarding the Updated Project and will be adopted and certified together with, and incorporated into, the EIR. The Updated Project has decreased in size by approximately 12 percent, would have the same impacts or reduce or avoid significant impacts previously identified for the EIR Project, and does not create any substantial changes that would involve new significant environmental effects than those identified in for the EIR Project nor increase the severity of previously identified significant effects.

Below is a summary analysis of the impacts of the Updated Project and how the EIR Project' environmental impacts would remain the same, be reduced, or otherwise be altered by implementation of the Updated Project.

3.1 LAND USE, PLANS, AND POLICIES

The Updated Project would be consistent with the Oakland General Plan, as outlined in the EIR, pages 4.1-2 through 4.1-6. The new design would close off from public access the proposed 10-foot buffer area between the new store and the residential parcels to the north, discouraging potential loiterers for the benefit of surrounding residential uses (see discussions of General Plan Policy N1.5, EIR page 4.1-4, and Policy N5.2, EIR page 4.1-5). In addition, the slight lowering of the project roofline along Claremont Avenue would refine the appearance of the project and result in a less bulky appearance (see discussion of General Plan Policy N1.8, EIR page 4.1-5).

The Updated Project would continue to be consistent with the Oakland Bicycle Master Plan and Oakland Pedestrian Master Plan, as outlined in pages 4.1-6 through 4.1-8 of the EIR. The narrowing of the driveway on College Avenue would enhance pedestrian crossing safety at that location (see discussion of the Pedestrian Master Plan, EIR page 4.1-7). The changes to the project's color and materials palette and the modifications to the design of its mullions would add visual interest to all project façades and enhance the project's urban setting (see discussion of Pedestrian Master Plan Policy 3.2, EIR pages 4.1-7 through 4.1-8).

As with the EIR Project, the proposed uses, heights, and massing of the buildings of the Updated Project would be compatible with the neighborhood and comply with the Zoning Code (see EIR pages 4.18 through 4.1-10 and Master Response M-9 in this EIR for additional discussion of this topic).

The Updated Project would be consistent with the General Plan and the zoning regulations, as well as the physical and use characteristics of the surrounding neighborhood. As a result, the Updated Project would not result in any new or more severe land use impacts than those studied in the EIR.

The Updated Project design is still consistent with the required criteria for the granting of the requested Major Conditional Use permits. The biggest change is the layout of the street fronting retail, however, the other shop spaces at the corner of Claremont and College and the plaza will still create an important shopping frontage to College Avenue, especially given the current situation of the project site with an

older suburban style grocery store sitting in the middle of a surface parking lot with a gas station at the corner.

The two variances requested for the EIR Project were a variance to reduce the loading berth from three loading bays to two loading bays and to reduce the amount of required off-street parking from 186 required stalls to 171 stalls. The variance request for loading remains as previously approved by the Planning Commission. The new required off-street parking for the Updated Project is 169 (with the 6.8 credit from excess short term bike parking that will be provided) and the proposed amount of parking to be provided is 148 parking stalls. This increases the variance request from 15 off-street stalls under the EIR Project to 21 off-street stalls under the Updated Project.

The Updated Project design still incorporates many of the same uses of materials and has a similar architectural style as the project that was approved by the Planning Commission. The Updated Project still meets the same design goals as the previous design in that the auto parking area will not be visible from College Avenue, and the ground floor will still contain a high level of open storefront windows for pedestrian interest.

3.2 VISUAL QUALITY

Because the Updated Project has smaller massing and general visual character as the EIR Project, it would result in similar visual quality impacts as those identified for the EIR Project on pages 4.2-14 through 4.2-16 in the EIR. However, due to the additional articulation of the building façades and the redesign of the surfaces for the commercial building, the Updated Project defines and further strengthens the street walls' compatibility with the surrounding urban uses and structures. The height of the Updated Project would be lower than that of the EIR Project. There could be an increase in glare from automobile lights on the rooftop parking lot, however, the parapet height on the parking deck along the Berkeley border would be six feet high minimum (towards College Ave) up to eight feet six inches high as the wall reaches the loading dock, and the glare would be contained. Rooftop lighting would be directed downward on the parking lot and not away from the project site. Thus, the Updated Project would result in similar or reduced aesthetic (including light and glare), shadow, and wind effects as those identified for the DEIR project.

