

CITY OF OAKLAND
COUNCIL AGENDA REPORT

2011 OCT 31 PM 2:25

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: October 31, 2006
RE: **PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION APPROVING CONSTRUCTION OF A NEW MIXED-USE DEVELOPMENT CONSISTING OF 51 RESIDENTIAL UNITS AND 5,050 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 4700 TELEGRAPH AVENUE (CASE FILE NUMBER(S) A06-379; CMDV06-188; & TPM9164)**

SUMMARY

On July 12, 2006, the City Planning Commission approved (by a 5-0 vote) a proposal to construct a new mixed-use development containing 51 residential units and approximately 5,050 square feet of ground floor commercial space located at 4700 Telegraph Avenue in the Temescal neighborhood of North Oakland. On July 24, 2006, Robert Temple, representing the Telegraph Avenue Coalition, filed an appeal of the Planning Commission's decision. The appellant argues primarily that the project is not compatible with the surrounding neighborhood and would have negative impacts on the community. The arguments raised by the appellant are summarized below along with staff's response to each argument. Staff believes that the findings made for approval of the project as outlined in the July 12, 2006 Planning Commission staff report (see Attachment "A") clearly state the reasons why the project complies with the applicable regulations. Staff believes that the stated information in the appeal document does not depict any instance of "error" or "abuse of discretion" by the Planning Commission and therefore Staff recommends that the Council deny the appeal thereby upholding the Planning Commission's decision to approve the project.

FISCAL IMPACT

The project is a private development on private property. No public funds are required for the project so there would be no direct fiscal impact to the City. The project does have the potential to result in indirect fiscal impacts to the City, either positive or negative. The new development would increase the property tax valuation of the property thereby providing a positive fiscal impact to the City through increased property tax revenue. The project would also increase the population in the Temescal neighborhood thereby expanding the consumer base for neighborhood businesses which would increase sales tax revenue. However, demand for City-funded services (e.g., library services, parks and recreation services, public safety services, street

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maintenance services) would increase resulting in a negative fiscal impact to the City. Given such positive and negative fiscal impacts, the project would have an unknown net fiscal impact.

BACKGROUND

Project Description

The proposed project is to construct a new five-story mixed-use building involving 51 residential condominiums and approximately 5,050 square feet of ground floor commercial spaces on a 19,567 square-foot site. The design incorporates a landscaped central courtyard at the second level to serve the dual purpose of useable group open space and a pedestrian circulation area. The design incorporates a series of bays to articulate the building façade, and combines motifs of older historic buildings along Telegraph Avenue, with modern concepts to blend in with the surroundings. The project incorporates an arched portico at the entrance to the interior and underground parking area to de-emphasize the parking entrance. The building materials and finishes include stucco in rich warm tones set upon a stained concrete plinth. Traditionally-styled ornamentation such as brackets at the bays and eaves, a cornice trim, decorative panels and tiles are used to enhance the architectural composition of the building.

The subject site is located at the southeast corner of Telegraph Avenue and 48th Street in the Temescal Commercial District of North Oakland, kitty corner from the recently completed “Temescal Place” project and approximately 0.4 miles from the MacArthur BART Station. The site is located within a block from where Telegraph Avenue intersects with Shattuck Avenue. The site currently consists of three parcels that will be merged into one for a total of 19,567 square feet. Two parcels totaling 12,442 square feet are currently vacant and surrounded by a chain link fence. The third parcel which is 7,125 square feet in size currently contains 11 residential apartments within three residential structures and one mixed-use structure. The existing buildings on the site are classified Potential Designated Historic Properties (PDHP) with ratings of “C-3” on the Oakland Cultural Survey register.

The existing structures will be required to be offered for relocation within the specified time period before demolition. In accordance with the necessary findings under Policy 3.5 and Policy 3.7 of the Oakland Historic Preservation Element for any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the Oakland Planning Commission on July 12, 2006 determined that: The design quality of the proposed project is at least equal to that of the original structures and is compatible with the character of the neighborhood. In addition, in compliance with the conditions of approval for all discretionary projects involving demolition of existing Potential Designated Historic Properties, the Commission required that reasonable efforts be made to relocate the existing buildings to an acceptable site. The applicant has also submitted a proposed Tenant Relocation Assistance Plan per the Planning Commission’s Conditions of Approval for the project (See attachment F). The tenant benefits offered exceed the requirements of both the Planning Commission’s Condition and the standard tenant relocation benefits of the Redevelopment

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Agency. The Applicant's proposal is acceptable to staff (See Attachment B, Revised/Adopted Conditions of Approval #15 & #20 of the attached July 14, 2006 Approval Letter).

General Plan and Zoning Information

The site falls within both the Neighborhood Center Mixed Use and Mixed Housing Type Residential Land-Use classifications of the Oakland General Plan (GP). Approximately 80%-85% of the site falls within the Neighborhood Center Mixed Use General Plan Land Use Classification and the remaining 15%-20% falls within the Mixed Housing Type Residential General Plan Classification. The Neighborhood Center Mixed Use designation states that: "Future development within this classification should be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial". The Neighborhood Center Mixed Use classification is intended to: "identify, create, maintain, and enhance mixed use neighborhood commercial centers".

The General Plan encourages developments that are pedestrian-oriented, and has a continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural or entertainment uses. The Mixed Housing Type Land-Use classification of the Oakland General Plan is intended to: "create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate." The desired character and uses section of the General Plan states that primary future uses should be residential with "...small commercial enterprises, schools, and other small scale, compatible civic uses possible in appropriate locations." The proposed project incorporates a residential component that is compatible in density and intensity with the medium density structures located in the vicinity.

Approximately 80%-85% of the site is zoned C-28 Commercial Shopping District and the remaining 15%-20% is zoned R-35 Special One-Family Residential and S-18 Mediated Design Review. Allowing for a 10% density bonus for corner lots, the 19,567 square-foot combined site will allow 48 residential units per current zoning. The Neighborhood Center Mixed Use General Plan Land Use Classification, which allows one unit per 261 square feet of lot area would permit up to 61 units for the 80%-85% portion of the site located within the Neighborhood Center Mixed Use classification, while the remaining 15%-20% which falls within the Mixed Housing Type Residential classification would allow 3 units for a total of 64 units for the entire site. Therefore, according the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", an Interim Conditional Use Permit would be required in order to allow the proposed 51 units at the site. The S-18 Mediated Design Review overlay only applies to one and two-unit developments and therefore does not apply to this project. Pursuant to Section 16.04.020 of the Oakland Subdivision Regulations, a Parcel Map is required for the proposed condominiums.

Telegraph Avenue in the Temescal neighborhood is a designated "Grow and Change" area in the General Plan. Areas designated Grow and Change are located primarily in Downtown Oakland and along the City's major arterials. According to the General Plan, Grow and Change areas should encourage increases in density, activity, or use which are consistent with other City policies. According to the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", the Neighborhood Center Mixed Use and Mixed Housing Type GP classifications would allow up to 64 units at the site with an Interim Conditional Use Permit. The proposed 51 units at the site are therefore consistent with the desired neighborhood character and density for the site.

Planning Commission's Approval

At the July 12, 2006 hearing, the Oakland Planning Commission took public testimony from various interested parties including the appellants, generally objecting to the height of the project, as well as others who were in support of the project such as the Sierra Club, the East Bay Workforce Housing Coalition, neighboring business owners, and various individuals.

The primary concern of the opponents of the project at the Planning Commission hearing was about the proposed height of the project. The Planning Commission determined that the proposed height was appropriate and necessary in order for the project to be built to the density allowed by the General Plan; and that the proposal provides for a livable and attractive development. Reducing the height of the project would result in the following:

- Reduction of the number of units; or
- Reduction of the sizes of the units; or
- Reduction of the amount of courtyard and open space areas on the site.

The Planning Commission found that the project complies with all the necessary requirements for approval and is consistent with the relevant policies of the General Plan and voted unanimously to approve the project. The staff report for the Planning Commission, which contains a more thorough discussion of the project and the findings made by the Planning Commission to approve the project, is attached to this report (see Attachment A). Also attached is the approval letter for the project which contains the final, adopted conditions of approval (see Attachment B).

Below are the key elements of the Planning Commission's decision to approve the project:

1. General Plan Consistency: The proposal would replace an existing under-utilized and blighted site located along a major transit corridor with needed new housing opportunities and neighborhood-oriented commercial uses. Potential adverse impacts of the proposal on the surrounding neighborhood would be less than significant, and the project incorporates a high-quality design.

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2. Environmental Determination: The project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines (“In-Fill Development Projects”).
3. Density and Site Planning: The density of the project is appropriate for the transit and commercial corridor of Telegraph Avenue.
4. Building Height: The height of the project relates well to the surrounding area. The project is in the vicinity of the intersection of two major arterials (Telegraph and Shattuck Avenues). The height of the project is appropriate to its setting and in proportion with the wide street width of Telegraph Avenue (64 feet wide). The height of the project steps down to the east towards the lower residential buildings on 48th Street to limit impacts on the adjacent residential neighborhood. Potential negative impacts are also mitigated by upper-story step-backs, façade articulations, and the skillful mixture of exterior materials that reduce the perceived visual height and mass of the project.
5. Traffic Impacts: A traffic impact analysis prepared for the project concluded that the anticipated traffic generated by the project will be less than significant under CEQA. Recommended mitigations were added to the conditions of approval.
6. Tenant Assistance Program: The applicant has agreed to offer relocation assistance to the current residents who occupy the existing units at the site. The Planning Commission added a condition of approval to ensure that this requirement is met. (See Revised/Adopted Condition of Approval #20 of the attached July 14, 2006 Approval Letter).
7. Replacement of Historic Structures: Consistent with Policy 3.5 and Policy 3.7 of the Oakland Historic Preservation Element, for projects involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the Planning Commission made a finding that:

“The design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood”; and

Required that reasonable efforts be made to relocate the existing buildings to an acceptable site consistent with conditions of approval for all discretionary projects involving demolition of existing Potential Designated Historic Properties (See Revised/Adopted Condition of Approval #15 of the attached July 14, 2006 Approval Letter)..

KEY ISSUES AND IMPACTS

Appellant’s Arguments

On July 24, 2006, Robert Temple, representing the Telegraph Avenue Coalition, filed an appeal of the Planning Commission’s decision. The appellant’s letter is attached to this report (see

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Attachment C). Essentially, the appellant challenges the approval of the project on the following grounds: (1) that the height and scale of the project is not consistent with several policies of the General Plan; (2) that the removal of existing Potential Designated Historic Property (PDHP)s will alter the historic character of neighborhood, contradicting General Plan policies; (3) that it is not clear that the PDHPs are being replaced with comparable or better quality and designed structures; (4) that the project removes 11 rental units and does not include affordable housing, diminishing the neighborhood's traditional social fabric; (5) that there are unreported traffic and traffic-related impacts; and (6) that review of this project should be deferred until a Community Planning Process currently underway for the area in which the project occurs is completed. Listed below in **bold** text is a summary of the arguments raised by the appellant. Staff's response to each argument follows each item in *italicized* text.

General Plan Policies Consistency

1. **Objective N7** of the General Plan specifically states that “while mixed unit neighborhoods are generally desirable, lack of attention to compatibility concerns has affected the character and stability of some areas of the City” ...The scale of the project proposed for 4700 Telegraph is not compatible with the fabric of the Temescal neighborhood.

Staff Response: The project is consistent with Objective N7 of the General Plan. Objective N7 is to, “Protect and enhance existing areas of predominantly ‘Detached Unit’ and ‘Mixed Housing Type’ residential development.” Accordingly, Objective N7 applies only to the relationship between the project and areas designated Detached Unit Residential and Mixed Housing Type Residential by the General Plan (i.e., current development adjacent to the eastern portion of the site on 48th Street). The project is compatible with the residential area along 48th Street because the building presents a three story façade to the east, with two large bays, ample glazing, and an additional story that is stepped back five feet to break up the mass. The step back both buffers the building height at the facade facing a lower density area and provides east-facing decks to the upper-floor residences. Along the east façade, the face of the building is set back 10 feet from the adjacent property line and a landscaped walkway extends south from 48th Street in this setback to provide a ground level access to the garden studios on the east facade. The 48th Street face of the project is punctuated by a two-story residential entrance/lobby, reinforcing the residential character of the building. Entrance to the interior and underground parking area is through an arched portico, shielding the parking lot from view of passers-by.

Urban Design principles encourage an optimum height-to-width ratio for buildings along major corridors. According to this principle, if the heights of buildings are too short in relation to the width of the street, the street space is less defined and loses a sense of enclosure. The optimum height-to-width ratio is between 1:1 (where the height of the building equals the width of the street) and 1:2 (where the height of the building is one-half of the street width). The height-to-width ratio is not the sole determining factor to the success of a business district so there are examples of thriving business districts where the

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optimum height-to-width ratio is not achieved; however, research has shown that this is a characteristic of many successful streets. The Planning Commission approved the proposed height because it felt a visually prominent architectural element was necessary at the corner and felt that the proposed height was appropriate as discussed in the "Planning Commission's Approval" section of this report (see above).

- 2. The staff report states "the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations." The arguments (#3 through #7) below show this development is not in conformance with all applicable general plan policies of the General Plan.**

Staff Response: The Planning Commission found that the project is consistent with numerous policies of the General Plan (see Attachment A). The appellant argues that the project is not consistent with all of the General Plan policies outlined in the Planning Commission staff report and that there are other General Plan policies that the project does not meet. Arguments regarding these "allegedly nonconforming" policies are presented by the appellant in arguments #3 through #7 below.

Although Staff believes the project is consistent with all of the applicable policies of the General Plan, according to the General Plan itself, in order for the Planning Commission or City Council to find that a project is consistent with the policies of the General Plan it is not necessary for the project to comply with each and every policy of the General Plan. Clarifying this, the General Plan (see City of Oakland Resolution No. 79312 C.M.S.) states the following:

The General Plan contains many policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of the California Environmental Quality Act (CEQA)...

As stated above, the project need not be consistent with each and every General Plan policy raised by the appellant.

In addition to the General Plan policies of the Land Use and Transportation Element discussed in the Planning Commission staff report and below, the project is also consistent with the following policies of the Housing Element of the General Plan:

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- *Policy 1.3 (Appropriate Locations and Densities for Housing): The project includes a diversity of housing types including studios, flats, and a variety of housing unit sizes ranging from studio units to larger, family-sized two-bedroom units.*
- *Policy 3.2 (Flexible Zoning Standards): The General Plan encourages flexibility in the application of zoning and other regulations to facilitate successful developments in challenging in-fill locations.*

The project is in the vicinity of the intersection of two major arterials (Telegraph and Shattuck Avenues) and a local residential street, two general plan designations, and two zoning designations. Variances to certain zoning standards have been granted to allow for a development that is consistent with the policies of the General Plan (as discussed below).

- *Policy 7.1 (Sustainable Residential Development Programs): The project incorporates sustainable design principles, energy efficiency, and Smart Growth principles.*

The project involves energy efficient design considerations, such as use of energy efficient windows for passive heating and cooling, durable and/or recycled materials, and the selection of an urbanized in-fill site well-served by public transit.

