

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 FEB 18 PM 5: 22

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community & Economic Development Agency
DATE: March 2, 2010

RE: **A Public Hearing and Resolution Denying the Appeal and Upholding the Planning Commission Approval of a Major Conditional Use Permit at 500 Hegenberger Road to Re-establish a Hotel (Transient Habitation) That Has Been Closed for Greater Than One Year.**

SUMMARY

On November 18, 2009, the Planning Commission approved (by a vote of 4 to 0) a Major Conditional Use permit at 500 Hegenberger Road, to re-establish a hotel (Transient Habitation) that has been closed for greater than one year (CM09-221).

On December 1, 2009, UniteHere! Local 2850 filed an appeal of the Planning Commission's Approval of the Project to the City Council (*Attachment A*). The Local 2850 appeal essentially maintains that (a) the Conditional Use Permit findings were not met; and (b) the Conditions of Approval imposed by the Planning Commission were inadequate to lessen the impact of the proposed Hotel on the surrounding neighborhood.

The arguments raised by the appellant are summarized below in the Key Issues portion of this report along with staff's response to each argument. The arguments are also addressed in the attached November 18, 2009 Planning Commission Report (*Attachment B*). For the reasons stated in this report, and elsewhere in the record, staff recommends the City Council adopt the attached Resolution denying the appeals, thereby upholding the Planning Commission's approval of the project.

FISCAL IMPACT

The project involves the re-opening of a former business, and does not request or require public funds. If allowed to operate, the project would provide a positive fiscal impact through sales taxes, hotel taxes, property taxes, and business license taxes. As the site is not seeking a further physical expansion it would not require an increase in the level of municipal services that must be provided. Were the appeal to be upheld and the project overturned, it is likely that there would be a diminished amount of potential revenue from sales taxes, and hotel taxes.

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BACKGROUND

The following staff report addresses the proposal to re-establish a 293 room hotel which has been closed for greater than one year. The proposal does not involve any exterior alterations to the building. The site is located within a commercial district along Edes Avenue and Hegenberger Road and adjacent to the Interstate 880 Highway. The site is in the C-36 Gateway Boulevard Service Commercial Zone and the S-4 Design Review Combining Zone. The General Plan designation for the site is Regional Commercial.

PROJECT DESCRIPTION

The proposal entails the request for a Major Conditional Use Permit to re-establish an existing hotel which has been closed for more than one year. A hotel, Transient Habitation, is a conditionally permitted activity in the C-36 Gateway Boulevard Service Commercial Zone and clearly conforms with the Regional Commercial general plan land use designation. The project requires a major conditional use permit to re-establish the Transient Habitation activity that has been closed for greater than one year, pursuant to Code Section 17.114.050. The proposal does not involve any exterior alterations of the existing facilities. The proposed operator of the facility will be GV Hotel Management Group, LLC (see *Attachment A*).

Property Description

The subject property is an interior parcel of approximately 236,100 square feet (5.42 acres), with frontage on Edes Avenue and adjacent to Interstate 880 highway and Hegenberger Road. The subject property is a 293 room hotel facility of approximately 128,364 square feet. Currently there is a lobby, conference room, bar and lounge, full service restaurant, and a courtyard with a swimming pool. The property consists of two buildings, which include a six story tower and a two story building. The property was first developed in 1970 (based on Alameda County Assessors Data). The property is located approximately 1.3 miles from the Oakland International Airport.

General Plan Analysis

The subject property is located within the Regional Commercial General Plan designation. The Regional Commercial land use classification is intended to maintain, support and create areas of the City that serve as region-drawing centers of activity. The proposal to re-establish a hotel facility will not adversely affect or detract from the commercial characteristics of the surrounding area.

Policy N1.7: Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor. No new hotels or motels should be located

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elsewhere in the city; however, the development of "bed-and-breakfast" type lodgings should be allowed in the neighborhoods, provided that the use and activities of the establishment do not adversely impact nearby areas, and parking areas are screened.

Zoning Analysis

The subject property is located within the C-36 Gateway Boulevard Service Commercial Zone. The C-36 zone is intended to create, preserve, and enhance Areas with a variety of offices, travel accommodations, and related consumer and business service activities needing visually prominent and attractive locations and abundant vehicular access, and is typically appropriate along wide, landscaped major thoroughfares in areas identified as gateway and coliseum showcase districts of the land use and transportation element of the Oakland General Plan. The proposal to re-establish an existing hotel facility approximately 1.3 miles from the Oakland International Airport and adjacent to the Interstate 880 highway meets applicable C-36 zoning and City of Oakland general use permit regulations. The S-4 zone is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities, and is typically appropriate to areas of special community, historical, or visual significance.

Environmental Determination

The California Environmental Quality Act (CEQA) Guidelines list the projects that qualify as categorical exemptions from environmental review. The proposed project is categorically exempt from the environmental review requirements pursuant to Section 15301, alterations to existing facilities; Section 15183, projects consistent with a community plan, general plan or zoning.

KEY ISSUES AND IMPACTS

UniteHere! Local 2850 Appeal

The Local 2850 appeal is included as *Attachment A* (the original November 18, 2009 appeal) and summarized below. The basis for the appeal is shown in bold text and the staff response follows each point in regular type.

- 1. The project does not meet the Conditional Use Permit Findings.**
Section 17.102.370.A.2: That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services:

Local 2850 states: "If the Applicant is allowed to receive a Major Conditional Use Permit without Addressing issues of employment, that would totally undermine and

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render moot the purpose of this section. The application did not mention anything about the projected wages or benefits that workers at the future hotel would expect to receive. The applicant did not provide any information which would enable the commission or other decision makers to determine whether or not the employees will be compensated at a level which allows them to afford to rent of purchase market-rate housing in Oakland, or need social or medical services.”

Staff Response

The Planning Commission considered the impact of employees of the hotel on the demand for housing, public transit and social services. As stated in the Planning Commission staff report “The hotel is located in proximity to several choices of public transit on Hegenberger Road, and in close proximity to several residential neighborhoods.” Further, the Hotel is located on one of the City’s major corridors, with frequent AC Transit buses including bus lines 50, 805, and 356, running daily. The existing hotel is less than 1.5 miles from the Bay Area Rapid Transit Coliseum station and there are several social services within the area, which include health clinics at Eastmont Town Center located less than 3 miles away. The City of Oakland Planning Code does not address or set living wages, medical benefits, transportation requirements, or housing costs for employers. Employee minimum wages are established at the State and Federal level and are outside of the jurisdiction of the Planning Code.

While the specific wages of the hotel employees was not discussed at the Planning Commission meeting and is not within their purview, the following additional information provides further basis for satisfaction of this finding regarding potential housing demand from employees of the hotel.

In late 2001, a Commercial Development Linkage Fee Analysis was completed for the Housing Division of CEDA. This study was undertaken to analyze the relationship between non-residential development and the need for housing affordable to low and moderate income groups in support of the establishment of a housing-jobs nexus fee for new construction. The study included analysis of four (4) building types - Office, Warehouse/Distribution, Retail, and Hotel. The resulting housing-jobs nexus fee ordinance approved by the City of Oakland in 2002 (Ord.12442) covers only two (2) building types – Office and Warehouse/Distribution. The background analysis and assumptions for Hotel use included in the study can provide information on the anticipated demand for housing by the proposed hotel.

Based on the hotel’s size of approximately 128,000 square feet, the following assumptions are calculated consistent with the study findings: Approximate number of employees at the full utilization of the hotel: 190; Number of employees anticipated to live in Oakland (based on Census and ABAG data): 76; Estimated number of households represented in Oakland: 54; Estimated number of households supported by this hotel’s employment that qualify as a very low, low, or moderate income household (120% of adjusted median income or below): 14, of

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which an estimated 10 households will be in the very low income category (50% adjusted median income or below).