3.3 TRANSPORTATION, CIRCULATION, AND PARKING

Based on the analysis presented in this addendum, the Updated Project would not cause any new significant impacts or require new mitigation measures, and in general would have reduced traffic impacts as compared to the EIR Project.¹

Various aspects of the analysis are described below:

3.3.1 Project Trip Generation

Table 1 presents the trip generation for the Updated Project. The Updated Project would consist of a 45,500 square-foot Safeway supermarket and 9,500 square feet of additional retail. The project sponsor

¹ Sam Tabibnia, Letter to Peterson Vollmann. Subject: College Avenue Safeway – Updated Project Transportation Assessment, City of Oakland. December 10, 2012.

estimates that up to half of the retail space could be occupied by food-related uses. These food-related uses are expected mostly to consist of small stores that generally sell food products for off-site consumption (such as a cheese shop, a juice bar or a take-out food establishment) with very limited seating for on-site food consumption and no table service.

Most food vendors are generally included in the retail category used to estimate the trip generation for the retail component of the project. Although no full-service sit-down restaurants are anticipated at this time, this analysis assumes that up to one-half of the retail space may be occupied by a restaurant in order to present a very conservative analysis.

As shown in Table 1, the Updated Project is conservatively estimated to generate 179 weekday PM peak hour and 233 Saturday peak hour trips, which is about ten percent fewer trips than the EIR Project.

TABLE 1: UPDATED PROJECT – AUTOMOBILE TRIP GENERATION ESTIMATES

Land Use	ITE Code	Units ¹	Weekday PM Peak Hour			Saturday Peak Hour		
			In	Out	Total	In	Out	Total
Proposed Store	850 ²	45.50 ksf	272	261	533	252	242	494
Existing Safeway Store	850 ²	24.26 ksf	185	178	363	134	129	263
<i>Increase in Safeway Trips</i>			87	83	170	118	113	231
<i>Pass-By Vehicles (36%)³</i>			-30	-30	-60	-41	-41	-82
<i>Net New Safeway Trips</i>			57	53	110	77	72	149
Retail	814 ⁴	4.75 ksf	15	18	33	15	18	33
Restaurant	814 ⁴	4.75 ksf	24	12	36	30	21	51
<i>Total Net New Trips- Updated Project</i>			96	83	179	122	111	233
<i>Total Net New Trips- original EIR Project⁵</i>			102	95	197	133	125	258
Difference - Absolute			-6	-12	-18	-11	-14	-25
Difference - Percent			-6%	-13%	-9%	-8%	-11%	-10%

1. ksf = 1,000-square feet
2. ITE Trip generation Equation Used:
PM: $\ln(T) = 0.61 \ln(x) + 3.95$; Enter = 51%, Exit = 49%
Saturday: $T = 10.85(x)$; Enter = 51%, Exit = 49%
3. ITE Trip Generation Handbook (2nd Edition) average pass-by rate for supermarket
4. ITE Trip generation Equation Used:
PM: $T = 2.4(x) + 21.48$; Enter = 44%, Exit = 56%
Saturday: Used the PM equation since Saturday peak hour data was not available
5. Safeway Shopping Center – College and Claremont Avenues DEIR, Table 4.3-10.
Source: Trip Generation Manual (8th Edition), ITE, 2008 and Fehr & Peers, 2012.

3.3.2 Intersection Impacts

The Updated Project would generate about ten percent fewer trips than the EIR Project and it would not alter the surrounding street network, except at the project driveways. Trip distribution for the Updated Project would be the same as the EIR Project because the site would continue to provide the same uses. In comparison to the intersection analysis presented for the EIR Project, all study intersections would

operate at slightly better conditions due to fewer trips generated by the Updated Project. Therefore, the Updated Project would not cause any new impacts and all previous mitigation measures would continue to mitigate the identified impacts to a less-than-significant level. Operations at the project driveways are addressed in the next section.