- *Policy 7.5 (Mixed Use Development): The project incorporates a mixture of uses, including residential and commercial uses.*

3. **Policy N7.1 Ensuring Compatible Development:** The project is not consistent with Policy N7.1 (Ensuring Compatible Development) of the General Plan because the Telegraph façade is 16'-6" over the 40-foot maximum height allowed by the C-28 zoning; the structure is not compatible with the density, scale, design, and/or desired character of the surrounding development; in addition, merging three parcels significantly changes the neighborhood look and feel. Cumulative impacts of the subject project and other future projects will over-burden neighborhood's infrastructure.

Staff Response: The project is consistent with Policy N7.1 of the General Plan. Although the structure exceeds the prescribed height limits, adequate mitigation has been incorporated into the design to offset potential negative impacts. The Telegraph Avenue façade is the most urban in character with three stories of residential units above commercial spaces. A fourth residential story is stepped back eight feet to reduce the mass of the building along its largest facade. To further reduce the building's mass, a series of bays extend out to add rhythm to the façade. An array of open terraces and loggias at the top adds architectural character and breaks up the roofline, while providing private outdoor spaces for the upper floor residences. Mirroring older multi-story, multi-unit buildings along Telegraph Avenue, there is a strong

corner element adorned with cornice trim, decorative brackets and a low pitched hip roof. On 48th Street, the building height is gradually reduced as it approaches the lower density residential area. The upper floor is stepped back five feet. Along the east façade, the face of the building is set back 10 feet from the adjacent property line and a landscaped walkway extends south from 48th Street in this setback to provide a ground level access to the garden studios on the east facade. The building presents a three story façade to the east, and the fourth story is stepped back five feet to break up the mass. The step back both buffers the building height at the facade facing a lower density area.

The City of Oakland High Density Housing Design Guidelines recommends that building walls and bulk be broken into smaller components to reflect the scale of adjacent development. Regarding neighborhood scale, the Guidelines state the following:

“A large building which is of a different scale than smaller structures in the immediate area can be softened and made more a part of the community by reducing its bulkiness into smaller component parts.”

“This does not necessarily mean that the entire building should be broken down into sections that are more the size of nearby buildings. The same objective might be achieved by sensitive use of setbacks and variations in the building plan and profile.”

The project is consistent with the Guidelines in that each façade of the proposed building steps the upper-story back from the street and incorporates façade articulations so that the visual scale of the project is compatible with the surrounding area. The project's consistency with the Guidelines is further demonstrated by the incorporation into the project design of other high-quality design elements, including traditionally-styled ornamentation such as brackets at the bays and eaves, a cornice trim, decorative panels, and decorative tiles. Stylized sconces and a tile base add visual interest and enhance the pedestrian experience at the ground level.

- 4. Recognizing Distinct Neighborhoods: The project is not consistent with Policy N9.1 of the General Plan (Recognizing Distinct Neighborhoods) because the proposed 56'-6" tall building at 4700 Telegraph Avenue will be a significant break in the fabric of the Temescal neighborhood characterized by two and three-story commercial over residential buildings.**

Staff Response: The project is consistent with Policy N9.1 of the General Plan. Telegraph Avenue in the Temescal neighborhood is a designated "Grow and Change" area in the General Plan. According to the General Plan, as discussed above, Grow and Change areas should encourage increases in density. The General Plan envisions taller buildings along Telegraph Avenue in order to accommodate the density called for in the General Plan. Section 17.44.200(C) establishes bonuses for Mixed Use Developments within the C-28 zone that relaxes parking and open-space requirements and allows a height limit of 55 feet for sites that are a minimum of one acre in size. Although the subject site is less than an acre,

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Staff believes the bonuses outlined in Section 17.44.200(C) are a good yardstick to determine the appropriateness of the proposed height variances and the overall consistency of the proposed project in the C-28 Zone. Another way of looking at the proposed variance in the light of Section 17.44.200(C) is to grant a variance from the one acre requirement. The Planning Commission felt that the height of the project at the corner of Telegraph Avenue and 48th Street was appropriate due to the width of Telegraph Avenue (approximately 64.1 feet wide), the desire to have a visually prominent architectural feature at the corner to further encourage a distinct identity for the neighborhood, and the design of the project which reduces the visual scale of the project as called for by the High Density Housing Design Guidelines (see response to Argument #3 above).

- 5. Preserving History and Community: The project is not consistent with Policy N9.8 in that it replaces existing PDHPs determined to be in excellent condition at the site that have contributed to the Temescal architectural heritage for over 100 years. In addition, there is danger if the pace and density of development are more than the community can comfortably absorb and therefore the appellant would like to request a reprieve until neighbors can weigh in together in the planning process already begun by Councilwoman Jane Brunner and Development Director Claudia Cappio.**

Staff Response: The project is consistent with Policy N9.8 of the General Plan. The Temescal neighborhood contains a number of historic buildings that create a sense of history and community. The subject site currently contains 11 residential units within three existing residential structures and one mixed-use structure. The existing buildings on the site are classified Potential Designated Historic Properties (PDHP) with ratings of C-3 on the Oakland Cultural Survey (OCS) register. Although these structures have some historic significance they are not designated landmarks or highly rated on the OCS register and therefore, will be required to be offered for relocation within the specified time period and will only be demolished if there are no takers.

The proposed new building is not identical to the existing structures but it incorporates traditional early 20th century design themes that are reflective of other medium to large-scale buildings in the Temescal area. The new building will be equal to or better in quality and appearance as compared to the existing structures. Additionally, the project will develop and improve an existing vacant and blighted lot thereby enhancing appearance of the Temescal neighborhood.

With respect to delaying the appeal, Staff believes there will be undue financial hardship placed on the developer if the project is further delayed through the appeal process.

- 6. Requiring Strict Compliance with Variance Criteria: The project is not consistent with Policy N11.3 of the General Plan (Requiring Strict Compliance with Variance Criteria). Approval of the variances for density and height would set a precedent for incremental changes and increased height along Telegraph Avenue. Planning Staff's**

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recommendations and the Planning Commission's approvals of developers' requests and setback variances is causing incremental changes to the distinctive, historic fabric of the Temescal neighborhood.

Staff Response: The project is consistent with Policy N11.3 of the General Plan. The specific responses to the appellant's challenge to the findings for the minor variance for height are contained below (see Arguments #3 and #4). The C-28 Zone allows a residential density of 1 regular unit per 450 square feet of lot area and 1 efficiency unit per 300 square feet of lot area. Allowing for a 10% density bonus for corner lots, the 19,567 square-foot combined site will allow 48 residential units per current zoning. The Neighborhood Center Mixed Use General Plan Land Use Classification and the Mixed Housing Type Residential classification would allow a total of 64 units for the entire site. Therefore, according to the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", an Interim Conditional Use Permit would allow the proposed 51 units at the site. The three additional units are efficiency units and are consistent with the desired neighborhood character and results in a density comparable to similar mixed use developments.

The Planning Commission approved the density and height and setback variances for the following reasons: (1) there are unique circumstances surrounding the project including the project's location near the intersection of two major arterials (Telegraph and Shattuck Avenues), and the fact that the significant street width of Telegraph Avenue (64.1 feet) is capable of accommodating the height of the proposal (from a height-to-width ratio perspective); (2) the project is consistent with the General Plan and in order to achieve the density prescribed by the general plan you have to build up; and (3) the required findings for granting the variances could be met. The Planning Commission considered the uniqueness of the site, with respect to its location, multiple street frontages, two general plan designations and two zoning designations, and determined that due to these circumstances, strict compliance with the zoning regulations would result in practical difficulty and preclude an effective design solution which would be inconsistent with the purposes of Zoning Regulations and the General Plan. Every application for a variance is evaluated on its own merits. Since circumstances change over time, the approval of a variance for one development project does not necessarily set a precedent for future projects.

- 7. Advocating for Affordable Housing: By replacing the existing 11 rental units with 51 condominiums without an affordable housing component, this project would further change the distinctive social fabric of the neighborhood. Lower income individuals and families will not be able to afford to live in the proposed development. The project should include a meaningful specified percentage of units as affordable housing, particularly when the city is poised to pass some form of an inclusionary housing ordinance. The developer should be required to provide a meaningful percentage of affordable units in the project.**

Staff Response: The City of Oakland has been an acknowledged leader in providing affordable housing within its jurisdiction. Policy N4.2 encourages the provision of affordable

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housing but does require the provision of affordable units in private development projects. The proposal is a privately-sponsored development and is not located in a redevelopment project area (where 25 percent of all housing developed in the project area must be affordable. The City is in the process of adopting an inclusionary housing ordinance whereby privately-sponsored developments in non-redevelopment areas must include a percentage of affordable units in the project, or pay an in-lieu fee. At the current time the City is not in a position to impose any special affordable housing demands on the project since the inclusionary housing ordinance has not been adopted yet.

Although there is no requirement to provide affordable housing the developers voluntarily seek to provide affordable units to buyer households at 80% of area median income. A different method of achieving this affordability will be pursued. The units will be sold at market rates, but the developer is working with a non-profit mortgage financing firm to package targeted buyer financing to allow low income households to purchase the units. Special financing exists through the State and the City of Oakland for first time buyers, teachers, firefighters and policemen. These and other sources will be packaged to attempt to achieve 20% project affordability. The units will not be deed restricted but will allow buyer appreciation.

CEQA Exemption – General Plan Consistency

8. **CEQA Exemption – General Plan Consistency:** The project does not satisfy the requirements to be considered categorically exempt from CEQA review under the “in-fill exemption” (Section 15332 of the State CEQA Guidelines) because the project is inconsistent with the policies of the General Plan as described above in Arguments #2 through #7; and also because the project does not meet the CEQA criterion that “approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality”.

Staff Response: The Planning Commission found that the project is consistent in all significant respects with the policies of the General Plan (see responses to Arguments #2 through #7 above). However, it is not necessary for the project to comply with each and every policy of the General Plan since it is acknowledged in the General Plan that some policies may compete with each other. Also, as stated in the General Plan, the fact that a specific project is not consistent with each and every competing policy of the General Plan does not inherently result in a significant environmental effect under CEQA preventing the use of the in-fill exemption (see City of Oakland Resolution No. 79312 C.M.S. and the response to Argument #1 above).

CEQA Exemption – Cumulative Impacts

9. **CEQA Exemption – Cumulative Traffic Impacts:** The project does not satisfy the requirements to be considered categorically exempt from CEQA review under the “in-

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fill exemption” (Section 15332 of the State CEQA Guidelines) because the traffic study did not analyze the potential cumulative traffic impacts of other pending development projects nearby, such as the Kaiser Hospital expansion project, the MacArthur BART Transit Village project, the 4th Bore/Caldecott Tunnel project, and other mixed-use or residential impacts in the immediate neighborhood (see Attachment C for the complete list of pending neighborhood projects listed in the appellant’s letter). Also some of the data used in the Traffic study for the project were gathered 2 years ago and therefore out of date.

Staff Response:

The project is a relatively small, urban in-fill project, located on a major transit corridor with easy access to mass transit. There are no unusual circumstances here warranting a more detailed traffic analysis. Under CEQA, the traffic impact analysis for a project, like other impact analysis, depends on a number of factors – project size, project location, unique circumstances, etc. Here, a traffic study, prepared by a licensed and qualified traffic engineering firm, was prepared, in accordance with standard traffic engineering methodology and all CEQA requirements, to evaluate the potential for traffic impacts. The traffic study found that the project will not result in significant traffic impacts.

The Traffic Impact Analysis was prepared by DKS Associates, a transportation engineering consulting firm, and thoroughly reviewed by the Oakland Traffic Engineering Services who have indicated that the methodologies applied and conclusions drawn are acceptable. DKS has responded to the challenges to the Traffic Impact Analysis in the attached memo (See attachment E).

- 10. CEQA Exemption – Cumulative Air Quality Impacts: The project does not satisfy the requirements to be considered categorically exempt from CEQA review under the “in-fill exemption” (Section 15332 of the State CEQA Guidelines) because: (1) the 51 new residents’ and commercial tenants’ cars will be parked for several hours and then “started” which constitutes “cold starts” which puts more pollutants in the air than a “warm start”; (2) The traffic generated by the project throughout the neighborhood will lower the air quality as commercial tenants and residents with a second car park on the surrounding streets and cold start their cars; and (3) There will be additional cumulative impacts to air quality from the additional vehicles that this project will bring into the neighborhood. Drivers of these vehicles will circle around looking for places to park since overflow from the project garage will tend to use up available on-street parking.**

Staff Response: *According to the Bay Area Air Quality Management District CEQA Guidelines, in order for a cumulative air quality impact to occur: (1) there must be a project-specific air quality impact; (2) the project must be inconsistent with the general plan; or (3) the project is consistent with the general plan but the general plan is not consistent with the most recently adopted Clean Air Plan. Here, there are no project-specific air quality impacts. Potential air quality impacts due to traffic generated by the project are not*

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significant. The traffic study expects the project to generate 518 vehicle trips per day, far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District considers the normal minimum traffic volume warranting a detailed air quality analysis; the project is consistent with the general plan; and the general plan is consistent with the latest adopted Clean Air Plan; and therefore, there was no air quality impact analysis was necessary. Indeed, one of the main purposes of an urban in-fill project, like this project, is to reduce air quality impacts that might otherwise occur with more suburban or rural development, not located in employment centers or near mass transit. That is one reason why the Sierra Club supports this project.

11. Pedestrian Safety: The traffic study fails to address the need to improve pedestrian safety.

Staff Response: The traffic study found that due to the moderate increase in vehicular traffic volumes, the project would not significantly impact pedestrian safety in the area. The project approval includes a condition requiring the project developer to implement the recommendations of the July 6, 2006 Traffic Impact Analysis prepared by DKS Associates, subject to City review and approval, as outlined below:

- *Repaving of cracked sidewalks along the west side of 48th Street (south) where the sidewalk meets the building frontage;*
- *In order to provide adequate sight distance, driveway tipping (curb cut) of approximately 28 feet would be required in the westbound direction along Telegraph Avenue. Based on the sight distance analysis results, vehicles leaving the site would also need approximately 75 feet of driveway tipping in the eastbound direction along Telegraph Avenue;*
- *Upgrading of existing ADA ramps at the intersection of 48th Street & Telegraph Avenue to ADA compliance. The existing ramps are too small and do not include domes.*
- *Audible units be added to the intersection of Telegraph Avenue and 48th Street.*

Staff believes these measures are adequate in ensuring pedestrian safety at the subject site.

12. Parking: The project will result in parking impacts by not providing enough off-street parking. While both 48th Street and Telegraph Avenue might be able to absorb some of the additional parking generated by the project, these public streets will not be able to accommodate all the parking needs of retail customers of the commercial space, employees of the commercial space, and residents who choose not to pay for an optional electric lift in the underground garage.