While overall in Oakland there is a need for more affordable housing for very low and low income households, based on the analysis summarized above, this hotel operation is not anticipated to significantly affect housing in the City of Oakland.

2. The project does not meet the Conditional Use Permit Findings.

Section 17.102.370.A.3: That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, or along the I-880 freeway which provide: (a) A minimum of one hundred (100) sleeping rooms; (b) A full service restaurant providing three meals per day; and (c) On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts.

Local 2850 states: "The proposal to open a hotel at 500 Hegenberger Road as a Clarion is not consistent with the goal of attracting first-class, luxury hotels to Oakland. In its last incarnation, the property at 500 Hegenberger was also a Clarion. Prior to that, it was a Holiday Inn (as the ingrained Holiday Inn signage on the property indicates). The hotel had been closed since 2005 and the application does not discuss the monetary investment the Applicant in (is) willing to put into the hotel to revamp its furniture and infrastructure to bring it closer to a first class or luxury standard."

Staff Response

The project is consistent with the goals stated in the Planning Code.

The Hotel appears to be in good condition and received \$4 million investment to upgrade the furniture and fixtures in 2001. Some of the upgrades made include, nightstands, lamps, telephones with voicemail, mirrored armoires, 25 inch color televisions, work desks, lamp chairs, wall mounted mirrors, wall-to-wall carpeting, tile bathroom flooring, cast iron tubs with chrome fixtures, individually controlled thermostats, ceiling mounted sprinklers, dressers, microwaves, mini-bars in some rooms, wireless high speed internet, in room gaming and movie system, and iron stands.

The required findings are addressed below:

(a) A minimum of one hundred (100) sleeping rooms: The existing hotel has 293 sleeping rooms. One-hundred (100) rooms are to be opened in the first phase of the proposed operation.

(b) A full service restaurant providing three meals per day: The existing hotel has a 2,512 square foot full service restaurant with a 4,014 square foot kitchen.

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(c) *On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts:* The existing hotel has a courtyard with a swimming pool and a 5,559 square foot conference room.

Based on the proposed project meeting the required findings a, b, and c, by opening a minimum of 100 rooms at the start of operation; providing a full service restaurant; and having an existing swimming pool the existing hotel meets the goal of a first-class, luxury hotel.

3. The project does not meet the Conditional Use Permit Findings.

Section 17.102.370.A.4: 4. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:

- (a) Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;**
- (b) Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;**
- (c) Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;**
- (d) The majority of the parking to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development;**
- (e) Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;**
- (f) Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail;**
- (g) Lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light.**

Local 2850 states: "The application falls short on the design requirements described above in several respects. It contains little disclosure regarding building and infrastructure enhancements, signage enhancements (or corrections) or lighting. The applicant has stated that the landscape will not change from what it is today. Currently there is very little at the site that can account as inviting and pleasant landscaping. There are few if any native species and concrete in areas where other hotels on Edes Avenue have grass and trees.

Staff Response

The project satisfies the requirements that the project will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area:

- a. *Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users:* The proposal involves no exterior alterations or changes to parking areas or landscaping.
- b. *Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials:* The proposal will maintain all existing landscaping.
- c. *Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape:* The proposal does not call for any signage at this time. All proposed future signage must be applied for separately and must meet all applicable Planning and Building Codes.
- d. *The majority of the parking is to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development:* The proposal does not involve any changes to the existing on-site parking.
- e. *Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres:* The proposal does not involve any exterior changes to the existing building.
- f. *Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail:* The proposal does not involve any exterior changes to the existing building.
- g. *Lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light:* The proposal does not involve any changes to existing on-site lighting.

The proposal is to re-open an existing hotel that has been closed for approximately four years and does not include any exterior alterations. The existing building is in good condition and is proposed to be maintained. The existing on-site landscaping has also been maintained in good growing condition. Further, the findings and conditions of approval require on-site maintenance as well as require an applicant to file for all necessary permits with the Planning and Building Departments for any future work.

4. **The project does not meet the Conditional Use Permit Findings.
Section 17.134.050.C: That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region:**

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Local 2850 states: "This is a hotel that existed in the past as a Clarion. If it did not succeed and 'enhance the successful operation of the surrounding area' in 2005 when the economy was in much better shape, why then would it succeed today amidst a recession? How is the business plan different than before? Hotel occupancy rates are expected to decline at least 2% annually in Oakland until 2011 (http://www.hotel-online.com/news/PR2009_1st/Mar09_PKFEconomy.html), so allowing this hotel to be reestablished on the Hegenberger Corridor will add to the stock of hotel rooms and further that occupancy decline. It is possible that when the hotel opens, it would only cannibalize existing consumption of hotel rooms around the Oakland Airport and not add much- if anything- to Oakland's general fund by way of hotel taxes."

Staff Response

The proposed development will enhance the successful operation of the surrounding area in its basic community function and travel accommodations and will provide an essential service to the community or region.

The subject property is located within the Regional Commercial General Plan designation. The Regional Commercial land use classification is intended to maintain, support and create areas of the City that serve as region-drawing centers of activity. The proposal to re-establish a hotel facility will not adversely affect or detract from the commercial characteristics of the surrounding area. The proposal involves the re-opening of an existing hotel facility.

Policy N1.7: Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor. No new hotels or motels should be located elsewhere in the city; however, the development of "bed-and-breakfast" type lodgings should be allowed in the neighborhoods, provided that the use and activities of the establishment do not adversely impact nearby areas, and parking areas are screened.

5. **The conditions of approval are inadequate for dealing with the impact of the hotel. Local 2850 is referring to condition of approval 14:**

14. Compliance Review

6 months after Certificate of Occupancy and Commencement of operation.

Planning and Zoning staff will schedule a noticed Director's Report to the Planning Commission at the next available meeting assessing the hotel's compliance with Conditions of Approval and assess compliance with specific findings made with regard to operating characteristics (17.134.050A) and consistency with the goal of attracting first-class, luxury hotels (17.102.370 A 3).

Local 2850 states: "The General Conditional Use Permit states that a conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. But the requirements in the conditional use permit are so weak that the six-month review will not be terribly meaningful. Given that there is no projected operational data being provided to the City now, and given how there are no goals or targets being set regarding operations, it is not clear how a meaningful review of actual operational data can occur six months after commencement of operations.

Staff Response

Planning and Zoning staff will perform a compliance review of the hotel and present to the Planning Commission. The guidelines for the review will be based on the Conditions of Approval as well as compliance with the specific findings made with regard to operating characteristics (17.134.050A) and consistency with the goal of attracting first-class, luxury hotels (17.102.370 A 3). The compliance review will be in the form of a noticed Director's Report to the Planning Commission. Planning and Zoning staff will review the submitted property summary from the Planning Commission staff report to make a decision as to whether compliance with the findings and conditions of approval have been met for the project.

RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council adopt the attached Resolution denying the appeal, thereby upholding the Planning Commission's approval of the project. Staff recommendation is based on the following reasons: 1) The Project and the approval of the Project comply in all significant respects with applicable general plan policies, conditional use permit criteria and review procedures; and 2) the Project complies with CEQA, and 3) there was no error or abuse of discretion on the part of the Planning Commission in approving this Major Conditional Use Permit.

ALTERNATIVE RECOMMENDATION(S)

The City Council has the option of taking one of the following alternative actions instead of the recommended action above:

1. Uphold the UniteHere! Local 2850 appeal and reverse the Planning Commission's decision thereby denying the project. This option would require the City Council to continue the item to a future hearing so that Staff can prepare and the Council has an opportunity to review the proposed findings and resolution for denial.