3.3.3 Driveway Operations

Access to the parking facility in the Updated Project would be provided through the following two driveways:

- A full access unsignalized mid-block driveway on College Avenue between 63rd Street and Alcatraz Avenue would replace the driveway previously proposed opposite 63rd Street. The driveway in the Updated Project would result in loss of two on-street parking spaces on the east side of College Avenue in order to provide adequate sight distance for the driveway. In addition, City of Berkeley is currently determining if a left-turn pocket should be provided on southbound College Avenue at the driveway for the Updated Project. The provision of a left-turn pocket would result in loss of one additional parking space on the east side of College Avenue. This left-turn lane would reduce delay at the intersection and the likelihood that automobiles or buses would be delayed behind vehicles waiting to turn left into the site.
- A full access signalized driveway on Claremont Avenue opposite Mystic Street and Auburn Avenue. This driveway is in approximately the same location as the northern of the two driveways along Claremont that were proposed in the EIR; however, the Updated Project would eliminate the second, previously-proposed mid-block driveway on Claremont Avenue and would only provide one driveway on Claremont Avenue.

Table 2 summarizes traffic operations at the two project driveways under 2035 Plus Project conditions. The project driveway on Claremont Avenue is expected to operate at LOS B or better.

TABLE 2: UPDATED PROJECT DRIVEWAY OPERATIONS – 2035 PLUS PROJECT CONDITIONS

Intersection	Traffic Control ¹	Weekday PM Peak Hour		Saturday Midday Peak Hour		Saturday PM Peak Hour	
		Delay (seconds) ²	LOS	Delay (seconds) ²	LOS	Delay (seconds) ²	LOS
Claremont Avenue/Mystic Street/ Auburn Avenue/ Project Driveway	Signal	13.3	B	8.5	A	11.0	B
Updated Project Driveway/ College Avenue (Without southbound Left-Turn Lane)	SSSC	4.8 (35.3)	A (E)	4.0 (24.6)	A (C)	9.8 (77.6)	A (F)
Updated Project Driveway/ College Avenue (With southbound Left-Turn Lane)	SSSC	3.9 (32.9)	A (D)	3.1 (26.5)	A (D)	5.9 (48.8)	A (E)

Bold indicates intersection operating at LOS E or LOS F

1. Signal = signalized intersection, SSSC = side-street stop controlled intersection

2. For side-street stop controlled intersections, delay is reported as: intersection average (worst minor street approach); for signalized intersection, the average intersection delay is reported. LOS for both unsignalized and signalized intersections based on 2000 HCM.

Source: Fehr & Peers, 2012

The project driveway on College Avenue is analyzed with and without a left-turn pocket on southbound College Avenue, and would operate at an overall LOS A under either scenario. The stop-controlled westbound driveway approach on College Avenue would operate at LOS F or better if a left-turn pocket were not provided and LOS E or better if a left-turn pocket were provided on southbound College Avenue. Since the intersection would not meet the peak hour signal warrant, the Updated Project would not cause a significant impact at this intersection under Oakland's significance criteria as used in the DEIR. The poor operations for the westbound driveway approach on College Avenue are mostly due to the high delay experienced by vehicles turning left out of the driveway. It is expected that most vehicles intending to turn south from the project site would divert to the driveway on Claremont Avenue as it would experience much less delay.

Although not shown in Table 2, both driveways would operate with less delay under Existing Plus Project and 2015 Plus Project conditions than under 2035 Plus Project conditions reported in Table 2.

3.3.4 Safety at Project Driveways

Pedestrians walking along the west side of the Claremont Avenue sidewalk may fail to recognize that the Safeway loading dock and garage driveway are signalized, which may create a hazard as autos and trucks enter or exit the site at a green light. The following should be considered in the final design for the intersection:

- Design the driveway approach similar to a typical intersection approach with raised curb returns, the driveway surface lower than the sidewalk, and ADA compliant ramps. If the driveway approach is designed as a typical driveway at the same level as the sidewalk and the driveway is signalized, pedestrians along Claremont Avenue may fail to note that the driveway is signalized.
- Provide different paving material for the segment of sidewalk crossing the driveway.
- Ensure adequate sight distance between automobiles entering and exiting the driveway and pedestrians on the sidewalk.
- If feasible, provide a pedestrian refuge area on the west side of Claremont Avenue between the parking driveway and the loading dock.