Staff Response: One parking space is required for each of the 51 dwelling units as well as for every 600 square-feet of the proposed 5,050 square-foot retail area for a total of 59 parking spaces. Therefore, the 62 parking spaces provided for the project are 3 additional spaces more than required by the Planning Code. In addition, parking availability is not a consideration under CEQA. The Court of Appeal has held that parking is not part of the

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permanent physical environment, that parking conditions change over time as people change their travel patterns, and that unmet parking demand created by a project need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects. Parking supply/demand varies by time of day, day of week, and seasonally. As parking demand increases faster than the supply, parking prices rise to reach equilibrium between supply and demand. Decreased availability and increased costs result in changes to people's mode and pattern of travel.

Parking deficits may be associated with secondary physical environmental impacts, such as air quality and noise effects, caused by congestion resulting from drivers circling as they look for a parking space. However, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, shuttles, taxis, bicycles or travel by foot), may induce drivers to shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service, in particular, would be in keeping with the City's "Transit First" policy. Additionally, regarding potential secondary effects, cars circling and looking for a parking space in areas of limited parking supply is typically a temporary condition, often offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts that might result from a shortfall in parking in the vicinity of the proposed project are considered less than significant.

Even if parking were considered an environmental impact under CEQA, the project provides more parking than its projected demand. The City has recently used a parking demand rate of between 1.11 - 1.2 parking spaces per unit for high-density housing near transit lines (based upon adjusted ITE rates), which equates to a demand of about 56.1 spaces. For small, neighborhood serving commercial establishments, a demand rate of between .80-1.6 spaces per 1,000 square feet of retail has been used (adjusted ITE rates), which equates to a demand of about four spaces. The two demand rates add up to a total of 60.1 total spaces for the entire project and therefore, the 62 parking spaces provided is sufficient to meet demand, even if parking were considered a CEQA impact, which it is not. Also, as noted by the appellant, the project is characterized by convenience to public transportation and the ability of project residents to walk to nearby businesses in Temescal and Rockridge

In addition, the proposal provides more off-street parking than is required by the Zoning Regulations. The proposed project incorporates two levels of parking involving a portion of ground floor and underground level. This parking arrangement will provide one parking space for each of the 51 residential units and 11 additional spaces for the commercial uses on the ground floor, for a total of 62 spaces. The project also incorporates a bicycle parking area for the convenience of residents. The 11 off-street parking spaces are more than the 8 minimum spaces required for the proposed 5,050 square-foot commercial space. The surplus parking spaces could be used for commercial customers, commercial employees, residential visitors, or maintenance staff.

- 13. Traffic Generation: The traffic study does not account for traffic generated by employees of the commercial space, visitors to the residential units, and maintenance staff.**

Staff Response: The estimated vehicle trip generation rates for the project were based upon the Institute of Transportation Engineers Trip Generation manual (7th Edition, 2003). The trip generation rates take into account all expected vehicles trips associated with the project including traffic generated by commercial employees, residential visitors, and project maintenance staff. DKS has responded to the challenges to the Traffic Impact Analysis in the attached memo (See attachment E).

- 14. LOS for Telegraph Avenue and 51st Street: Assigning a LOS C to the Telegraph Avenue/Claremont Avenue intersection during p.m. peak hours must be challenged because it is not uncommon when traveling northbound to get stuck in the middle of the Telegraph Avenue/51st Street intersection.**

Staff Response: DKS has responded to the challenges to the Traffic Impact Analysis in the attached memo (See attachment E).

- 15. Telegraph Avenue/51st Street Intersection: The project should not be considered exempt from CEQA review because the Telegraph Avenue/51st Street intersection currently performs poorly with an LOS D (a.m. peak hours) and LOS F (p.m. peak hours) and the project will exacerbate this situation.**

Staff Response: The size of the proposed project is not expected to have any significant impacts and the intersection will continue to operate at the existing LOS after the project is built. DKS has responded to the challenges to the Traffic Impact Analysis in the attached memo (See attachment E).

- 16. Age of Traffic Data: The traffic counts used in the study are not current because they were collected in 2004.**

Staff Response: DKS has responded to the challenges to the Traffic Impact Analysis in the attached memo (See attachment E).

CEQA Exemption – Air Quality Impacts

- 17. Air Quality Impacts: The additional traffic generated by the project will negatively impact air quality in the neighborhood.**

Staff Response: Potential air quality impacts due to traffic generated by the project are not significant. The traffic study expects the project to generate 518 vehicle trips per day, far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District considers the normal minimum traffic volume warranting a detailed air quality analysis. There is nothing unique about this project, site, or location warranting a detailed air quality analysis. Indeed, one of the main purposes of an urban in-fill project, like this project, is to reduce air quality impacts that might otherwise occur with more suburban or rural development, not located in employment centers or near mass transit. That is one reason why the Sierra Club supports this project.

Conditional Use Permit Criteria

18. Height and Density: The project is not consistent with conditional use permit Criterion “A” because the height and setback variances of the project will affect the livability of the surrounding neighborhood, and have a harmful effect with respect to “harmony in scale, bulk, coverage and density,” as well as “upon the desirable neighborhood character.” The increased traffic and strain on the capacity of surrounding street to support it, as well as the increases vulnerability of pedestrians and bicyclists resulting from the project will adversely affect the livability of the immediate neighborhood.

Staff Response: The Planning Commission found that the project is consistent with Conditional Use Permit Criterion “A” as stated in the “Findings” section of the Planning Commission staff report (see Attachment A). Also, see the response to Argument #2 above. As noted by the appellant, there are other three- and four-story buildings in the neighborhood.

19. Traffic Impact on Livability: The project is not consistent with conditional use permit Criterion “A” because the traffic generated by the project will adversely affect the livability of the immediate neighborhood.

Staff Response: The Planning Commission found that the project is consistent with Conditional Use Permit Criterion A as stated in the “Findings” section of the Planning Commission staff report (see Attachment A). Also, see related responses to traffic above.

20. Compatibility: The staff report does not give the entire picture when it describes the project as satisfying Policy N7.1 of the General Plan (Ensuring Compatible Development). The project is 18 feet above the 30 feet permitted by the R-35 Zone and the project as a whole is out of scale with the neighborhood.

Staff Response: The Planning Commission found that the project is consistent with Conditional Use Permit Criterion E as stated in the "Findings" section of the Planning Commission staff report (see Attachment A). Also, see the response to Argument #3 above.

- 21. Building Scale: The project is not consistent with the criteria for the interim conditional use permit because the project is out of scale with the neighborhood.**

Staff Response: Overall, the project is designed to minimize its visual impact as stated in the "Findings" section of the Planning Commission staff report (see Attachment A). Much of appellant's argument is based on their own subjective views regarding appropriate aesthetics and design. Also, see the response to Arguments #3, 4 and 5 above.

Design Review Criteria

- 22. Relationship to Surrounding Area: The project is not consistent with residential design review Criteria because the project will not relate well to the surrounding area in their setting, scale, and bulk, and will not preserve or enhance desirable neighborhood characteristics. The overall height of the project is significantly higher than all of the buildings in the immediate vicinity.**

Staff Response: The Planning Commission found that the project is consistent with Design Review Criterion A as stated in the "Findings" section of the Planning Commission staff report (see Attachment A). Also, see the response to Arguments #3, 4, and 5 above.

Variance Findings

- 23. Building Height: We are challenging the approval of the major and Minor Variances because the building height is not fully supported. It achieves density but is not consistent with the character of the neighborhood.**

Staff Response: Reducing the height of the buildings to strictly comply with the Zoning Regulations would necessarily reduce the number, diversity of types, range of prices, and affordability of the housing units. This in turn would defeat many of the General Plan policies, including the "Grow and Change" designation for the project and the other policies referenced above and in the Planning Commission staff report (see Attachment A). Development of the project site without the requested variances fails to promote numerous community benefits otherwise provided by the project, General Plan policies encouraging infill development, increased densities, mixed housing types, neighborhood commercial spaces, and the other General Plan policies referenced above.

The Planning Commission also felt that lowering or stepping back the height at the corner would be contrary to the goal of providing a visually prominent architectural feature at this

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key intersection and would compromise the integrity of the architecture. Also, see the response to Arguments #3, 4, and 5 above.

24. Public Participation: Review of this project should be deferred until a Community Planning Process currently underway for the area in which the project occurs, is completed.

Staff Response Staff believes there will be undue financial hardship placed on the developer if the project is further delayed through the appeal process (Also see response #5 above).

SUSTAINABLE OPPORTUNITIES

The project would provide the following economic, environmental, and social equity benefits to the city:

Economic: The project would contribute to the economic vitality of the Temescal Commercial District by bringing additional residents and businesses to the area. The project would also increase the property tax valuation of the property thereby providing a positive fiscal impact to the City through increased property tax revenue. Since the project would involve residential condominiums, sales and resale of the residential units in the project would also generate transfer taxes for the City.

Environmental: The project is a compact, in-fill development in an already urbanized area thereby reducing the need for development in environmentally sensitive areas of the city. The project supports alternative modes of transportation; the site is well-served by public transit and shopping, cultural, and employment opportunities are within convenient walking and bicycling distance of the site.

Social Equity: The project involves a mixture of housing types and sizes thereby increasing housing opportunities for a range of incomes. Staff would like to recommend that the City Council encourage the developer to meet this goal by providing purchase and finance incentives to allow at least 20% of units to be affordable to low income households.

DISABILITY AND SENIOR CITIZEN ACCESS

The project would be subject to the requirements of the Americans with Disabilities Act (ADA), as provided for in the California Building Code. Compliance with ADA regulations would be confirmed when building permits are issued for the project.

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STAFF RECOMMENDATION 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 for the following reasons: 1) The Planning Commission's decision was based on a thorough review of all pertinent aspects of the project and consideration of the objections raised by the appellant; 2) The project and the approval of the project comply in all significant respects with applicable general plan policies and zoning regulations and review procedures; 3) The appellant has failed to demonstrate that there was an error or abuse of discretion in the Planning Commission's decision or that the Planning Commission's decision is not supported by substantial evidence in the administrative record; and 4) the project meets the CEQA In-Fill exemption requirements and there are no exceptions that would defeat the use of the exemption.

ALTERNATIVE CITY COUNCIL ACTIONS

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

1. Uphold the Planning Commission's decision, but impose additional conditions on the project and/or modify the project.
2. Continue the item to a future hearing for further information or clarification.
3. 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.
4. Uphold the 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 have an opportunity to review the proposed findings and resolution for denial.

ACTION REQUESTED OF THE CITY COUNCIL

1. Affirm the Planning Commission's environmental determination that the project is exempt from CEQA review pursuant to CEQA Guidelines section 15332 (In-Fill exemption).

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2. Adopt the attached Resolution denying the appeal thereby upholding the Planning Commission's approval of the project.

Respectfully submitted,

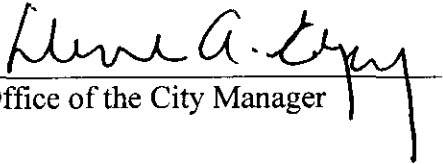


CLAUDIA CAPPIO
Director of Development
Community and Economic Development Agency

Reviewed by: Scott Miller
Zoning Manager
Planning & Zoning Division

Prepared by: Maurice Brenyah-Addow
Planner III
Planning & Zoning Division

APPROVED FOR FORWARDING
TO THE CITY COUNCIL:



Office of the City Manager

ATTACHMENTS:

- A. Planning Commission Staff Report including Project Drawings (dated July 12, 2006)
- B. Approval Letter for Project With Revised/Adopted Conditions (dated July 14, 2006)
- C. Appeal Letter (dated July 23, 2006)
- D. Excerpt from High Density Housing Design Guidelines ("Neighborhood Scale")
- E. DKS Associates Memorandum responding to Appellant's comments on Traffic Analysis
- F. Proposed Relocation Assistance Plan

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APPROVED AS TO FORM
Mark P. Wall
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION APPROVING CONSTRUCTION OF A NEW MIXED-USE DEVELOPMENT CONSISTING OF 51 RESIDENTIAL UNITS AND 5,050 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 4700 TELEGRAPH AVENUE (CASE FILE NUMBER(S) A06-379; CMDV06-188; & TPM9164)

WHEREAS, on April 13, 2006, the 4700 Telegraph, LLC applied for a Major Interim Conditional Use Permit, Minor Variances, and Design Review and subsequently on May 24, 2006, filed for a Vesting Tentative Parcel Map (collectively called "Development Permits"), to construct a new mixed-use development consisting of 51 residential condominium units and 5,050 square-foot commercial space located at 4700 Telegraph Avenue; and

WHEREAS, the Design Review Committee of the Planning Commission conducted a duly noticed public hearing on the Project on May 24, 2006; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Project on July 12, 2006; and

WHEREAS, on July 12, 2006, the Planning Commission independently reviewed, considered and determined that the Project is categorically exempt from the environmental review requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the State CEQA Guidelines; and

WHEREAS, on July 12, 2006, the Planning Commission approved the application for a major interim conditional use permit, regular design review, minor variances, and a vesting tentative parcel map (collectively called "Development Permits"); and

WHEREAS, an appeal of the Planning Commission's July 12, 2006 actions were filed by Robert Temple on July 24, 2006, on behalf of the Telegraph Avenue Coalition ("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 October 31, 2006; and

WHEREAS, the Appellants 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 public hearing on the Appeal was closed by the City Council on October 31, 2006; 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, or that the Commission's decision was not supported by substantial evidence in the record. This decision is based, in part, on the October 31, 2006, City Council Agenda Report, the July 12, 2006, Planning Commission report, and the May 24, 2006, Design Review Committee report, which are hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's environmental determination is upheld, and the Planning Commission's decision approving the Development Permits is upheld, subject to the final conditions of approval adopted by the Planning Commission, as may be amended here; and be it

FURTHER RESOLVED: That in support of the City Council's decision to approve the Project's Development Permits, the City Council affirms and adopts, as its findings, the October 31, 2006, City Council Agenda Report, the July 12, 2006, Planning Commission report, and the May 24, 2006, Design Review Committee report; and be it

FURTHER RESOLVED: That the City Council independently finds and determines that this Resolution complies with CEQA, as the Project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15332, and 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 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 staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation technical studies and all related/supporting materials, and all notices relating to the Project application and attendant hearings;
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, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) 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 3315, 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, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

LEGAL NOTICE:

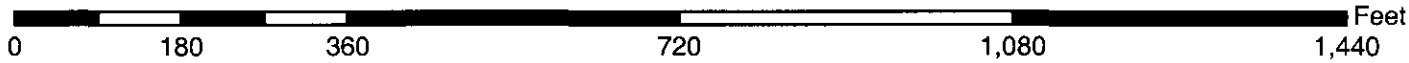
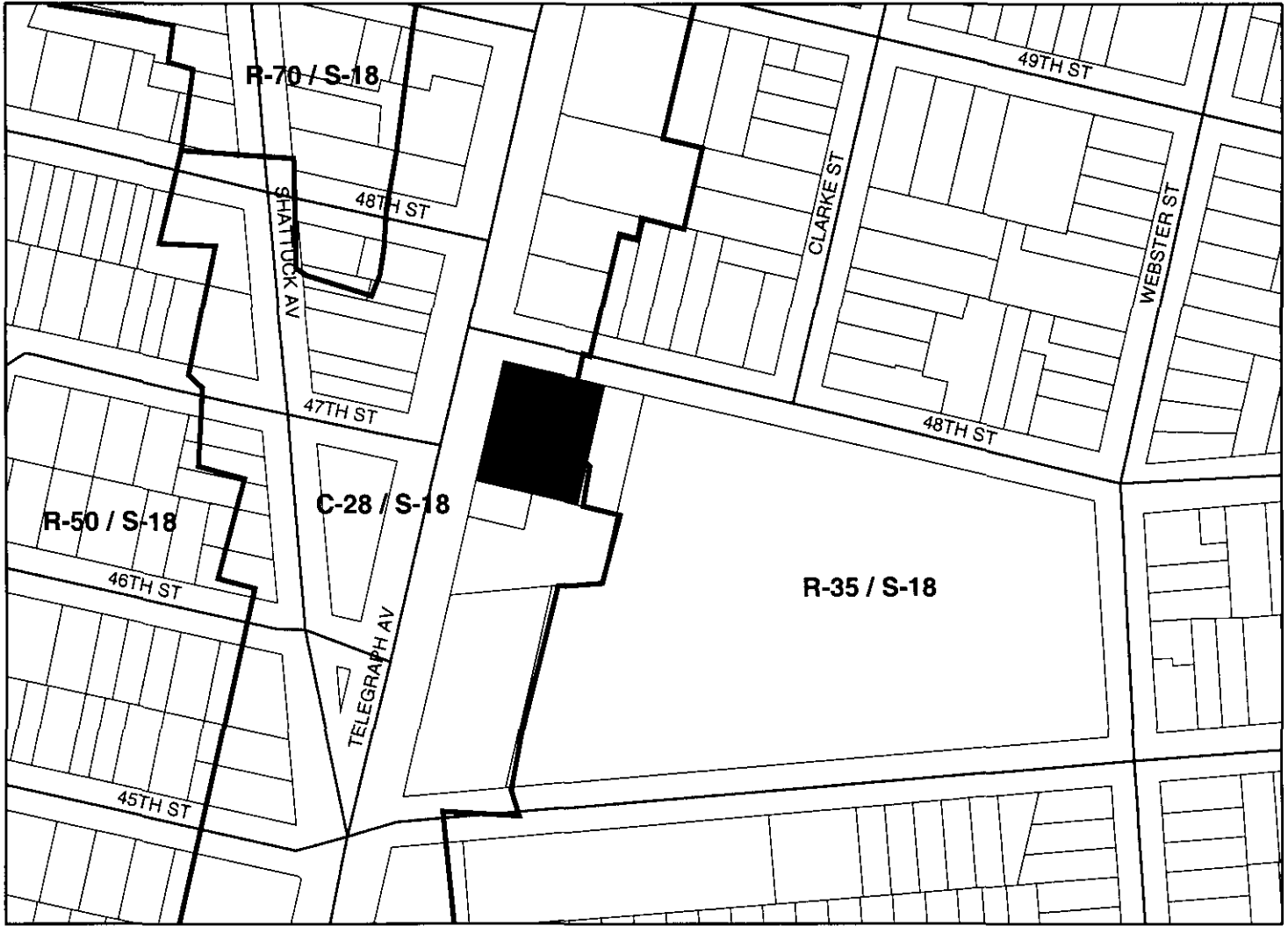
ANY PARTY SEEKING TO CHALLENGE THIS FINAL DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE DATE OF THE ANNOUNCEMENT OF THIS DECISION, PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.

Location:	4700 Telegraph Avenue (See map on reverse)
Assessors Parcel Numbers:	APNs: 013-1150-017-01; 013-1150-019-02; & 013-1150-019-03
Proposal:	To construct a new 53,050 square-foot mixed use building involving 51 residential condominium units (48,000 square feet) and ground floor commercial spaces (5,050 square feet).
Applicant:	Roy Alper-Managing Member (510)550-4988
Owner:	4700 Telegraph, LLC
Planning Permits Required:	Major Interim Conditional Use Permit and Design Review for a new 51 unit building where the zoning allows 48 units; Minor Variances to allow: a 56'-6" building height where 40'-0" maximum is allowed in the C-28 Zone; a building height of 48'-0" where 30'-0" is allowed in the R-35 Zone; a zero front yard setback in the R-35 Zone, where 20'-0" minimum is required; an 8'-0" side yard setback where 10 feet minimum is required; and a zero rear yard setback where 10'-0" minimum is required in the C-28 Zone; Vesting Tentative Parcel Map to merge three lots into one and create condominiums.
General Plan:	Neighborhood Center Mixed Use and Mixed Housing Type Residential
Zoning:	C-28 Commercial Shopping District, and S-18 Mediated Design Review
Environmental Determination:	Exempt 15332; State CEQA Guidelines, Infill development
Historic Status:	Potential Designated Historic Property (PDHP); survey rating: C3
Service Delivery District:	2
City Council District:	1
Status:	This item was continued at the 6/21/06 meeting at staff's request in order to address an outstanding traffic review.
Action to be Taken:	Public Hearing
Staff Recommendation:	Approve project based on findings and subject to conditions of approval.
Finality of Decision:	Appealable to City Council
For further information:	Contact case planner Maurice Brenyah-Addow at 510-238-6342 or by email: mbrenyah@oaklandnet.com

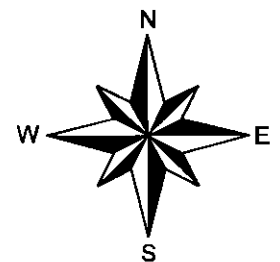
SUMMARY

The subject application is for a 51-unit residential condominium and commercial development proposed on a 19,567 square-foot site located at the southeast corner of Telegraph Avenue and 48th Street in the Temescal District of North Oakland. Approximately 80%-85% of the site is zoned C-28 Commercial Shopping District and falls within the Neighborhood Center Mixed Use General Plan Land Use Classification. The remaining 15%-20% is zoned R-35 Special One-Family Residential zone and falls within the Mixed Housing Type Residential General Plan Classification. The property's zoning and General Plan designations would allow 48 units outright for the site and up to 64 units with an Interim Conditional Use Permit.

CITY OF OAKLAND PLANNING COMMISSION



Case File: CMDV06-188/TPM9164
Applicant: Roy Alper-Managing Member
Address: 4700 Telegraph Ave
Zone: C-28/S-18/R-35



The proposed development is for a five-story structure, which consists of four upper floors of residential units over a ground level of commercial spaces and 11 commercial parking spaces. The second level will contain a spacious landscaped central courtyard that will serve as the primary means of entry for many of the residences as well as group open space for the residents.

The building will have parking on a portion of the ground level as well as one level of underground parking, and will accommodate a total of 62 parking spaces. The design of the building combines traditional and contemporary themes to achieve an elegant building that will enhance the neighborhood.

The Design Review Committee reviewed the project at the May 24th, 2006 meeting and determined that the design was appropriate for the location. Staff recommends that the Planning Commission approve the project subject to the attached Conditions of Approval.

PROJECT DESCRIPTION

The proposed project is to construct a new five-story mixed-use building involving 51 residential condominiums and ground floor commercial spaces on a 19,567 square-foot site. The design incorporates a landscaped central courtyard at the second level to serve the dual purpose of useable group open space and a pedestrian circulation area. The design incorporates a series of bays to articulate the building façade, and combines motifs of older historic buildings along Telegraph Avenue, with modern concepts to blend in with the surroundings. The project incorporates an arched portico at the entrance to the interior and underground parking area to de-emphasize the parking entrance. The building materials and finishes include stucco in rich warm tones set upon a stained concrete plinth. Traditionally-styled ornamentation such as brackets at the bays and eave, cornice trim, decorative panels and tiles are used to enhance the composition of the building.

PROPERTY DESCRIPTION

The subject site is located at the southeast corner of Telegraph Avenue and 48th Street in the Temescal Commercial District of North Oakland, kitty corner from the recently completed "Temescal Place" project and approximately 0.4 miles from the MacArthur BART Station. The site is located within a block from where Telegraph Avenue intersects Shattuck Avenue. The site currently consists of three parcels that will be merged into one for a total of 19,567 square feet. Two parcels totaling 12,442 square feet are currently vacant and surrounded by a chain link fence. The third parcel which is 7,125 square feet in size currently contains 11 residential units within three residential structures and one mixed-use structure. The existing buildings on the site are classified Potential Designated Historic Properties (PDHP) with ratings of C-3 on the Oakland Cultural Survey register. The existing structures will be required to be offered for relocation within the specified time period before demolition. The proposed new building is not identical to the existing structures but will be equal to or better in quality and appearance as compared to the pre-existing structures. Necessary findings for demolishing or relocating the existing structures are addressed in the "Findings" section of this report and stated below as follows:

Policy 3.5:

HISTORIC PRESERVATION AND DISCRETIONARY PERMIT APPROVALS

For any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that:

- (1) The design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood;

Staff has made this finding in the "Findings" section of this report.

Policy 3.7:

PROPERTY RELOCATION RATHER THAN DEMOLITION AS PART OF DISCRETIONARY PROJECTS

As part of a condition of approval for all discretionary projects involving demolition of existing Potential Designated Historic Properties, the City will require that reasonable efforts be made to relocate the existing buildings to an acceptable site (See Condition of Approval #15).

ENVIRONMENTAL DETERMINATION

The proposed project is not expected to have any significant environmental impact on the physical environment. Therefore, this project has been determined to be exempt from CEQA review pursuant to the categorical infill exemption of State CEQA Guidelines, Section 15332, based on the following findings:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

Analysis: The project is consistent with the General Plan designations for the site and with applicable General Plan Policies, as well as applicable zoning designations and regulations as demonstrated in the "Conditional Use Permit Findings" and "Variance Findings" sections in this report. (See Conditional Use Permit Findings and Variance Findings).

- b) The proposed development occurs within the city limits on a project site of no more than five acres substantially surrounded by urban uses.

Analysis: The project site is located within the city limits of the City of Oakland and consists of less than ½ an acre. The site is surrounded by commercial and residential urban uses.

- c) The proposed site has no value as habitat for endangered, rare or threatened species.

Analysis: The project site is located in an urbanized area on previously developed parcels.

- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Analysis: Under the City of Oakland traffic impact analysis guidelines, the proposed project would not result in any significant transportation impacts at the study intersections. Relevant regulatory agencies do not require air and water quality studies for a project this small.

e) The site can be adequately served by all required utilities and public services.

Analysis: The project is located in an urbanized area of the City of Oakland. Existing utilities and public services are located near the site.

GENERAL PLAN ANALYSIS

The site falls within both the Neighborhood Center Mixed Use and Mixed Housing Type Residential Land-Use classifications of the Oakland General Plan (GP). Approximately 80%-85% of the site falls within the Neighborhood Center Mixed Use General Plan Land Use Classification and the remaining 15%-20% falls within the Mixed Housing Type Residential General Plan Classification. The Neighborhood Center Mixed Use designation states that "Future development within this classification should be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial". The Neighborhood Center Mixed Use classification is intended to "identify, create, maintain, and enhance mixed use neighborhood commercial centers". The General Plan encourage developments that are pedestrian-oriented, and has a continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural or entertainment uses. The Mixed Housing Type Land-Use classification of the Oakland General Plan is intended to "create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate." The desired character and uses section of the General Plan states that primary future uses should be residential with "...small commercial enterprises, schools, and other small scale, compatible civic uses possible in appropriate locations." The proposed project incorporates a residential component that is compatible in density and intensity with the medium density structures located in the vicinity. According the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", the Neighborhood Center Mixed Use and Mixed Housing Type GP classifications would allow up to 64 units at the site with an Interim Conditional Use Permit. Therefore, the proposed 51 units at the site are consistent with the desired neighborhood character and density for the site.

ZONING ANALYSIS

Approximately 80%-85% of the site is zoned C-28 Commercial Shopping District and the remaining 15%-20% is zoned R-35 Special One-Family Residential and S-18 Mediated Design Review. Allowing for a 10% density bonus for corner lots, the 19,567 square-foot combined site will allow 48 residential units per current zoning. The Neighborhood Center Mixed Use General Plan Land Use Classification, which allows one unit per 261 square feet of lot area would permit

up to 61 units for the 80%-85% portion of the site located within the Neighborhood Center Mixed Use classification, while the remaining 15%-20% which falls within the Mixed Housing Type Residential classification would allow 3 units for a total of 64 units for the entire site. Therefore, according to the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", an Interim Conditional Use Permit would be required in order to allow the proposed 51 units at the site. The S-18 Mediated Design Review overlay only applies to one and two-unit developments and therefore does not apply to this project. Pursuant to Section 16.04.020 of the Oakland Subdivision Regulations, a Parcel Map is required for the proposed condominiums.

KEY ISSUES

Staff believes that the proposal achieves a highly successful mixed use project with a sensible site plan and represents a desired and appropriate housing and commercial type development that will integrate well with the surrounding area. Staff believes that the design is a good example of the kind of projects that the City needs to encourage along similar neighborhood commercial corridors.

The following is a detailed description of the project and design approach:

- *Consistent with most other medium to large-scale buildings in the area, the public faces of the building along Telegraph Avenue are grounded in traditional early 20th century design themes. This theme is maintained as the building turns the corner on 48th Street, but changes to a more mid-20th century theme at its northeast corner, to be more consistent with the building across 48th Street. Turning to the east façade, the building theme becomes contemporary as is the neighboring building to the east.*
- *The Telegraph Avenue façade is the most urban in character with three stories of residential units above commercial spaces. A fourth residential story is stepped back eight feet to reduce the mass of the building along its largest facade. To further reduce the building's mass, a series of bays extend out to add rhythm to the façade. An array of open terraces and loggias at the top adds architectural character and breaks up the roofline, while providing private outdoor spaces for the upper floor residences. Mirroring older multi-story, multi-unit buildings along Telegraph Avenue, there is a strong corner element adorned with cornice trim, decorative brackets and a low pitched hip roof.*
- *On 48th Street, the building height is gradually reduced as it approaches the lower density residential area. The upper floor is stepped back five feet. The 48th Street face is punctuated by a two-story residential entrance/lobby, reinforcing the residential character of the building. Entrance to the interior and underground parking area is through an arched portico, shielding the parking lot from view of passers-by.*
- *Along the east façade, the face of the building is set back 10 feet from the adjacent property line and a landscaped walkway extends south from 48th Street in this setback to provide a ground level access to the garden studios on the east facade. The building presents a three*

story façade to the east, with two large bays, ample glazing, and an additional story that is stepped back five feet to break up the mass. The step back both buffers the building height at the facade facing a lower density area and provides east-facing decks to the upper-floor residences.