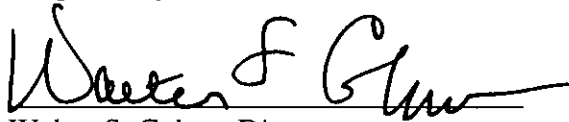
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2. Uphold the Planning Commission's decision, but impose additional or revised conditions on the project and/or modify the project.
3. Continue the item to a future hearing for further information or clarification.
4. Refer the matter back to the Planning Commission for further consideration on specific issues/concerns of the City Council. Under this option, the item would be forwarded back to the City Council with a recommendation after review by the Planning Commission.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the Council affirm the Planning Commission's environmental determination that the Project is exempt from CEQA review as detailed in this report, and that the Council adopt the attached Resolution denying the appeals, and thereby upholding the Planning Commission's approval of the Project.

Respectfully submitted,

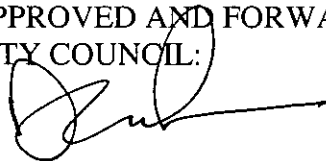


Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:
Scott Miller, Zoning Manager

Prepared by:
Michael Bradley, Planner I

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

ATTACHMENTS:

- A. UniteHere! Local 2850 appeal submitted December 1, 2009.
- B. Planning Commission Staff Report of November 18, 2009 with revised, adopted conditions

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December 1, 2009

Attention: Michael Bradley, Planner I
City of Oakland
Community and Economic Development Agency
250 Frank H. Ogawa Plaza, Suite 2114
Oakland CA 94612

RECEIVED

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**CITY PLANNING COMMISSION
ZONING DIVISION**

RE: Appeal of Major Conditional Use Permit Approval for Case File No. CM09-221; 500 Hegenberger Road (APN: 042-4323-007-05)

Dear Mr. Bradley:

We write to appeal the Oakland City Planning Commission's decision to approve a Major Conditional Use Permit for the opening of a hotel at 500 Hegenberger Road (Case File No. CM09-221, APN: 042-4323-007-05.) We believe that the City Council needs to hear this item itself so that it can further deliberate the information and issues involved, and potentially overturn the action taken by the Planning Commission. Unite Here Local 2850 is an interested party because we have a number of member who live within a half mile radius of the site. Many more of our members drive on Hegenberger corridor daily to work at the airport or airport area hotels. Finally, because the Conditional Use Permit requirements address employment conditions at the property, we have an interest in protecting our members from losing their jobs due to loss of business to operators who do not provide health insurance or living wage but rather dump those responsibilities onto taxpayers.

The planning code provides that "A conditional use permit for hotel and motel uses may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to [a set of] additional use permit criteria' specified in code Section 17.102.370.

We believe that the Planning Commission made its decision on this project without having obtained from UNI Oakland Co., LLC (the "Applicant")—and without having adequately reviewed or considered—sufficient evidence that would support the Applicant's request for a hotel and motel conditional use permit, per Planning Code Section 17.102.370. Moreover, we believe that in its application for the permit, UNI Oakland CO LLC failed to meet the disclosure requirements of Section 17.102.370.

The following is a comparison of the requirements for a hotel and motel conditional use permit per Section 17.102.370 and to the responses provided by the Applicant on its application.

- A. Section 17.102.370, paragraph 2, Use permit criterion: "That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services."

In its application, the Applicant failed to address any issues of employment. If the Applicant is allowed to receive a Major Conditional Use Permit without addressing issues of employment, that would totally undermine and render moot the purpose of this section. The application did not mention anything about the projected wages or benefits that workers at the future hotel would expect to receive. The Applicant did not provide any information which would enable the commission or other decision makers to determine whether or not the employees will be compensated at a level which allows them to afford to rent or purchase market-rate housing in Oakland, or needed social or medical services. For that reason, it is not proper that the Planning Commission find that the project adequately considers "the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services." By not providing any data relating to employment, the Applicant leaves open the question of whether or not this hotel will create more poverty jobs, or whether it will provide jobs that previous workers at the hotel could expect, like a living wage, affordable health benefits, etc.

The Applicant failed to address how employees of the hotel would impact local medical services. If the Applicant's operator does not provide affordable medical insurance to the employees of the hotel, it can be expected that those employees would look to local public social and medical services for medical care, particularly for expensive emergency care. And it is worth knowing that hotel workers have a relatively high rate of injuries. According to a study recently publicized in the *New York Times*, 7.9% of hotel housekeepers are injured each year, 50% higher than for all hotel workers and twice the rate for all workers in the United States.¹ Housekeepers have a high injury rate because they do difficult and repetitive tasks such as lifting heavy mattresses. Based on current patterns, in East Bay non-union hotels, they can be expected to clean upwards of 16 rooms a day.

In regards to the impact of the project on transportation for low wage workers, the Applicant simply states that the hotel is near public transit (BART). However, the Applicant fails to address the financial ability for hotel workers to use BART or other public transit. Moreover, there are real issues about the practicalities of employees using BART to get to work at this particular hotel. The nearest BART stop, at the Coliseum, is 1.5 miles from the hotel—and the walk there is hazardous both because of traffic on Hegenberger Road and because of other personal security risks.

Finally, with respect to housing, the Applicant simply states that the hotel is in a residential neighborhood, but makes no mention of the impact of the hotel and its employees on the demand in the City of Oakland for affordable or market rate housing. In the first quarter of 2009, the rent for the average two bedroom one bath unit in Oakland was \$1,352.00/month.² There are non-union housekeepers who work on the Hegenberger corridor that make the California minimum wage -- \$8.00/hour.³ If the Applicant mimics other non-union hotels on the Hegenberger Corridor, a housekeeper that worked 40/hours a week at 500 Hegenberger Road would make approximately \$1280/month before taxes—meaning that she couldn't afford the average rent on a two-bedroom Oakland apartment if all of her income went to rent.

- B. *Section 17.102.370, paragraph 3, Use permit criterion: "That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, or along the I-880 freeway which provide:*
- a. *A minimum of one hundred (100) sleeping rooms;*

¹ <http://www.nytimes.com/2009/11/11/business/11injury.html> (retrieved 11/23/09)

² <http://www.docstoc.com/docs/7154891/EAST-BAY-REGION-RENT-SURVEY>

³ Interview with non-union housekeepers on the Hegenberger Corridor.

- b. A full service restaurant providing three meals per day; and*
- c. On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts."*

The proposal to open a hotel at 500 Hegenberger Road as a Clarion is not consistent with the goal of attracting first-class, luxury hotels to Oakland. In its last incarnation, the property at 500 Hegenberger was also a Clarion. Prior to that, it was a Holiday Inn (as the ingrained Holiday Inn signage on the property indicates.) The hotel had been closed since 2005 and the application does not discuss the monetary investment the Applicant is willing to put into the hotel to revamp its furniture and infrastructure to bring it closer to a first class or luxury standard.

Moreover, there is the possibility this hotel will not only add inferior hotel rooms to Oakland, but that it might also detract from existing hotels on the Hegenberger corridor by cannibalizing other properties on the corridor, and therefore not providing much additional hotel tax revenue or real economic growth to the City of Oakland.

- C. Section 17.102.370, paragraph 4, Use permit criterion: "That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:*
 - a. Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;*
 - b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;*
 - c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;*
 - d. The majority of the parking to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development;*
 - e. Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;*
 - f. Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail; and*
 - g. Lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light.*

The application falls short on the design requirements described above in several respects. It contains little disclosure regarding building and infrastructure enhancements, signage enhancements (or corrections) or lighting. The Applicant has stated that the landscape will not change from what it is today. Currently there is very little at the site that can account as inviting and pleasant landscaping. There are few if any native species and concrete in areas where other hotels on Edes Avenue have grass and trees.