3.3.5 Loading Dock Operations

The Updated Project would provide a back-in loading dock with space for two trucks at the northeast corner of the site with access on Claremont Avenue adjacent to the project parking driveway. Movement in and out of the loading dock would be controlled by the proposed signal at the project driveway. Most trucks would approach the site from northbound Claremont Avenue and back into the loading docks. The intersection would be designed to provide adequate space for trucks to maneuver into and out of the loading dock. The signal at the intersection would provide additional green time for the northbound Claremont Avenue approach while the other approaches at the intersection are stopped to allow trucks to enter the intersection and safely back into the loading dock.

Similarly, trucks leaving the loading dock (usually onto southbound Claremont Avenue) would trigger the traffic signal to provide a green signal for the loading dock only and stop all the other approaches to the intersection so that trucks can safely enter the intersection.

In addition to the loading dock, two loading zones on Claremont Avenue would provide for small truck deliveries: one just south of the project driveway to provide additional loading space for Safeway deliveries and one near College Avenue to provide loading space for the retail component of the project.

3.3.6 Parking

The Updated Project would provide 148 parking spaces in an upper level parking lot. The majority of the parking spaces would be restricted to one-hour or less and can be used by both project customers and general visitors to the area.

Parking Demand

Table 3 presents the estimated peak weekday and Saturday parking demand for the Updated Project and compares it to the EIR Project. As previously described, up to half of the retail space provided in the project is assumed to be used by food-related uses.

TABLE 3: UPDATED PROJECT PEAK PARKING DEMAND ESTIMATE

Land Use	EIR Projects ¹			Updated Project		
	Size	Weekday (6:00 PM)	Saturday (6:00 PM)	Size	Weekday (6:00 PM)	Saturday (5:00 PM)
Safeway ²	51.51 KSF	177	177	45.5 KSF	156	164
Retail ³	7.913 KSF	14	16	9.5 KSF	16	18
Food-Related Uses	2.744 KSF	21	41	10 Seats ⁴	4	4
Total		212	234		176	186
Parking Supply ⁵		171	171		148	148
Parking Deficit		-41	-63		-28	-38

1. See Table 5-10 in the EIR.
2. Based on ITE *Parking Generation* (4th Edition), 85th percentile rates for suburban supermarkets (land use 850) multiplied by the current customer automobile mode share as shown in Table 4.3-11 of the DEIR:
 Weekday: $5.05 * 0.68 = 3.43$ spaces per KSF
 Saturday: $4.94 * 0.73 = 3.61$ spaces per KSF
3. Based on ITE *Parking Generation* (4th Edition), average rates for shopping center multiplied by time-of-day factor:
 Weekday: $2.55 * 0.64 = 1.63$ spaces per KSF
 Saturday: $2.87 * 0.67 = 1.92$ spaces per KSF
4. Although the number of seats to be provided in the Updated Project for the food-related uses is not known at this time, this analysis assumes 10 seats for illustrative purposes. The parking demand is based on typical demand rate of 0.44 parking spaces per seat.
5. Based on Updated Project site plan as of December 7, 2012.

Source: Fehr & Peers, 2012.

Note that the ITE rates used to estimate parking demand for the retail component of the Updated Project is based on shopping centers that also provide food vendors and restaurants. Thus, the retail parking demand estimate presented in Table 3 accounts for some food-related uses. Since ITE data shows much higher parking demand for stand-alone restaurants than most stand-alone retail uses, the ITE shopping center data may not be the best estimate for the potential food uses on the site, especially if they provide for on-site food consumption.

However, ITE rates for various restaurant uses are not comparable to most food related uses under consideration for the Updated Project. Potential food vendors would most likely consist of small stores (less than 1.0 KSF) providing food generally for outside consumption (such as prepared take-out, yogurt store, etc.). However, they may provide a few tables for on-site consumption but would not provide table service. ITE does not provide specific demand rates for such uses.