- *The proposed building materials were chosen to complement the architectural and historical context. The mass of the building is clad in stucco in warm tones and set upon a stained concrete plinth. Traditionally-styled ornamentation includes brackets at the bays and eave, cornice trim, decorative panels and decorative tiles. Stylized sconces and a tile base add visual interest and enhance the pedestrian experience at the ground level.*
- *In addition to providing 51 units of housing, the proposed project will strengthen the concentration and continuity of retail facilities at the street level. By filling-in the empty lot at 4700 Telegraph Avenue and adding up to four new commercial spaces, the proposed project will introduce a line of new retail spaces along the Telegraph Avenue corridor where only one small commercial space currently exists at the corner. The commercial spaces will provide shops or services and, with a café, a gathering place for local residents – an essential element to a vibrant neighborhood. As an added feature the corner space will include an outdoor terrace area intended for use as a café (similar to the Crepevine in Rockridge), thereby bringing people and vibrancy onto the Avenue. With businesses spilling activity out onto the street as well as the presence of new residents in the area, safety in and around the neighborhood should be improved.*
- *On both Telegraph Avenue and around the corner of 48th Street, the proposed roof line height at the street façade is 44'-6", although the building would have a number of higher architectural elements (including loggia roofs, a prominent corner piece, parapets, etc.) that will add to its architectural character. A fourth residential floor will have a roof height of 56'-6".*

In view of the above design approach, Staff believes that not only are the site planning and design of the proposed building successful architecturally, but it will also provide a functional living and working environment for the future owners and the community at large.

Proposed Density

The C-28 Zone allows a residential density of 1 regular unit per 450 square feet of lot area and 1 efficiency unit (a dwelling unit containing only a single habitable room other than a kitchen, or containing a total of less than five hundred (500) square feet of floor area) per 300 square feet of lot area. Allowing for a 10% density bonus for corner lots, the 19,567 square-foot combined site will allow 48 residential units per current zoning. The Neighborhood Center Mixed Use General Plan Land Use Classification, allows one unit per 261 square feet of lot area would permit up to 61 units for the 80%-85% portion of the site located within the Neighborhood Center Mixed Use classification, while the remaining 15%-20% which falls within the Mixed Housing Type Residential classification would allow 3 units for a total of 64 units for the entire site. Therefore, according the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", an Interim Conditional Use Permit would be required in order to allow the

proposed 51 units at the site. Since the greater portion of the site falls within the Neighborhood Center Mixed Use classification, the Interim Conditional Use Permit would allow the entire site to be developed as such. Staff believes that the proposed additional three efficiency units are consistent with the desired neighborhood character and density of similar mixed use developments.

Height and Setbacks

The project involves variances to exceed the maximum height for the C-28 Zone by approximately 16'-6" feet, exceed the maximum height for the R-35 Zone by 18'-0" feet and to waive the required 20-foot front setback that applies to the portion of the site that falls within the R-35 Zone as well as the 10-foot rear yard setback for the entire site. Staff believes that by applying Section 17.102.070(a), the proposed zero front setback is supportable, in that the entire proposed building would be located within the C-28 Zone if the zoning boundary were moved 30 feet to the east. The zero yard setback prescribed for the C-28 Zone would therefore be appropriate in this case. Staff also finds that the proposed zero rear yard setback is supportable because the rear yards for the subject corner-lot abuts the side yard of an adjoining commercial lot on Telegraph Avenue with zero side yard setbacks. Not only will a 10 foot dead space on Telegraph Avenue along a blank wall not yield any benefits but will also disrupt the street-wall, and potentially become a trash dumping space. The proposed building peaks at 56'-6" whereas the maximum height for the C-28 Zone is 40 feet for residential structures and for the portion of the site that falls within the R-35 Zone, the height is 48'-0". To mitigate any potential negative impacts that the additional height could have, the following measures have been incorporated into the design to attempt to minimize perceived bulk and manage massing:

- The fifth floor has been recessed a minimum of eight feet from the lower floors along its largest façade facing Telegraph Avenue, and a minimum of five feet along the façade facing 48th Street to reduce perceived bulk;
- The fourth floor is stepped back 5 feet along the eastern property line;
- A series of bays have been incorporated to articulate and add a rhythm to the façade and roofline;
- An array of open terraces and loggias at the top add architectural character and break up the roofline;
- The use of traditionally-styled ornamentation, including brackets at the bays and eaves, cornice trim, decorative panels, decorative tiles, stylized sconces, and a tile base, adds visual interest and enhance the overall architectural composition of the building;
- Mirroring older multi-story, multi-unit buildings along Telegraph Avenue, there is a strong corner element that accentuates the building.

The proposed 2-foot bay projections within the 10-foot side yard setback along the eastern property line would also require a minor variance to allow the proposed 8-foot setback at the upper floors, where 10 feet minimum is required. Staff believes this variance should be eliminated by moving the bays out of the 10-foot setback and to provide additional step back at the upper northeast corner to move the taller massing further away from the eastern property line and provide a smoother transition to the residential zone.

Parking

The proposed project incorporates two levels of parking involving a portion of ground floor and underground level. This parking arrangement will provide one parking space for each of the 51 residential units and 11 additional spaces for the commercial uses on the ground floor, for a total of 62 spaces. The parking layout has been revised to comply with the required allowances adjacent to obstructions, such as columns and the 3-foot additional space next to walls. The project also incorporates a bicycle parking area for the convenience of residents.

Loading Requirement

No loading berth is required for the proposed development because it involves less than 50,000 square feet of residential floor area (48,000 square feet proposed) and less than 10,000 square feet of commercial floor area (5,050 square feet proposed).

Traffic

A preliminary traffic study has been prepared for the project and is being reviewed by the City's Traffic Engineering Division. Any recommendations from the study will be required to be incorporated into the proposed project, and a verbal update of the traffic study findings will be provided at the Planning Commission meeting.

Useable Open Space

The project provides a central courtyard that serves as group open space, as well as various private patios and decks that allow certain units to have private open quarters. The total project open space of 9,391 square feet far exceeds the required 6,120 required for the project.

Vesting Tentative Parcel Map

The proposed residential and commercial condominiums require a Vesting Tentative Parcel Map (TPM). The Oakland Building Services has reviewed and offered comments and Conditions of Approval for the TPM application as outlined in Attachment "B" of this report. These conditions would be required to be addressed prior to approval of a Final Map.

RECOMMENDATIONS:

Based on the analysis contained in this report and the Conditions of Approval attached to this report, and elsewhere within the administrative record, staff believes that the proposed project is an appropriate use for the site and will further the overall objectives of the General Plan, particularly related to infill housing development. Thus, staff recommends that the Commission:


1. Confirm the CEQA exemption under Section 15332 ; and
2. Approve the Major Interim Conditional Use Permit, Minor Variances, Design Review, and the Vesting Tentative Parcel Map subject to the attached findings and Conditions of Approval.

Prepared by:



MAURICE BRENYAH-ADDOW
Planner III

Approved:



SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:



CLAUDIA CAPPIO
Development Director

ATTACHMENTS: A. Project plans
B. Building Services Comments

FINDINGS FOR APPROVAL

This proposal meets the required findings and standards under Section 16.04.010, Purpose, and Section 16.08.030, Tentative Map, of the Oakland Subdivision Regulations; and Sections 17.01.100B(Proposals clearly in conformance with General Plan), 17.134.050 (Conditional Use Permit), 17.148.050 (Variance), and 17.136.070(a)(Residential Design Review), of the Oakland Planning Code as set forth below. Findings, explaining how the proposal conform to given criteria, are stated in bold type.

SECTION 16.04.010, PURPOSE:

“...ensure that the development of subdivisions is consistent with the goals and policies of the Oakland General Plan.”

The proposed project involves the creation of new residential and commercial condominium units that will enable separate ownership of the units. 80%-85% of the site is located within the Neighborhood Center Mixed Use and 15%-20% falls within the Mixed Housing Type Residential Land-Use Classifications of the Oakland General Plan. The proposed 51 units at the site is consistent with the General Plan’s desired neighborhood character and density.

SECTION 16.08.030 – TENTATIVE MAP

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. **The proposed project is consistent with the intended character, land uses, and densities of the General Plan’s Neighborhood Center Mixed Use classification (comprising 80%-85% of the site), and the Mixed Housing Type Residential Land-Use (which comprises the other 15%-20% of the site). As encouraged by the General Plan classifications, the project is pedestrian-oriented, and will have a continuous street frontage with a mix of retail, housing, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural or entertainment uses.**
- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans. **See “A” above.**
- C. That the site is not physically suitable for the type of development. **The subject site is located at the southeast corner of Telegraph Avenue and 48th Street in the Temescal Commercial District of North Oakland, where mixed residential and commercial uses are encouraged. The site is approximately 0.4 miles from the MacArthur BART Station and**

within a block from where Telegraph Avenue intersects Shattuck Avenue, two major thoroughfares well served by public transportation. The site currently consists of three parcels that will be merged into one for a total of 19,567 square feet. Staff is not aware of any existing condition that could create a significant environmental hazard, and therefore concludes that the site is physically suitable for the proposed development.

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

According the “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations”, the Neighborhood Center Mixed Use classification would allow up to 64 units at the site with an Interim Conditional Use Permit. Therefore, the proposed 51 units at the site are consistent with the desired neighborhood character and density 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.

N/A

- F. That the design of the subdivision or type of improvements is likely to cause serious public health problems. **There are similar condominiums and mixed use developments existing and planned for the area. No public health problems are anticipated from the proposed condominium development.**

- 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.)

N/A

- 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 proposed units will have ample fenestration to take advantage of natural solar heating and cooling opportunities.**

SECTION 17.01.100B

CONFORMANCE WITH GENERAL PLAN

1. That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area;

The location, size, design, and operating characteristics of the proposed development will be compatible with the larger buildings in the neighborhood, all of which are within 100' – 400' of the site. The proposed development will contribute to the character of the neighborhood as envisioned by the General Plan and the Planning Code. It will have a significant positive effect by bringing more residents to the commercial district in a pedestrian-friendly way. It will extend revitalization of the Temescal Commercial District an additional block south. The approximately 5,000 square feet of commercial space on the ground floor will further the development of pedestrian-oriented business in the neighborhood. The proposed development will fill a large vacant lot along a major corridor. It is located on a major transit corridor and is .04 miles from a BART station; it offers convenient bicycle access to over 100,00 jobs within a three (3) mile radius; and provides secure bicycle parking the garage.

2. That the proposal is clearly consistent with the intent and desired character of the relevant land use classification or classifications of the General Plan and any associated policies;

Refer to finding number 1, above. In addition, an Interim Conditional Use Permit is warranted because the General Plan calls for greater scale, bulk coverage and density than currently exists at some adjacent or nearby uses. The site is on a Regional Transit Street that is designated for "Growth and Change" in the General Plan. The site is almost entirely in the Neighborhood Center Mixed Use General Plan designation (80-85%). The General Plan permits a maximum density of 125 units/gross acre (166.67 units/net acre) in areas designated Neighborhood Center Mixed Use, which would allow up to 60 units on that part of the site [(166.67 units/acre x .045 acre) x 80%], 9 more units than proposed in this application.

3. That the proposal will clearly promote implementation of the General Plan. Any such proposal shall be subject to the provisions of the "best fit zone" corresponding to the land use classification in which the proposal is located, as determined in accordance with the guidelines adopted pursuant to Section 17.01.060. If there is more than one "best fit zone," the Director of City Planning shall determine which zone to apply, with consideration given to the characteristics of the proposal and the surrounding area and any relevant provisions of the General Plan.

The proposal will clearly promote implementation of the General Plan by bringing more residents to the commercial district in a pedestrian friendly way and extending revitalization of the Temescal Commercial District. The "best fit zone" does not apply to this site.

SECTION 17.134.050

CONDITIONAL USE PERMIT FINDINGS:

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

The site is located within the Neighborhood Center Mixed Use and Mixed Housing Type Residential Land-Use classifications of the Oakland General Plan where future development are encouraged to be commercial or mixed uses that are pedestrian-oriented, or urban residential with ground floor commercial. The proposed development incorporates 51 residential units above a 5,000 square-foot ground floor commercial space that will foster the desired pedestrian activity along that corridor.

- (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 proposed project achieves a highly successful mixed use project with a sensible site plan and a desired and appropriate housing and commercial type development that will integrate well with the surrounding area. Staff believes that the design is excellent and that it is a good example of the kind of projects that the City needs to encourage along similar neighborhood commercial corridors.

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

The new ground floor commercial spaces will provide jobs and services for the neighborhood where they are located. The new building will also improve the visual quality of the immediate area.

- (d) That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURES at Section 17.136.070(b).

The project complies with the above criterion and has been reviewed and approved by the Oakland City Planning Commission Design Review Committee.

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

The Neighborhood Center Mixed Use encourages future development within that classification to be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial. The Mixed Housing Type Residential is also intended to “create, maintain, and enhance residential areas typically located near the City’s major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.” The desired character and uses section of the General Plan states that primary future uses should be residential with “...small commercial enterprises, schools, and other small scale, compatible civic uses possible in appropriate locations.” The proposal conforms in all significant respects to the Neighborhood Center Mixed Use and Mixed Housing Type Residential Land-Use classifications of the Oakland General Plan classifications.

SECTION 17.148.050

VARIANCE FINDINGS: The findings required to grant your request for a Variance, found at Section 17.148.050 of the Oakland Zoning Regulations, and the reasons why the proposal satisfies the criteria are as follows:

- 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 topographical 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 the livability, operational efficiency, or appearance. **The project involves variances to exceed the maximum height by approximately 16’-6” feet, and to waive the required 20-foot front setback that applies to the portion of the site that falls within the R-35 Zone as well as the 10-foot rear yard setback for the entire site. Staff believes that by applying Section 17.102.070(a), the proposed zero front setback is supportable, in that the entire proposed building would be located within the C-28 Zone if the zoning boundary were moved 30 feet to the east. The zero yard setback prescribed for the C-28 Zone would therefore be appropriate in this case. Staff also finds that the proposed zero rear yard setback is supportable because the rear yard for the subject corner-lot abuts the side yard of an adjoining commercial lot on Telegraph Avenue with zero side yard setbacks. Not only will a 10 foot dead space on Telegraph Avenue along a blank wall not yield any benefits but also disrupt the street-wall, and potentially become a trash dumping space. The proposed building peaks at 56’-6” whereas the maximum height for the C-28 Zone is 40 feet for residential structures and for the portion of the site that falls within the R-35 Zone, the height is 48’-0”. Staff supports the height variances because the Neighborhood Center Mixed Use General Plan Land Use Classification and the Mixed Housing Type Residential classification would allow a total of 64 units for the entire site. Due to the limited size of the site, the most practical way of achieving the density prescribed by the General Plan classifications is to build up. Granting the**

variances will allow an effective design solution will enhance the operational efficiency and appearance of the proposed building.