It behooves the City of Oakland to have an expert visit the site to evaluate the deterioration (if any) and comment on the architectural and visual quality and character.

There are several other problems with the approval process for the conditional use permit which serve as the basis for this appeal. First, Section 17.134.030, which deals with the overall submission requirements for all conditional use applications, states that "The application shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data, as may be required to enable the pertinent criteria to be applied to the proposal." Unfortunately, the operational data required to enable the criteria of this section of the planning code to be applied to the proposal were not provided to, and have not been considered by, the planning commission. Now is the time when the City has an opportunity to look at the property owner and operator's plans and have material input to a business that will affect other businesses, residences and services of the City—not six months from now.

In addition, the way in which the Planning Commission dealt with monitoring the Applicant's compliance with the requirements of Section 17.102.370 is also inadequate. In the conditional use permit approval for the project, the Planning Commission simply required a compliance review six months after commencement of operations at the hotel: Specifically, their approval states:

"14. Compliance Review. 6 months after Certificate of Occupancy and Commencement of operation. Planning and Zoning staff will schedule a noticed Director's Report to the Planning Commission at the next available meeting assessing the hotel's compliance with the Conditions of Approval and assess with specific findings made with regards to operating characteristics (17.134.050A) and consistency with the goal of attracting first-class luxury hotels (17.102.370 A 3)."

The General Conditional Use Permit states that a conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. But the requirements in the conditional use permit are so weak that the six-month review will not be terribly meaningful. Given that there is no projected operational data being provided to the City now, and given how there are no goals or targets being set regarding operations, it is not clear how a *meaningful* review of actual operational data can occur six months after commencement of operations. Given the lack of information provided to the Planning Commission in the application, it will be difficult to check whether or not the hotel owner or operator will be complying meaningfully with the criteria established in this section. Issues regarding the property should be addressed now -- while it is still within the City's direct purview.

Finally, there are problems with how the proposal "conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134." Section 17.134.050 of the Planning Code states:

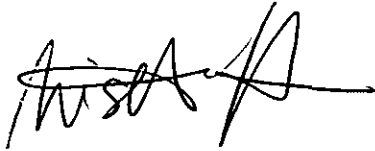
"General use permit criteria. E. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region;"

This is a hotel that existed in the past as a Clarion. If it did not succeed and "enhance the successful operation of the surrounding area" in 2005 when the economy was in much better shape, why then would it succeed today amidst a recession? How is the business plan different than before? Hotel

Occupancy rates are expected to decline at least 2% annually in Oakland until 2011,⁴ so allowing this hotel to be reestablished on the Hegenberger Corridor will add to the stock of hotel rooms and further that occupancy decline. It is possible that when the hotel opens, it would only cannibalize existing consumption of hotel rooms around the Oakland Airport and not add much- if anything- to Oakland's general fund by way of hotel taxes.

In conclusion, the application for a Major Conditional Use Permit to re-establish a hotel at 500 Hegenberger Road does not meet the criteria put forth by the City of Oakland's Planning Code. The issues described above need to be further investigated and until that has been done, we respectfully request that the City reject the request for a Major Conditional Use Permit at 500 Hegenberger Road.

Sincerely,



Nischit Hegde
Unite Here! Local 2850
405 14th Street Suite 164
Oakland CA 94612
510.219.6347

CC: City Clerk

⁴ http://www.hotel-online.com/News/PR2009_1st/Mar09_PKFEconomy.html

Location:	500 Hegenberger Road (See map on reverse)
Assessors Parcel Numbers:	(042-4323-007-05)
Proposal:	To re-establish a 293 room hotel (Transient Habitation).
Applicant:	UNI Oakland CO., LLC
Contact Person/ Phone Number:	Michael Cho (323) 734-4000
Owner:	JCRA Investment CO., LLC
Case File Number:	CM09-221
Planning Permits Required:	Major Conditional Use Permit to re-establish a hotel (Transient Habitation).
General Plan:	Regional Commercial
Zoning:	C-36 Gateway Boulevard Service Commercial Zone S-4 Design Review Combining Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility; Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general Plan or zoning.
Historic Status:	Not Potential Designated Historic Property; Survey rating: F3
Service Delivery District:	6
City Council District:	7
Date Filed:	10/19/09
Finality of Decision:	Appealable to City Council
For Further Information:	Contact case planner Michael Bradley at (510) 238-6935 or mbradley@oaklandnet.com