The ITE data for various restaurant uses shows average peak demand rate ranging between 0.35 and 0.52 parking spaces per seat. Considering that parking demand for employees and other customers who do not consume on-site are already accounted for in the retail parking demand and the project is in the Rockridge commercial area where many customers walk or take transit, this analysis conservatively assumes that each seat provided in the food-related stores would generate peak parking demand of 0.44 parking spaces in addition to the parking demand for the retail component of the project presented in Table 3.

Although the specific number of seats to be provided is not known at this time, this analysis assumes that 10 seats would be provided for the food-related uses at the site. The project parking demand would increase or decrease if additional or fewer seats are provided.

As shown in Table 3, the Updated Project is estimated to have a peak parking deficit of 28 spaces on weekdays and 38 spaces on Saturdays, which is less than the parking deficit of 41 spaces of weekdays and 63 spaces on Saturdays estimated for the EIR Project.

On-Street Parking

The Updated Project would result in the following changes to the on-street parking supply:

- College Avenue: on-street parking spaces along project frontage would decrease from 11 to nine spaces assuming that a left-turn pocket is provided on southbound College Avenue.
- Claremont Avenue: on-street parking spaces along project frontage would remain at 16 spaces.

The Updated Project would decrease the overall on-street parking supply adjacent to the project site by two spaces. Table 4 summarizes the combined effects of the worst-case parking demand generated by the Updated Project with the changes to the on-street parking supply adjacent to the project, and changes to the parking supply resulting from implementation of Mitigation Measure TRANS-2 at the Alcatraz Avenue/College Avenue intersection.

This table is comparable to Table 5-13 in the FEIR. Under the worst-case scenario, it is estimated that the Updated Project parking demand combined with the reduction in on-street parking supply would result in net peak parking deficit of 32 spaces on weekdays and 28 spaces on Saturdays. In comparison, it is estimated that the EIR Project would have a net peak parking deficit of 42 spaces on weekdays and 50 spaces on Saturdays. Thus, the Updated Project would have a smaller parking deficit than the EIR Project. As a result, the Updated Project would have fewer motorists searching for and using the parking in the adjacent residential streets. Strategies in Improvement Measure TRANS-2 as recommended in the EIR should continue to be considered to reduce the potential parking deficit under the Updated Project.

TABLE 4: OVERALL PROJECT AND ON-STREET PARKING DEMAND

	Weekday (6:00 PM)	Saturday (5:00 PM)
Additional Parking Demand		
Project Parking Deficit ¹	28	38
Current Non-Safeway Vehicles Parked at Safeway ²	12	6
Total	40	44
Changes to On-Street Parking Supply		
Project ³	-2	-2
Mitigation Measures ⁴	-3	-3
Total	-5	-5
Net Parking Deficit (without using available on-street parking adjacent to the project site)	45	49
Current Available On-Street Parking Adjacent to the project ⁵	13	21
Net Parking Deficit (with using available on-street parking adjacent to the project site)	32	28
Net Parking Deficit (with using available on-street parking adjacent to the project site) for the EIR Projects ⁶	42	50

1. See Table 3 for details.
 2. See Table 5-8 in the EIR for details.
 3. The Updated Project would add three parking spaces on Claremont Avenue and eliminate up to four parking spaces on College Avenue for a net decrease of two on-street parking space.
 4. Mitigation Measure TRANS-2 may eliminate up to three on-street parking spaces.
 5. Currently vacant and unoccupied on-street parking spaces on College and Claremont Avenues as shown on Figure 5-2 of the EIR.
 6. See Table 5-13 in the EIR for more detail
- Source: Fehr & Peers, 2012.

3.4 AIR QUALITY

As discussed on pages 4.4-16 through 4.4-21 of the EIR, with mitigation, the EIR Project would have less-than-significant air quality impacts associated with construction activities and operations. Because the site layout, operational characteristics, and trip generation of the Updated Project are substantially the same as, or reduced from, those of the EIR Project, the Updated Project would not result in any new or more severe air quality impacts beyond those studied in the EIR.²

3.5 GREENHOUSE GASES

As discussed on pages 4.5-46 through 4.5-55 of the EIR, the EIR Project would have less-than-significant greenhouse gas impacts under the City's thresholds, and would comply with applicable plans, policies, and regulations adopted for the purpose of reducing GHG emissions. Because the massing, layout, and operational characteristics of the Updated Project is smaller than those of the EIR Project, the Updated Project would not result in any new or more severe greenhouse gas impacts beyond those studied in the EIRs.