- 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. **Where it has been determined that any particular use would be beneficial to the community, variances have been considered as avenues of achieving the greater goals of the community. Staff believes that strict compliance with the height limits and setbacks would preclude an effective design solution fulfilling the basic intent of the applicable regulations.**

- 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. **To mitigate any potential negative impacts that the additional height could have, the following measures have been incorporated into the design to attempt to minimize perceived bulk and manage massing:**
 - **The fifth floor has been recessed a minimum of eight feet from the lower floors along its largest façade facing Telegraph Avenue, and a minimum of five feet along the façade facing 48th Street to manage massing and reduce perceived bulk;**
 - **An additional 5-foot step back has been provided for the fourth floor, along the eastern property line, in order to provide a smooth transition of the proposed structure to the lower density structures on the adjoining residential properties;**
 - **A series of bays have been incorporated to articulate and add rhythm to the façade and roofline;**
 - **An array of open terraces and loggias at the top adds architectural character and breaks up the roofline;**
 - **A series of traditionally-styled ornamentation including brackets at the bays and eaves, cornice trim, decorative panels, decorative tiles, stylized sconces, and a tile base adds visual interest and enhances the overall architectural composition of the building;**

Staff has added a condition of approval (#20) to further require additional step back at the upper northeast corner of the building to move the taller massing further away from the eastern property line and provide a smoother transition to the residential zone. Staff believes that these treatments successfully mitigate any potential impacts that could result from the proposed variances.

- 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 variances, with the necessary controls, would enable the site to be improved and used to the benefit of the community in accordance with the purpose of the Zoning Regulations.**

- 5) For proposals involving one or two dwelling units on a lot: That the elements of the proposal requiring the variance (e.g. elements such as buildings, walls, fences, driveways, garages and carports, etc) conform to the design review criteria set forth in the design review procedure at Section 17.136.070. **N/A.**
- 6) For proposals involving one or two dwelling units on a lot and not requiring design review or site development and design review: That all elements of the proposal conform to the Special Residential Design Review Checklist Standards and Discretionary Criteria” as adopted by the City Planning Commission. **N/A.**
- 7) For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:
 - a. The proposal, when viewed in its entirety will not adversely impact abutting residences to the side, rear or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing articulation or other design treatments that mitigate any bulk created but the additional height; or
N/A.
 - b. Over 60 percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by that additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street; however the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.
N/A

17.136.070(A), DESIGN REVIEW FINDINGS:

1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures. **The subject site is located within an area containing a mix of commercial, civic, mixed-use, multi-unit apartment buildings, and smaller single-family and duplex buildings. The proposed development would be located so that the uppermost levels step away from the edges of the lower levels to minimize perceived bulk and relate better to the other buildings in the area. Therefore, the proposed design will relate well with surrounding land uses in terms of setting, scale, bulk, height, materials, and textures.**

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics. **The proposed design incorporates architectural elements similar or better than the surrounding properties. It also maintains desirable neighborhood characteristics such as useable open spaces, off street parking, and landscaping. The scale, location, and architectural detailing of the front facade is equal or better than the better examples of desirable neighborhood structures.**
3. That the proposed design will be sensitive to the topography and landscape. **The site is a relatively flat lot. The proposed development would provide for underground and surface parking, so that only the necessary amount of grading would be involved. No special restrictions with regard to topography exist on this flat lot.**
4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill. **The site is a relatively flat lot so that this finding is inapplicable.**
5. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by the City Council. **The Neighborhood Center Mixed Use encourages future development within that classification to be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial. The Mixed Housing Type Residential is also intended to “create, maintain, and enhance residential areas typically located near the City’s major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.” The desired character and uses section of the General Plan states that primary future uses should be residential with “...small commercial enterprises, schools, and other small scale, compatible civic uses possible in appropriate locations.” The proposal conforms in all significant respects to the Neighborhood Center Mixed Use and Mixed Housing Type Residential Land-Use classifications of the Oakland General Plan classifications.**

Policy 3.5:

HISTORIC PRESERVATION AND DISCRETIONARY PERMIT APPROVALS

For any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that:

- (1) The design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or

The proposed design incorporates architectural elements similar or better than the surrounding properties. It also maintains desirable neighborhood characteristics such as usable open spaces, off street parking, and landscaping. The scale, location, and architectural detailing on the front façade are equal or better than the better examples of desirable neighborhood characteristics and neighboring structures

The existing site currently has 11 residential units and a small commercial space. The

proposed new building will provide 51 new residential units and approximately 5000 square feet of commercial space on the ground floor. It will also fill in a currently vacant and blighted lot on Telegraph Avenue. The benefits of the proposed project will clearly outweigh the benefit of retaining the existing structures.

The historic rating of the existing structures is “secondary importance” on the Oakland Cultural Heritage registry. The proposed new development will contribute to the character of the neighborhood as envisioned by the General Plan. It will have a significant positive effect by bringing many more residents to the commercial district in a pedestrian friendly way. It will extend revitalization of the Temescal Commercial District an additional block south. The approximately 5,000 square feet of commercial space on the ground floor will further the development of pedestrian oriented business in the neighborhood.

Policy 3.7:

PROPERTY RELOCATION RATHER THAN DEMOLITION AS PART OF DISCRETIONARY PROJECTS

As part of a condition of approval for all discretionary projects involving demolition of existing or Potential Designated Historic Properties, the City will normally require that reasonable efforts be made to relocate the properties to an acceptable site.

Condition of Approval #15 requires that the applicant shall make a reasonable effort to relocate the existing structures prior to demolition. The existing structures will therefore be offered for relocation within the specified time period before demolition. The proposed new building is not necessarily identical to the existing structures but it will be equal to or better in quality and appearance as compared to the pre-existing structures.

CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

STANDARD CONDITIONS:

1. Approved Use

Ongoing.

The project shall be recorded, constructed and operated as described in this report and the plans dated **April 13, 2006** and submitted on **April 13, 2006**, and as amended by the following conditions. Any additional uses or facilities other than those approved with these permits, 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 Zoning Administrator.

2. Effective Date, Expiration, and Extensions

Ongoing.

This permit shall expire two calendar years from the date of this letter, the effective date of its granting, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, or proper recordation and filing of the Final Map in the case of the Tentative Map approval, has begun under necessary permits by this date. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of these permits, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

3. Scope of this Approval; Changes to Approval

Ongoing.

The project is approved pursuant to the Subdivision Regulations and the Planning Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. 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.

4. Reproduction of Conditions on Building Plans

Prior to issuance of building permit.

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

5. Modification of Conditions or Revocation

Ongoing.

The City Planning Department reserves the right, after notice and public hearing, if required, to alter Conditions of Approval or revoke this permit if it is found that the approved facility or use is violating any of the Conditions of Approval, any applicable codes, requirements, regulations or guidelines, or is causing a public nuisance.

6. Defense, Indemnification & Hold harmless

Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the 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.

CONSTRUCTION PROVISIONS:

7a. Construction Management Plan.

Prior to insurance of a building permit.

The applicant shall submit a construction staging and phasing plan to the Building Services Division with the application for any building or grading permits for the project. The construction management conditions required by the Planning Commission shall be included, as well as any additional detailed information or conditions required by Building Services. The plan shall at least include the following items:

- Identification of construction staging areas;
Designation of main access routes to the site for construction equipment and materials, including truck routes that will be used for delivery or hauling away of materials;
- Designation of construction worker parking areas and designation of specific on-street parking areas;
- Power equipment shall include noise shielding and muffling devices;

- Placement of barriers around the project site, as feasible, and around any stationary power equipment (such as compressors) to reduce noise levels;
- Construction hours shall be limited to 7:00 AM to 7:00 PM Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 AM and 4:00 PM Monday through Friday, with no extreme noise permitted between 12:30 PM and 1:30 PM. No construction activities shall be allowed on weekends until after the building is enclosed, and then only within the interior of the building with the doors and windows closed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays;
- A notification process to residents in advance of particularly noisy construction activities. Posted signs at the construction site will include permitted construction days and hours, a day and evening contact number for the job site and a day and evening contact number for the City in the event of problems; and
- An on-site complaint and enforcement manager will be designated to respond to and track complaints. A pre-construction meeting with the job inspectors and the general contractor/on-site project manager will be held, to confirm that noise mitigation measures and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc).

7b. Dust Control.

On-going

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts including: watering all active construction areas as necessary to control dust; covering stockpiles of debris, soils or other material if blown by the wind; and sweeping adjacent public rights of way and streets daily if visible soil material or debris is carried onto these areas.

7c. Grading and Erosion Control

Prior to issuance of a grading permit

The applicant shall submit and receive approval for a site grading and drainage plan prior to any grading activities in conformance with City standards and Best Management Practices (BMP) for use during construction.

7d. Payment of Sewer Mitigation Fees

Prior to issuance of the building permit

The applicant shall pay the required Sewer Mitigation Fees, as determined by the Public Works Agency.

UTILITY IMPROVEMENTS AND MAINTENANCE:

8. On-site and Off-site Street Improvements.

Prior to Approval of Final Parcel Map.

Comprehensive improvement plans for the private property and the public rights of way shall be submitted to the Engineering Services division, including but not limited to curbs, gutters, pedestrian ways (either replacement or new construction), sewer laterals, sewer mains, storm drains, street trees, paving details, street lighting, on-street parking and accessibility improvements required to comply with all applicable City standards, including but not limited to the following specific items:

- A site drainage and grading plan incorporating Best Management Practices (BMP) for use during construction and after project completion for maintenance and operation.
- Landscaping plans for the public right of way shall be submitted to the Director of Parks and Recreation for review and approval. Street trees shall conform to the requirements as set forth by the Director of Parks and Recreation.
- Fire safety standards and equipment including sprinklers and the location of fire hydrant to serve the project. These plans and specifications shall be reviewed and approved by the Oakland Fire Prevention Bureau and Engineering Services Division. A P-job permit shall be reviewed and approved from the Engineering Services Division prior to commencement of construction for all the infrastructure improvements.

9. Electrical Facilities.

Prior to installation.

All electric and telephone facilities, fire alarm conduits, exterior light wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Department.

10. Public Safety and Traffic Safety

Upon completion of the public street improvements and prior to acceptance of such improvements by the City

The applicant shall implement a sign and pavement marking system consistent with City Standards, Fire Department standards, and Traffic Division requirements that clearly delineates the street frontages to be used for on-street parking, spaces and those areas where parking is prohibited. Other directional traffic signs shall also be included in this system for all public street frontages of the project.

PROJECT DESIGN CONDITIONS:

11. Lighting Plan.

Prior to issuance of the building permit for the first unit.

A lighting plan for the project shall be submitted to and approved by the Director of City Planning, with referral to other departments or divisions as appropriate, and shall include the

design and location of all lighting fixtures or standards; and said lighting shall be installed such that it is adequately shielded and does not cast glare onto adjacent properties.

12. Landscaping Plan.

Prior to issuance of the building permit for the first unit.

The applicant shall submit a detailed on-site landscaping plan prepared by a certified landscape architect for the project to the Director of City Planning for review and approval prior to the issuance of a building permit for the first unit. The following items and requirements shall be incorporated into the plan:

- Quantity, sizes, common and botanical names of trees, shrubs, ground cover, and other plantings for the entire site;
- Specific planting details and plant materials shall be provided to screen exposed retaining walls, from both public rights of way and private property, especially, abutting properties;
- Any and all utility meters, transformers, and the like shall be screened from view from any public right-of-way.

SPECIFIC CONDITIONS

13. Modification to Plans

Ongoing

Changes to approved plans that would specifically amend the Tentative Parcel Map or building designs shall be submitted to and approved by the Zoning Administrator prior to recordation of the Final Map.

14. Covenants, Conditions and Restrictions & Homeowner's Association

Prior to certificate of occupancy.

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division for review. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold.

15. Relocation of existing Historic Properties

Prior to demolition of existing structures

The applicant is required to make reasonable efforts to relocate the existing potentially historic structures to an acceptable site in compliance with Policy 3.7 of the Oakland Historic Preservation element of the General Plan. Reasonable efforts shall include posting of visible signs at the site and placement of advertisements in major Bay Area news media.

16. Submittal of Final Map and Final Map Requirements

Within two years of the effective date of approval, and ongoing

A Final Map shall be submitted to the Building Services Department, within 2 years of the approval of this permit. The Final Map shall include: all easements for right-of-way provided for public services or utilities; all property which is offered for dedication for public use; and all property that may be reserved by deed or covenant for common use of the property owners in the subdivision, in a form acceptable to the City Engineer and acceptance language by the City Engineer, along with all other supplementary maps or plans required as conditions of approval. The applicant shall record the Final Map and a written legal description of the reconfigured parcels as part of the deed with the Alameda County Recorder’s Office and proof of such recordation shall be provided to the Planning Department prior to issuance of Building Permits. Except as provided in the Oakland Municipal Code sections 16.12.020 and 16.24.110, failure to file a Final Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Vesting Tentative Parcel Map.

17. Certification of Parcel Map

Ongoing

A Parcel Map may be certified by the City Engineer at the expiration of the ten-day appeal period from the date of this approval.

18. Address Signs

Ongoing

Address signs shall be located at the front of the site where they can be clearly identified from the street. The design and location of illuminated address signs be submitted to and approved by the Zoning Administrator prior to the filing for a final map; the signs shall be installed prior to issuance of the final map.

19. Building Services Requirements

Prior to Filing a Final Map and Ongoing

The applicant shall comply with all the requirements and Conditions of Approval imposed by Building Services (See “Attachment B”).

20. Step Back at northeast corner of building

Prior to application for building permits

The applicant shall revise the plans to provide additional step back of the upper floor(s) at the northeast corner of the building to provide a smoother transition to the residential zone.

21. Modify building bays to meet required 10-foot setback

Prior to application for building permits

The applicant shall revise the proposed plans to provide the required unobstructed 10-foot side yard setback along the eastern property line.

APPROVED BY:

City Planning Commission: _____ (date) _____ (vote)

City Council: _____ (date) _____ (vote)

Table with 3 columns: Abbreviation, Description, and Material/Code. Includes entries for structural steel (S), concrete (C), masonry (M), and various finishes.

15 ABBREVIATIONS

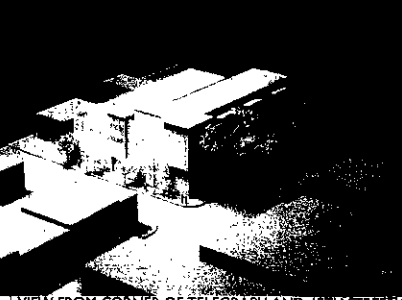
Table of graphic symbols and their corresponding text descriptions. Symbols include circles with letters, diamonds, and rectangles, used for callouts and notes.

13 GRAPHIC SYMBOLS

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT
CENTRADA TEMESCAL
4700 TELEGRAPH
OAKLAND, CA 94609
CONDITIONAL USE PERMIT SUBMITTAL
APRIL 13, 2006



10 TELEGRAPH AVENUE ELEVATION



10 VIEW FROM CORNER OF TELEGRAPH AND 48TH STREET



9 LOCATION MAP

Table containing project information, including zoning details, structural specifications, and material requirements. It lists various codes and standards applicable to the project.