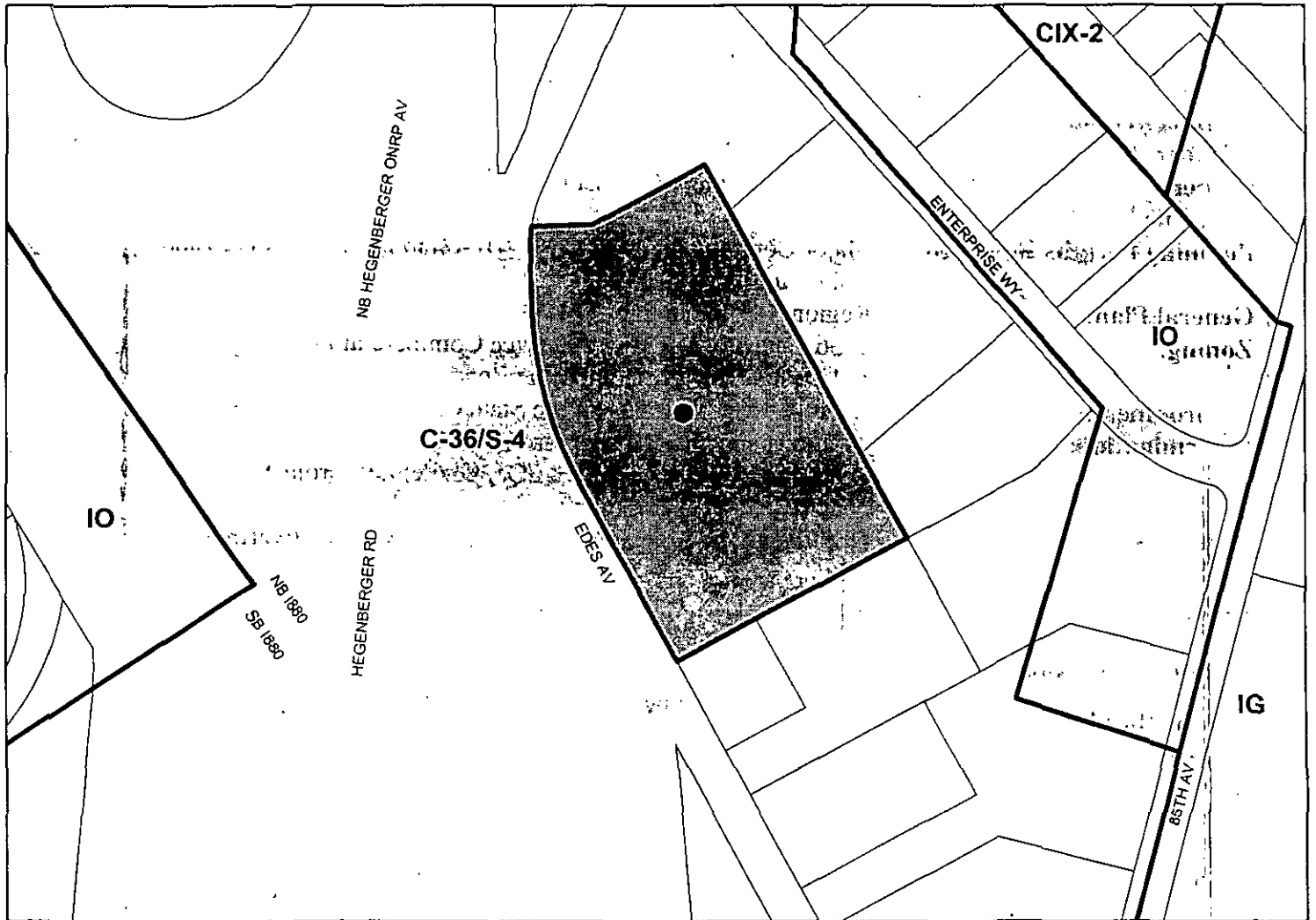
SUMMARY

The following staff report addresses the proposal to re-establish a 293 room hotel which has been closed for greater than one year. The proposal does not involve any exterior alterations to the building. The site is located within a commercial district along Edes Avenue and Hegenberger Road and adjacent to the Interstate 880 Highway. The site is in the C-36 Gateway Boulevard Service Commercial Zone and the S-4 Design Review Combining Zone. The General Plan designation for the site is Regional Commercial.

PROJECT DESCRIPTION

The proposal entails the request for a Major Conditional Use Permit to re-establish an existing

CITY OF OAKLAND PLANNING COMMISSION



0 165 330 660 990 1,320 Feet



Case File: CM09-221
Applicant: Michael Cho
Address: 500 Hegenberger Road
Zone: C-36/S-4

hotel which has been closed greater than one year. A hotel, *Transient Habitation* is a conditionally permitted activity in the C-36 Gateway Boulevard Service Commercial Zone and clearly conforms with the Regional Commercial general plan land use designation. The project requires a major conditional use permit to re-establish the *Transient Habitation* activity that has been closed for greater than one year, pursuant to Code Section 17.114.050. The proposal does not involve any exterior alterations of the existing facilities. The proposed operator of the facility will be GV Hotel Management Group, LLC.

(See Attachment A).

PROPERTY DESCRIPTION

The subject property is an interior parcel of approximately 236,100 square feet (5.42 acres), with frontage on Edes Avenue and adjacent to Interstate 880 highway and Hegenberger Road. The subject property is a 293 room hotel facility of approximately 128,364 square feet. Currently there is a lobby, conference room, bar and lounge, full service restaurant, and a courtyard with a swimming pool. The property consists of two buildings, which include a six story tower and a two story building. The property was first developed in 1970 (based on Alameda County Assessors Data). The property is located approximately 1.3 miles from the Oakland International Airport.

GENERAL PLAN ANALYSIS

The subject property is located within the Regional Commercial General Plan designation. The Regional Commercial land use classification is intended to maintain, support and create areas of the City that serve as region-drawing centers of activity. The proposal to re-establish a hotel facility will not adversely affect or detract from the commercial characteristics of the surrounding area.

Policy N1.7: Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor. No new hotels or motels should be located elsewhere in the city; however, the development of "bed-and-breakfast" type lodgings should be allowed in the neighborhoods, provided that the use and activities of the establishment do not adversely impact nearby areas, and parking areas are screened.

ZONING ANALYSIS

The subject property is located within the C-36 Gateway Boulevard Service Commercial Zone. The C-36 zone is intended to create, preserve, and enhance Areas with a variety of offices, travel accommodations, and related consumer and business service activities needing visually prominent and attractive locations and abundant vehicular access, and is typically appropriate along wide, landscaped major thoroughfares in areas identified as gateway and coliseum showcase districts of the land use and transportation element of the Oakland General Plan. The

proposal to re-establish an existing hotel facility approximately 1.3 miles from the Oakland International Airport and adjacent to the Interstate 880 highway meets applicable C-36 zoning and City of Oakland general use permit regulations. The S-4 zone is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities, and is typically appropriate to areas of special community, historical, or visual significance.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists the projects that qualify as categorical exemptions from environmental review. The proposed project is categorically exempt from the environmental review requirements pursuant to Section 15301, alterations to existing facilities; Section 15183, projects consistent with a community plan, general plan or zoning.

KEY ISSUES AND IMPACTS

1. Conditional Use Permit

Section 17.52.060 and 17.102.370 of the City of Oakland Planning Code requires a conditional use permit for Transient Habitation (hotel) in the C-36 zone and specific findings. The required findings for a major conditional use permit are listed and included in staff's evaluation as part of this report pages (5-8).

CONCLUSION

City of Oakland planning staff believes that the proposed project meets the established zoning regulations and general plan policies. Staff believes that the findings for approval can be made to support the Conditional Use Permit. The proposal will revive an existing vacant building with a use that was intended when the building was constructed, and that will be a beneficial use along the airport and I-880 corridor.

RECOMMENDATIONS:

1. Affirm staff's environmental determination
2. Approve Conditional Use Permit application CM09-221 subject to the attached findings and conditions of approval.

Prepared by:



Michael Bradley
Planner I

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission



Eric Angstadt, Deputy Director
Community & Economic Development Agency

ATTACHMENTS:

- A. Property Summary & Photographs

FINDINGS FOR APPROVAL**FINDINGS FOR APPROVAL:**

This proposal meets all the required findings under Section 17.134.050, of the General Use Permit criteria; and all the required findings under Section 17.102.370 of the Conditional Use Permit for hotels and motels criteria; and as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 – GENERAL USE PERMIT FINDINGS:

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

The location, size, design and operational characteristics of the proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. Consideration was given to the harmony in scale, bulk, and coverage; 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. There is no proposed change in land use activity, thus there will not be an adverse affect on the operating characteristic or livability of the existing area since the subject property is immediately surrounded by similar size buildings with similar land uses. Furthermore the previous building tenant had the operational characteristics as the proposal. The proposal will maintain existing site conditions such as parking and landscaping.

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

The location, design and site planning of the proposed development will provide a convenient and functional working and shopping environment, and will attempt to preserve the attractive nature of the use and its location and setting warrant. The proposal will preserve a convenient and functional working and living environment; therefore it will not affect the general quality and character of the neighborhood.

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

FINDINGS

The proposed development will enhance the successful operation of the surrounding area in its basic community function and travel accommodations and will provide an essential service to the community or region.

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

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

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

The proposal conforms in all significant aspects with the Oakland General Plan and with any other applicable plan or zoning maps adopted by the City of Oakland. The proposed hotel in the Regional Commercial General Plan designation will attract visitors to the City based on the proximity to the international airport and the major sports arenas.

Section 17.102.370 CONDITIONAL USE PERMIT (CUP) FINDINGS FOR HOTELS AND MOTELS:

A. Use Permit Criteria for Hotel and Motel Uses. A conditional use permit for hotel and motel uses may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That the proposal is located in downtown, along the waterfront, near the airport, or along the I-880 freeway, and/or in an area with a concentration of amenities for hotel patrons, including restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit:

The existing hotel is located 1.3 miles from the Oakland International Airport and adjacent to the I-880 freeway.

2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services:

The hotel is located in proximity to several choices of public transit on Hegenberger Road, and in close proximity to several residential neighborhoods.

3. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, or along the I-880 freeway which provide:

a. A minimum of one hundred (100) sleeping rooms:

The existing hotel has 293 sleeping rooms.

b. A full service restaurant providing three meals per day:

The existing hotel has a 2,512 square foot full service restaurant with a 4,014 square foot kitchen.

c. On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts.

The existing hotel has a courtyard with swimming pool and a 5,559 square foot conference room.

4. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:

a. Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users:

The proposal involves no exterior alterations or changes to parking areas or landscaping.

b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;

The proposal will maintain all existing landscaping.

c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape:

The proposal does not call for any signage at this time. All proposed future signage must be applied for separately and must meet all applicable Planning and Building Codes.

d. The majority of the parking to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development;

The proposal does not involve any changes to the existing on-site parking.

e. Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cochères:

The proposal does not involve any exterior changes to the existing building.

f. Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail;

The proposal does not involve any exterior changes to the existing building.

g. Lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light.

The proposal does not involve any changes to existing on-site lighting.

5. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;

The proposal does not involve any changes to existing on-site loading areas.

6. The proposed operator of the facility shall be identified as part of the project description at the time of application.

The proposed operator of the facility will be GV Hotel Management Group, LLC.

CONDITIONS OF APPROVAL
CM09-221

STANDARD CONDITIONS:

1. Approved Use
Ongoing

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **CMD09-221**, and the plans dated **October 18, 2009** and submitted on **October 19, 2009** 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 required prior written approval from the Director of City Planning or designee.

b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes: **The re-establishment of a vacant Transient Habitation activity (hotel) at 500 Hegenberger Road (APN: 042-4323-007-05), under Oakland Municipal Code 17.134 and 17.102.370**

2. Effective Date, Expiration, Extensions and Extinguishment
Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two calendar 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 **Oakland Planning Code** 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 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.

- 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 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 if it is found that there is violation of any of the conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions.

6. Signed Copy of the Conditions

With submittal of a demolition, grading, and building permit

A copy of the approval letter and conditions 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

- a) ***Ongoing*** The project applicant shall defend (with counsel reasonably 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 their respective agents, officers, and employees (hereafter collectively called the City) from any claim, action, or proceeding (including legal costs and attorney's fees) against the City to attack, set aside, void or annul this Approval, or any related approval by the City. The City shall promptly notify the project applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding. The project applicant shall reimburse the City for its reasonable legal costs and attorney's fees.
- b) Within ten (10) calendar days of the filing of a claim, action or proceeding to attack, set aside, void, or annul this Approval, or any related approval by the City, the project

CONDITIONS OF APPROVAL

applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations and this condition of approval. This condition/obligation shall survive termination, extinguishment, or invalidation of this, or any related approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in 7(a) above, or other conditions of approval.

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 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 if any one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. 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, 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 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 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.

Project Specific Conditions of Approval:

12. Landscaping Maintenance.

Ongoing.

All landscaping areas and related irrigation shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable

landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

13. Commercial Lighting.

Ongoing.

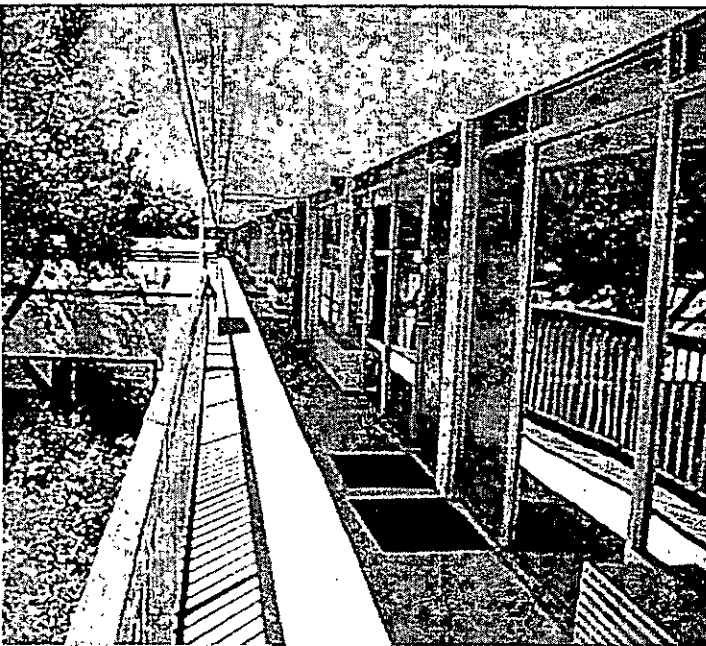
The applicant shall maintain all on-site lighting to meet the State Business and Professions Code Section 25612, providing enough illumination to identify loiterers standing in the immediate vicinity of the project site. Such illumination shall remain on during all hours of darkness when the business is open, but shall be shielded to a point below the light bulb and reflector and not cast unnecessary glare onto adjacent properties.

INVESTMENT SUMMARY

Location: 500 Hegenberger Road
 Oakland, CA 94621
 APN: 42-4323-7-5



Property Summary			
No. of Rooms	293	No. of Buildings	2
Building S.F.	approximately 128,364	No. Stories	6 Main Tower, 2 surrounding
Parking Spaces	approximately 300	Pools	1 in courtyard
Land Acres	approximately 5.42	Improvements	\$6.2M Tower Addition in '87
Year Built	1970 / '87 / '01		\$4M in furniture & infrastructure '01



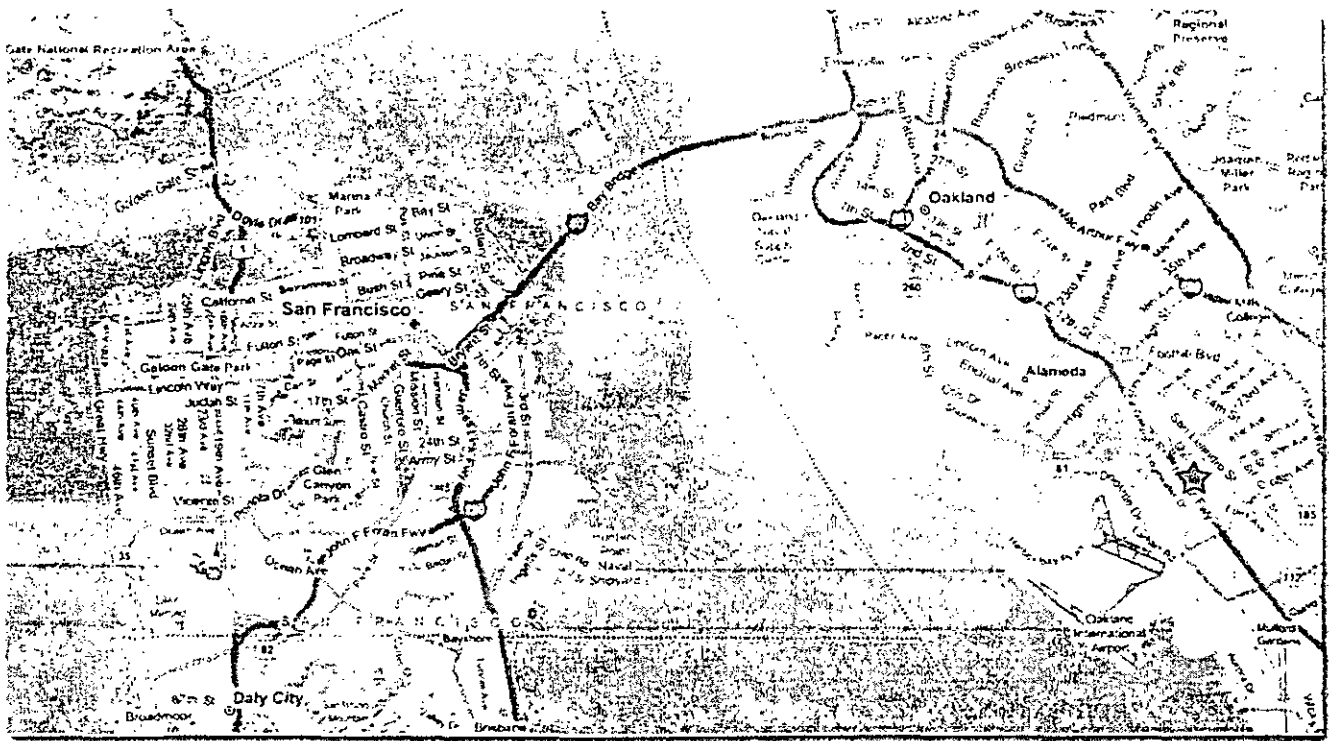
Hotel Features		
Type	Approx. S.F.	#
Elevators	N/A	1
Conference Rm	5,559	8
Bar/Lounge	2,399	1
Full Service Restaurant	2,512	1
Kitchen	4,014	1
Public Bathrooms	687	2
Staff Rooms	787	1
Sales Office	906	1
Laundry/Utility	7,260	1
Pre-Function Break-Out	2,956	1
Lobby	3,134	1
Reception/Office	1,521	1