² Donald Ballanti, Letter to Stu During. Subject: Comparison of Air Quality Impacts for the Revised Project and Original Project, Safeway Shopping Center – College and Claremont Avenues, City of Oakland. December 10, 2012.

3.6 NOISE

The Updated Project would result in similar noise impacts as those identified for the EIR Project on pages 4.6-14 through 4.6-20 of the EIR. The EIR Project would have less-than-significant noise impacts involving construction, project-generated, and operational traffic noise (Impacts NOI-1, NOI-2, and NOI-3, respectively), all of which would also exist (and be less than significant) under the Updated Project.³ The reconfiguration of the Updated Project, including the enlargement of the rooftop parking lot and the relocation of the loading dock, was evaluated to determine whether it would result in any new or more severe noise impacts compared to those studied in the EIR, and the results of that evaluation are summarized below.

- The relocation and enclosure of the loading dock would result in no new noise impacts compared to the EIR Project. No changes or noise impacts are identified through automobile traffic entering or leaving the site.
- Safeway trucks and other large trucks would maneuver into the Claremont driveway from Claremont Avenue, eliminating truck movements along the north property line, and eliminating the associated less-than-significant noise impact identified for the EIR Project.
- The new rooftop parking layout would reduce parking lot noises compared to the EIR Project, with the exception of the four residential buildings at the northwest corner of the project site that are currently shielded from the parking lot. Compliance with Oakland's Noise Ordinance (Standard Condition of Approval [SCA] NOI-6) would be required, which may be accomplished through limiting nighttime access to the northwest area of the parking lot.
- The trash compactor included in the EIR Project is not included in the Updated Project, and no new mechanical noise impacts have been identified. To comply with the nighttime noise limit for mechanical and refrigeration equipment, like the EIR Project, the Updated Project would be required to comply with SCA NOI-6, and undergoing an acoustical review during design development and construction phases.

As a result, the Updated Project would not result in any new or more severe noise impacts compared to those studied in the EIR.

3.7 ECONOMIC IMPACTS

As discussed in the Master Response No. M-6 on pages 5-43-5-49, there would be no anticipated sales impacts on any additional retail categories relevant to the EIR Project, such as restaurants and apparel. Because these components either remained approximately the same, or were reduced in size, this conclusion remains the same. No additional impacts on any additional retail category are anticipated as a result of the Updated Project.⁴

³ Deborah Jue, Wilsonn, Jhrig & Associates, Memorandum to Todd Paradis, Safeway, Inc. Subject: Revised Project Drawings, Safeway #2870. December 13, 2012.

⁴ Amy Herman, ALH Urban & Regional Economics, Letter to Stu Doring. Subject: Urban Decay analysis of Updated Project College & Claremont Safeway Project Description. December 10, 2012

3.8 CUMULATIVE IMPACTS

As discussed above under Transportation, Circulation and Parking (above), the Updated Project would generate about ten percent fewer trips than the EIR Project.

The significant and unavoidable cumulative traffic impacts that were identified for the EIR Project (*i.e.*, 2015 traffic levels at the intersections of Ashby Avenue/College Avenue, Alcatraz Avenue/College Avenue, Alcatraz Avenue/Claremont Avenue; and 2035 traffic levels at the intersections of Ashby Avenue/College Avenue, Ashby Avenue/Claremont Avenue, Alcatraz Avenue/College Avenue, Alcatraz Avenue/Claremont Avenue) would also be considered significant and unavoidable with the Updated Project.

Cumulative traffic impacts that were identified as less than significant with mitigation with the EIR Project (*i.e.*, 2015 traffic levels at the intersection of College Avenue/Claremont Avenue; and 2035 traffic levels at the intersections of College Avenue/Claremont Avenue, Forest Street/Claremont Avenue, and Hudson Street/Manila Avenue/College Avenue) would similarly be identified as less than significant with mitigation.

No new or worsened cumulative impacts would result from the Updated Project.