3 PROJECT INFORMATION

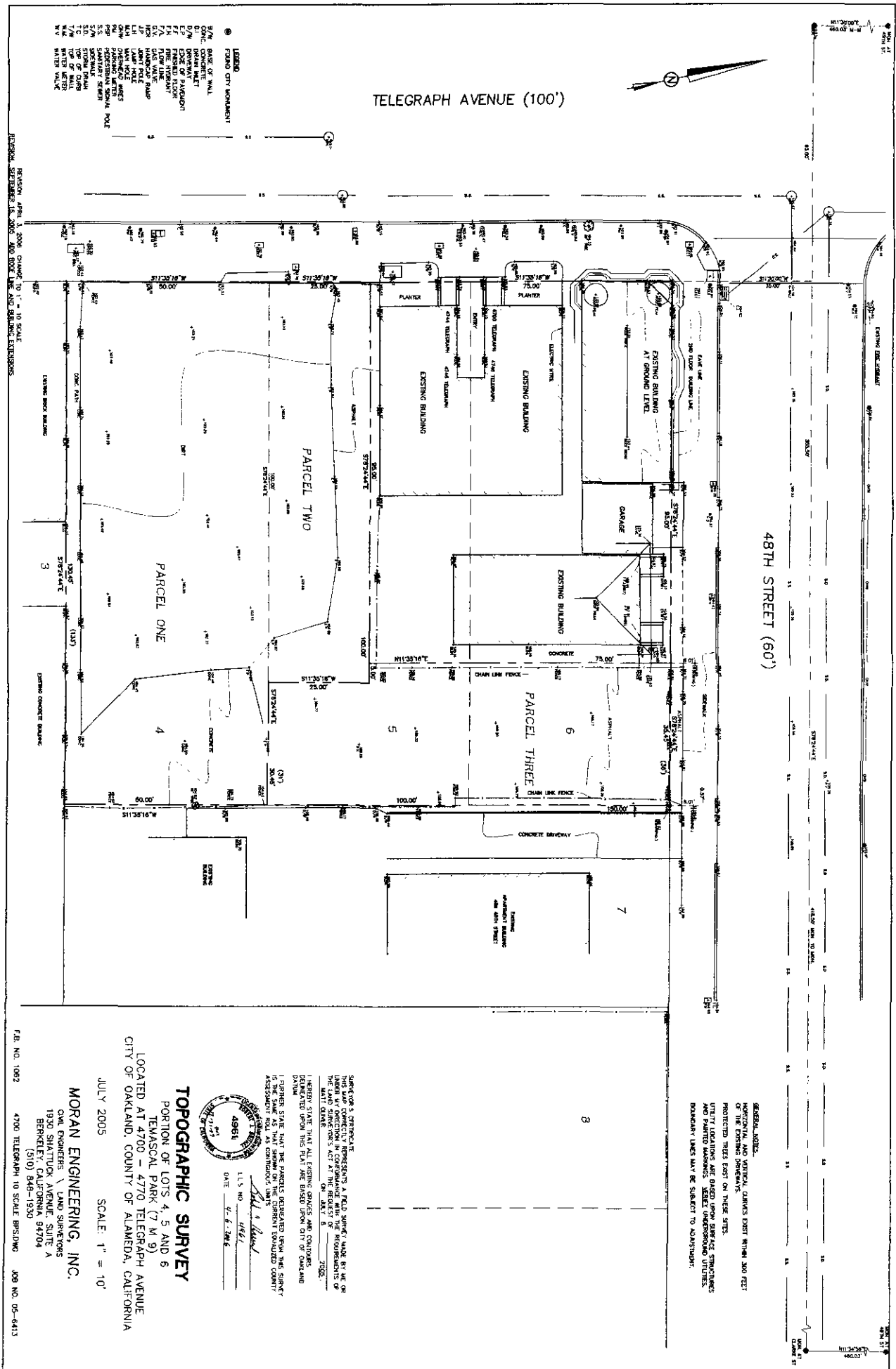
Received stamp from the City Planning Commission, dated May 9 2006. Includes project team information and architectural details.

5 PROJECT TEAM

Table listing project team members, including the architect (Egan Design Associates), engineer, and other professionals involved in the project.

1 TABLE OF CONTENTS

Vertical sidebar containing revision history, scale information, drawing date, and sheet number (A0.0).



48TH STREET (60')

TELEGRAPH AVENUE (100')

REVISION: APRIL 3, 2006 CHANGE TO 1" = 10' SCALE
 PERSON: SURVEYOR, J.C. MOORE AND ROCK LINE AND BOUNDARY EXPANSIONS

GENERAL NOTE:
 ALL EXISTING UTILITIES SHOWN ON THIS PLAN ARE BASED UPON SURFACE STRONGEST AND PAINTED MARKERS. STREET UNDERGROUND UTILITIES, BOUNDARY LINES MAY BE SUBJECT TO ADJUSTMENT.

F.B. NO. 1062 4700 TELEGRAPH 10 SCALE BRISBING JOB NO. 05-4413

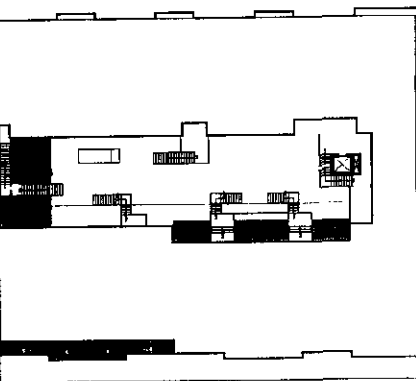
MORAN ENGINEERING, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 1930 SHATTUCK AVENUE, SUITE A
 BERKELEY, CALIFORNIA 94704
 (510) 846-1930

TOPOGRAPHIC SURVEY
 PORTION OF LOTS 4, 5 AND 6
 TEMASCAL PARK (7 M. 9)
 LOCATED AT 4700 - 4770 TELEGRAPH AVENUE
 CITY OF OAKLAND, COUNTY OF ALAMEDA, CALIFORNIA



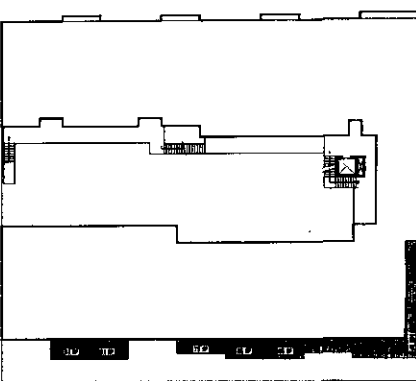
DATE: 4/26/06
 U.S. NO. 49961
 I HEREBY STATE THAT THE PORTION OF THE SURVEY DESCRIBED ON THIS PLAN WAS MADE BY ME OR UNDER MY DIRECTORSHIP IN COMPLIANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL SURVEYING ACT OF 1907, AS AMENDED, AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, CALIFORNIA.

8



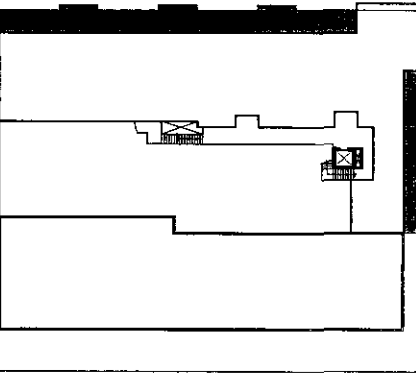
PRIVATE OPEN SPACE - 2801 SQ. FT.
2 x (1204-17+1048) - 2452.23 SQ. FT.

3 THIRD FLOOR PLAN
SCALE: 1/8" = 1'-0"



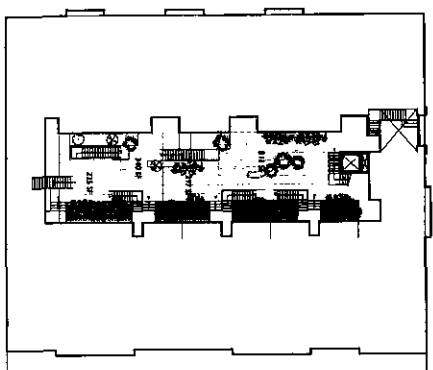
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4 FOURTH FLOOR PLAN
SCALE: 1/8" = 1'-0"



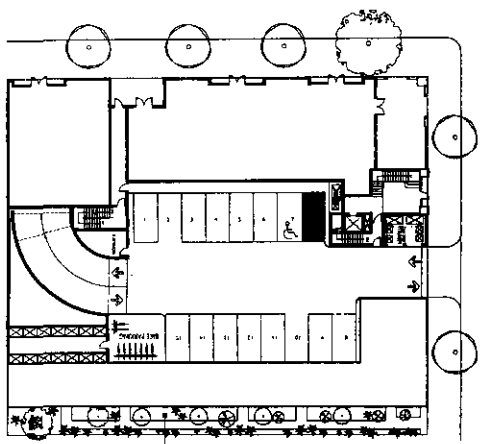
PRIVATE OPEN SPACE - 2413 SQ. FT.
4 x (1204-44+1) - 4819.56 SQ. FT.

5 FIFTH FLOOR PLAN
SCALE: 1/8" = 1'-0"



GROUP USABLE OPEN SPACE
211077-1625251-101 SQ. FT.
PRIVATE OPEN SPACE - 2194 SQ. FT.
2003 x 1078 - 2158 SQ. FT.

2 SECOND FLOOR - COURTYARD PLAN
SCALE: 1/8" = 1'-0"



PRIVATE OPEN SPACE

1 FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"

0 OPEN SPACE ANALYSIS & SUMMARY

GROUP	USABLE OPEN SPACE	PRIVATE OPEN SPACE	TOTAL USABLE OPEN SPACE PROVIDED
GROUP 1	211,077	2,194	213,271
GROUP 2	213,271	2,194	215,465
GROUP 3	215,465	2,194	217,659
GROUP 4	217,659	2,194	219,853
GROUP 5	219,853	2,194	222,047

LEGEND:

GROUP: AN AREA OF CONTIGUOUS SPACE SHALL BE OF SUCH SIZE AND SHAPE THAT A RECTANGLE INSCRIBED WITHIN IT SHALL HAVE NO DIMENSION LESS THAN FIFTEEN FEET.

PRIVATE: AN AREA ABOVE GROUND LEVEL SPACE SHALL BE OF SUCH SIZE AND SHAPE THAT A RECTANGLE INSCRIBED WITHIN IT SHALL HAVE NO DIMENSION LESS THAN FIVE FEET.

OPEN SPACE SUMMARY:

GROUP USABLE OPEN SPACE = 211,077 (15% REQ)

PRIVATE USABLE OPEN SPACE = 2,194 (2% REQ)

CV = 1.1 x 213,271 = 234,598 SQ. FT.

TOTAL USABLE OPEN SPACE PROVIDED = 513,520 SQ. FT.

USABLE OPEN SPACE REQUIREMENT:

MIN. GROUP USABLE OPEN SPACE EQUAL 1.1% OF GROSS AREA PER UNIT.

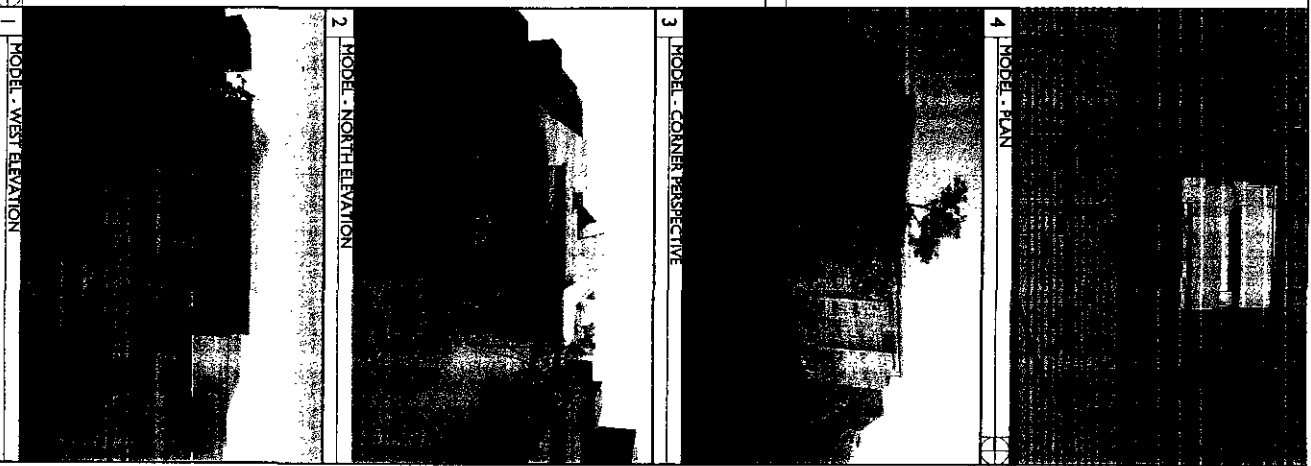
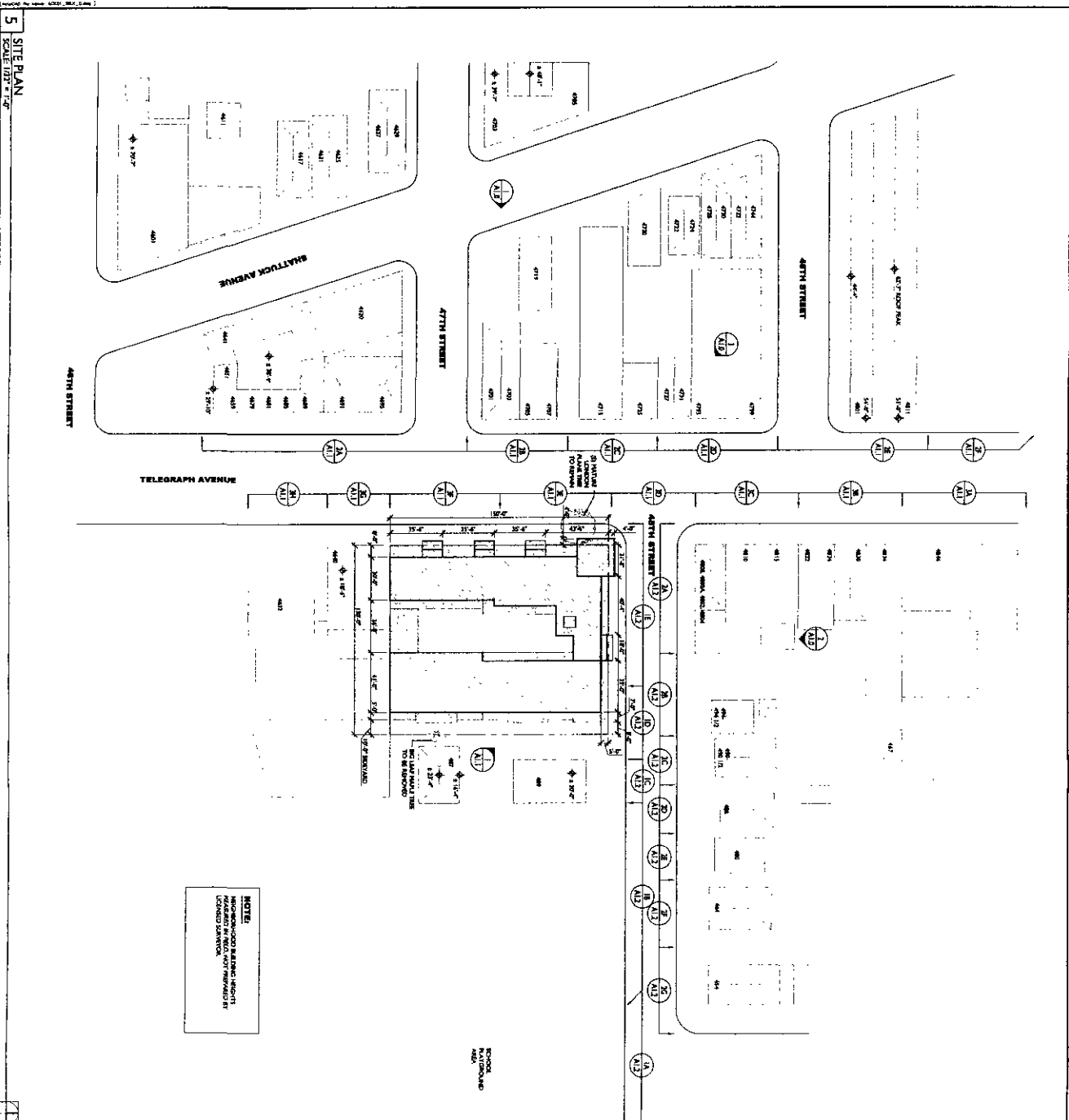
PRIVATE USABLE OPEN SPACE MAY BE SUBSTITUTED FOR SUCH GROUP SPACE IN THE AMOUNT OF 20 SQ. FT. PER REGULAR DWELLING UNIT.