OAKLAND HOTEL

500 HEGENBERGER RD. OAKLAND, CA 94621

ATTACHMENT A

LOCATION SUMMARY



Location Overview

The property is directly visible to over 400,000 daily commuters traveling on the I-880 and the Hegenberger corridor. The Oakland Int'l Airport, located 1.3 miles away, provides for over 1.4 million passengers annually. Among other accolades, Oakland was rated the 8th best Place for Business in the U.S. by Forbes '02 annual survey; the 4th best Retail Market in the U.S. by Marcus and Millichap '07 Retail Index; "The leader among America's top ten technology cities", Newsweek, April 30 '01; "...uniquely positioned as an excellent point for international business," Mickey Kantor, Former U.S. Secretary Commerce.

This 298 room hotel on 5.4 acres is strategically located in the heart of Oakland's travel and commercial district and is consequently a part of a multi-billion dollar redevelopment effort. This is an outstanding location near the interchange of Highway 880 and Hegenberger Rd, near Highways 580 and 238 with easy access to the McAfee Coliseum, Oracle Arena, Oakland Airport and downtown Oakland, Berkeley and San Francisco. The Hotel is also within close proximity to Bay Area Regional Transit (BART), and upscale retail services.

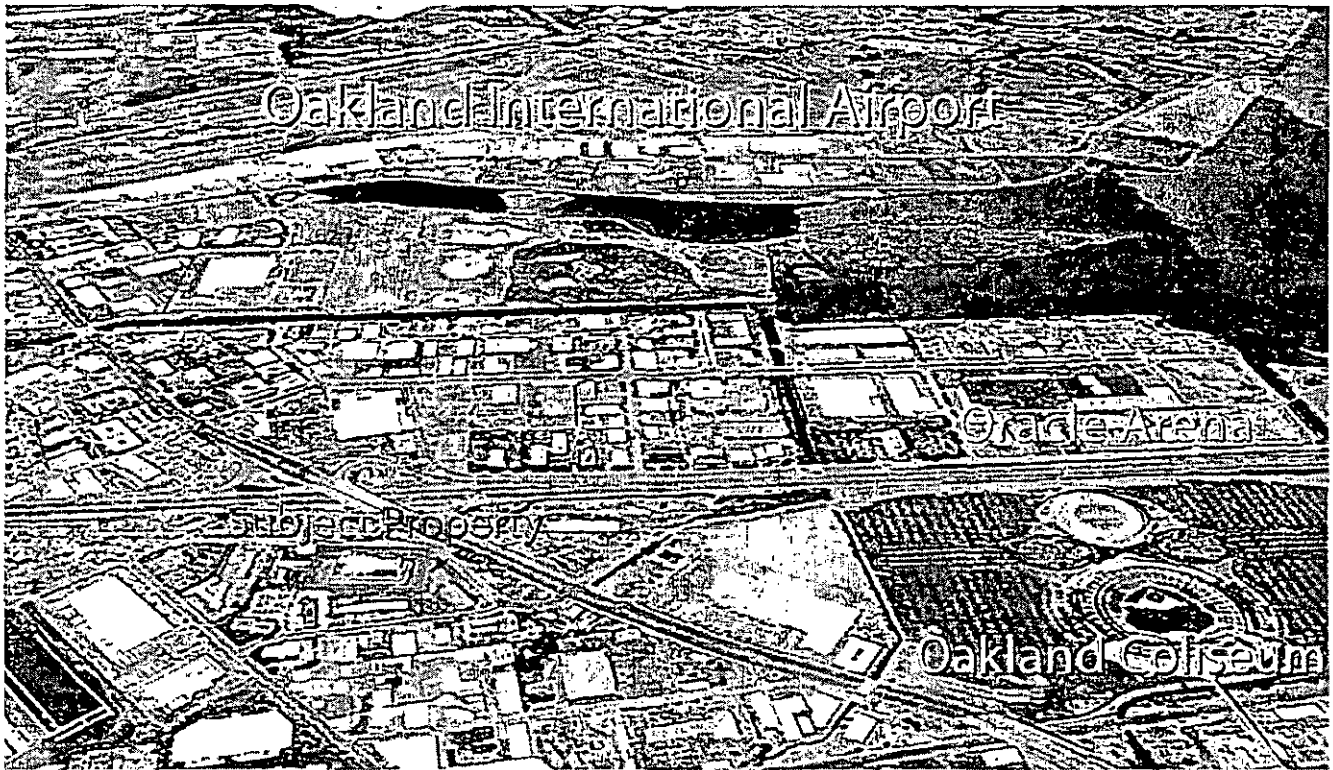


OAKLAND HOTEL

500 HEGENBERGER RD. OAKLAND, CA 94621



LOCATION HIGHLIGHTS



•1.3 miles from Oakland Int'l Airport

•500 feet from Interstate 880 with direct exit access.

•Minutes away from downtown Oakland, Berkeley and San Francisco

•Less than 1 mile from Oakland's major sporting arenas, home to the Raiders, Athletics, Warriors.

OAKLAND HOTEL

500 HEGENBERGER RD, OAKLAND, CA 94621



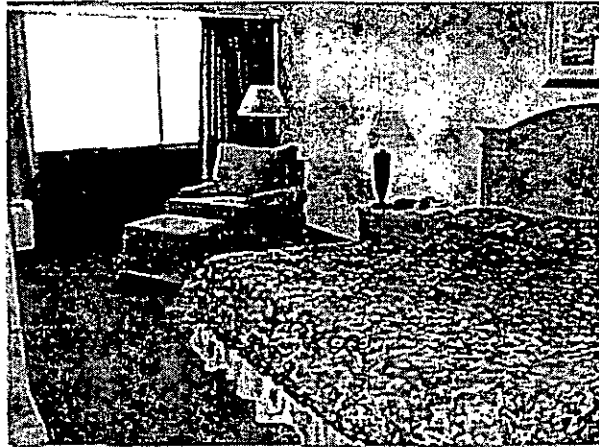
INTERIOR ROOM SUMMARY

Room Breakdown

	Location/Bed	Total S.F.	No. of Rooms
Ground Room 1	West Facing King	2,058	6
Tower Room 2	Courtyard Facing Large King Room	24,010	70
Tower Room 3	Large King Room with ADA Bathroom	3,430	10
Tower Room 4	Small King Room	2,780	10
Garden Room 1	Single Queen on parking lot	22,800	100
Garden Room 2	King or 2 Double on Court Yard Side	32,300	100
	Double Suite	800	2



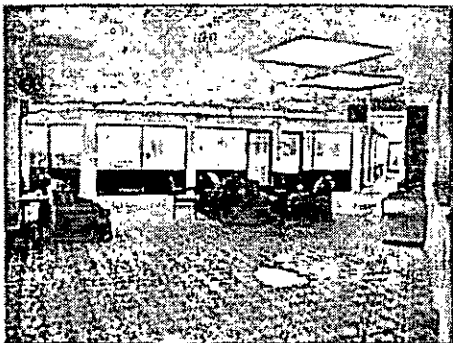
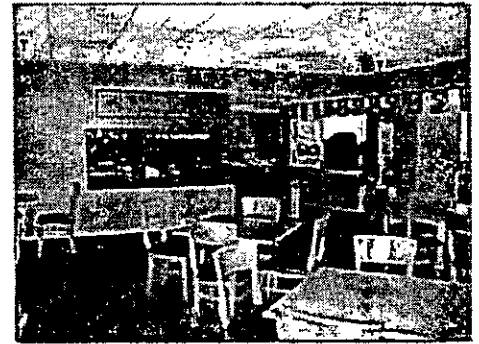
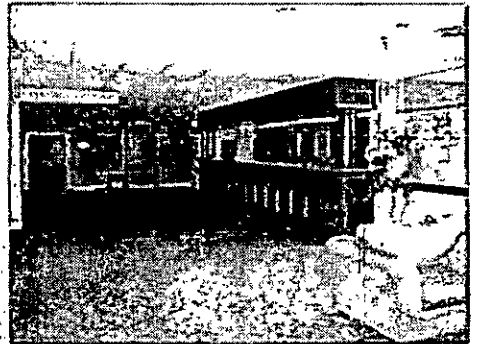
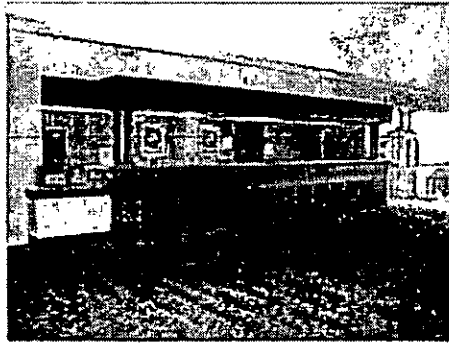
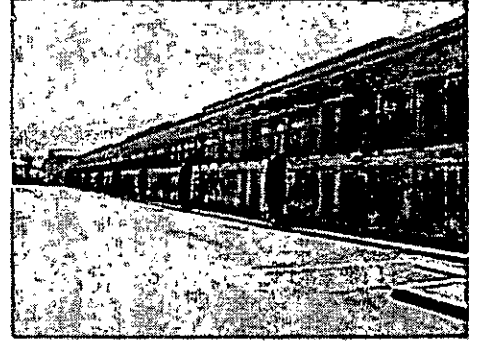
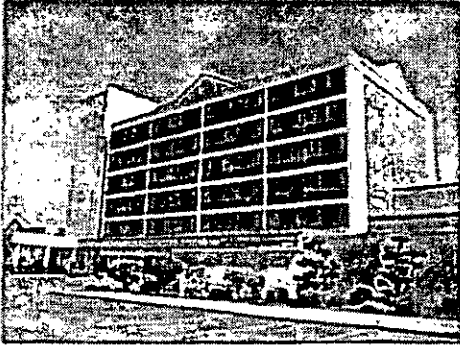
The rooms are currently in "Good" Condition. In 2001, a \$4 million investment to upgrade furniture and fixtures was made.



- ⌘ Nightstand, Lamp, Telephone w/ Voicemail
- ⌘ Mirrored Armoire
- ⌘ 25 in Color Television
- ⌘ Work Desks, Lamp Chairs
- ⌘ Wall Mounted Mirrors
- ⌘ Wall-to-Wall carpeting
- ⌘ Tile Bathroom Flooring
- ⌘ Cast Iron Tubs w/ Chrome Fixtures
- ⌘ Individually Controlled Thermostat
- ⌘ Ceiling Mounted Sprinklers
- ⌘ Dressers, Microwave
- ⌘ Mini-Bar Available in Some Rooms
- ⌘ Wireless High Speed Internet
- ⌘ In Room Gaming and movie system
- ⌘ Iron Stand



PHOTO GALLERY



FILED
OFFICE OF THE CITY CLERK
OAKLAND

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APPROVED AS TO FORM AND LEGALITY

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION DENYING THE APPEAL (A09-264), THEREBY UPHOLDING THE PLANNING COMMISSION DECISION TO APPROVE A MAJOR CONDITIONAL USE PERMIT AT 500 HEGENBERGER ROAD TO RE-ESTABLISH A HOTEL (TRANSIENT HABITATION COMMERCIAL ACTIVITY) THAT HAS BEEN CLOSED FOR GREATER THAN ONE YEAR.

WHEREAS, the applicants UNI Oakland CO., LLC, filed an application on October 19, 2009 to re-establish a hotel (Transient Habitation Commercial Activity) that has been closed for greater than one year; and

WHEREAS, the aforementioned application filed by the applicant, UNI Oakland CO., LLC, was deemed to be complete by the City of Oakland on November 18, 2009; and

WHEREAS, the City Planning Commission held a duly noticed public hearing, took testimony and considered the matter at its meeting held November 18, 2009, and at the close of the public hearing it voted (4-0) to approve the Project, subject to revised conditions of approval; and

WHEREAS, on December 1, 2009, an appeal of the Planning Commission's decision was filed by UNITEHERE! Local 2850, (UNITEHERE! Local 2850 Appellant); and

WHEREAS, after giving due notice to the Appellants, the Applicant, all interested parties, and the public, the Appeal came before the City Council in a duly noticed public hearing on March 2, 2010; and

WHEREAS, the Appellants, Applicant and all other interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, The City Council independently finds and determines that this Resolution complies with CEQA, as the Project is categorically exempt from the California Environmental Quality Act ("CEQA"), pursuant to, without limitation, CEQA Guideline Section 15301; and Section 15183, "Projects Consistent with a Community Plan, General Plan or Zoning" of the State CEQA Guidelines; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on March 2, 2010; now, therefore, be it

RESOLVED: That the City Council, having independently heard, considered, and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Application, the Planning Commission's decision, and the Appeal, finds that the Appellant has not shown, by reliance on evidence in the record, that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Commission, and/or that the Commission's decision was not supported by sufficient, substantial evidence in the record. This decision is based, in part, on the February 16, 2010, City Council Agenda Report and the November 18, 2009, Approved Planning Commission Report, which are hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's decision approving a Major Conditional Use Permit to re-establish a Hotel (Transient Habitation Commercial Activity) required by the Oakland Planning Code, is upheld and the application is approved; and be it

FURTHER RESOLVED: That the project is exempt from CEQA for the reasons set forth in the foregoing Recitals. The Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies; and be it

FURTHER RESOLVED: That, in support of the City Council's decision to approve the Project, the City Council affirms and adopts as its findings and determinations (i) the February 16, 2010, City Council Agenda Report including without limitation the discussion, findings, conclusions and conditions of approval (each of which is hereby separately and independently adopted by this Council in full), and (ii) the November 18, 2009, Approved City Planning Commission Report, including without limitation the discussion, findings, conclusions and conditions of approval (each of which is hereby separately and independently adopted by this Council in full), except where otherwise expressly stated in this Resolution; and be it

FURTHER RESOLVED: That the record before this Council relating to this Project application and appeal includes, without limitation, the following:

1. the Project application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City.
4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application and appeal;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, (c) Oakland Fire Code; (d) Oakland Planning Code; (e) other applicable City policies and regulations; and, (f) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

LEGAL NOTICE:

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