SECTION 17.13.1.4.0.0, SUBSTITUTION OF PRIVATE SPACE FOR GROUP OPEN SPACE:

EACH SQUARE FOOT OF PRIVATE USABLE OPEN SPACE CONSIDERED TO THE PROPORTION OF SECTION 17.13.1.4.0 AND SHALL BE CONSIDERED EQUIVALENT TO TWO SQUARE FEET OF REQUIRED GROUP USABLE OPEN SPACE AND MAY BE SO SUBSTITUTED, SUBJECT TO ANY FPA REQUIREMENTS FOR ACTUAL GROUP SPACE DESCRIBED IN THE APPLICABLE INDIVIDUAL ZONE REGULATION.

- MIN. GROUP USABLE OPEN SPACE REQUIREMENT WITHOUT PRIVATE USABLE OPEN SPACE SUBSTITUTION 51 UNITS x 104 = 5304 SQ. FT. (1.62%)
- MIN. GROUP USABLE OPEN SPACE REQUIREMENT WITH SUBSTITUTION OF PRIVATE USABLE OPEN SPACE 51 UNITS x 104 = 5304 SQ. FT. (1.62%)
- COMBINED GROUP & PRIVATE USABLE OPEN SPACE REQUIREMENT: 748 (GROUP REQ) - 1473 (PROVIDED) = 897 SQ. FT. ADDITIONAL GROUP OPEN SPACE REQUIRED.

PER SECTION 17.13.1.4.0.0
150 FT. PRIVATE OPEN SPACE CAN BE SUBSTITUTED FOR 150 FT. OF GROUP USABLE OPEN SPACE THEREFORE:
97713 x 2288 SQ. FT. MIN. REQ FOR PRIVATE USABLE OPEN SPACE



REVISION	DATE	BY	DESCRIPTION

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT
 CENTRADA TEMESCAL
 4700 - 4770 TELEGRAPH AVE
 OAKLAND, CA 94709-1464
 (A.P.N. 013-115001701)
 (A.P.N. 013-115001902)
 (A.P.N. 013-115001903)

RDG
 1110 LARK AVENUE, BERKELEY, CA 94709
 TEL: 415.863.5555 FAX: 415.863.1710
 WWW.RDGDDESIGNASSOCIATES.COM

DATE TAKEN: MARCH 17, 2006

DATE TAKEN: MARCH 17, 2006

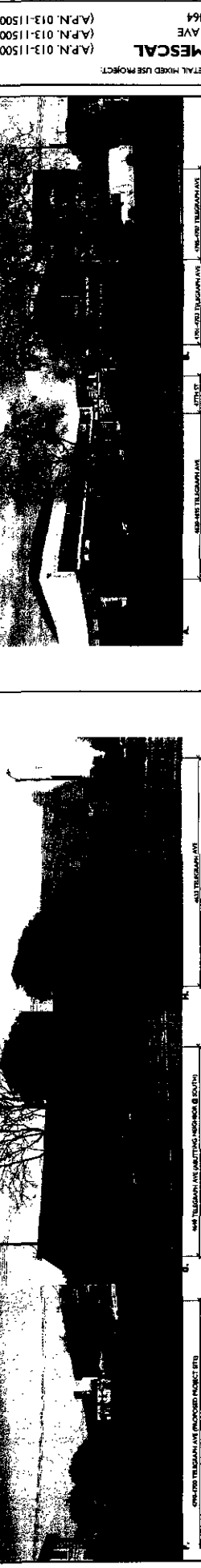
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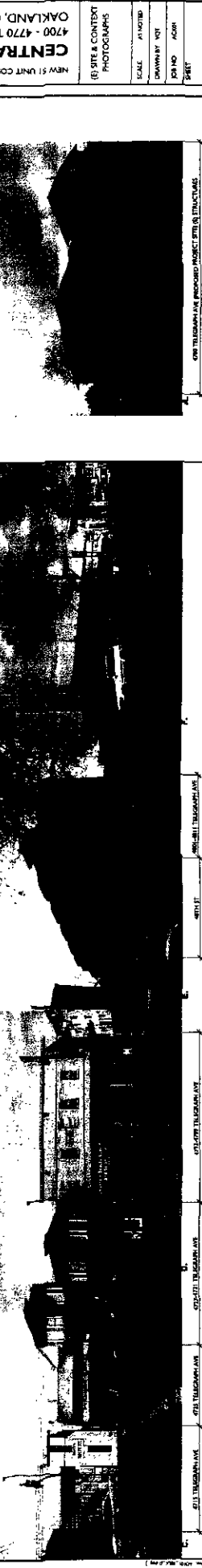
4 NOT USED



3 TELEGRAPH AVENUE - EAST SIDE
 DATE TAKEN: MARCH 17, 2006



2 TELEGRAPH AVENUE - WEST SIDE
 DATE TAKEN: MARCH 17, 2006



1 SITE SOUTH ELEVATION
 DATE TAKEN: MARCH 23, 2006

RDG
 1110 LARK AVENUE, BERKELEY, CA 94709
 TEL: 415.863.5555 FAX: 415.863.1710
 WWW.RDGDDESIGNASSOCIATES.COM

DATE TAKEN: MARCH 17, 2006

DATE TAKEN: MARCH 17, 2006

DATE TAKEN: MARCH 17, 2006

DATE TAKEN: MARCH 17, 2006

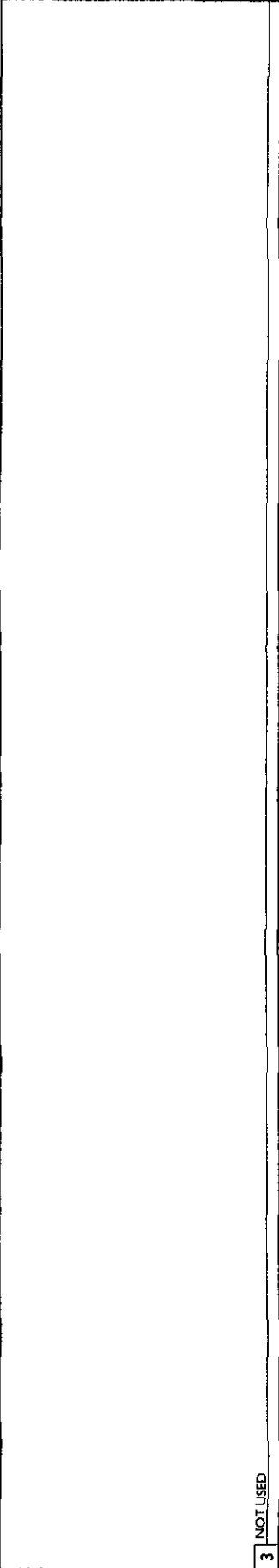
REVISION	DATE
CLIP SHORTENED	4/11/06

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT

SCALE: AS SHOWN
DRAWN BY: KOT
JOB NO.: 0306
SHEET

8/15/06 10:27 AM
4/11/06 10:54 AM

A1.2
R. PETERSON ARCHITECTS INC.
4700 - 4770 TELEGRAPH AVE
OAKLAND, CA 94709-1464
CENTRADA TEMESCAL
(A.P.N. 013-11500170)
(A.P.N. 013-115001902)
(A.P.N. 013-115001903)
K&A
K&A DESIGN ASSOCIATES
PLANNING SERVICES, INC. 2500
2500 EMBURY DRIVE SUITE 300
SAN FRANCISCO, CALIFORNIA 94133
P: (415) 775-3333 F: (415) 775-3334
WWW.K&AD.COM



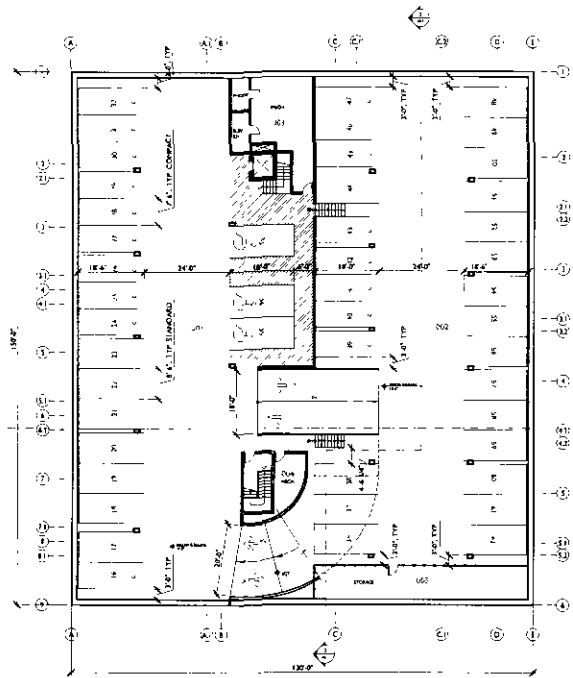
1 48TH STREET - SOUTH SIDE
DATE TAKEN: MARCH 24, 2006



2 48TH STREET - NORTH SIDE
DATE TAKEN: MARCH 24, 2006



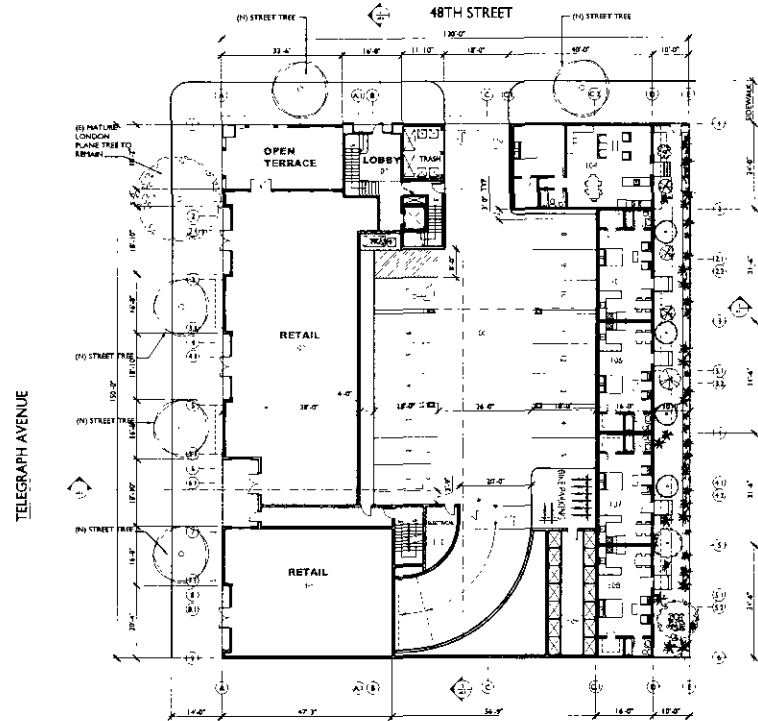
3 48TH STREET - SOUTH SIDE
DATE TAKEN: MARCH 24, 2006



PARKING CALCULATIONS

LEVEL	REGULAR	COMPACT	ADA	TOTAL
FIRST	22	2	3	45
BASEMENT	24	1	2	47
TOTAL	38	20	4	62

2 BASEMENT PLAN
SCALE: 1/16" = 1'-0"



1 FIRST FLOOR PLAN
SCALE: 1/16" = 1'-0"

REVISION	DATE
CUP & PITAL	8/1/18

THIS PLAN IS THE PROPERTY OF THE ARCHITECT AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY, INCLUDING NEIGHBORS, ARISING FROM THE USE OF THIS PLAN OR ANY INFORMATION THEREON. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED HEREON. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY CONSTRUCTION DEFECTS OR OMISSIONS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED HEREON. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY CONSTRUCTION DEFECTS OR OMISSIONS.

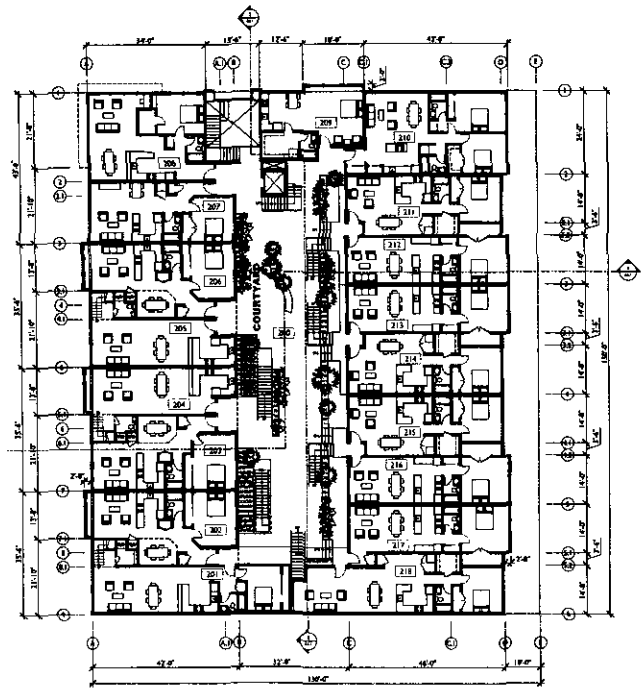
NEW 21 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT
CENTRADA TEMESCAL
 4700 - 4770 TELEGRAPH AVE
 OAKLAND, CA 94709-1464

(A.P.N. 013-115001701)
 (A.P.N. 013-115001902)
 (A.P.N. 013-115001903)

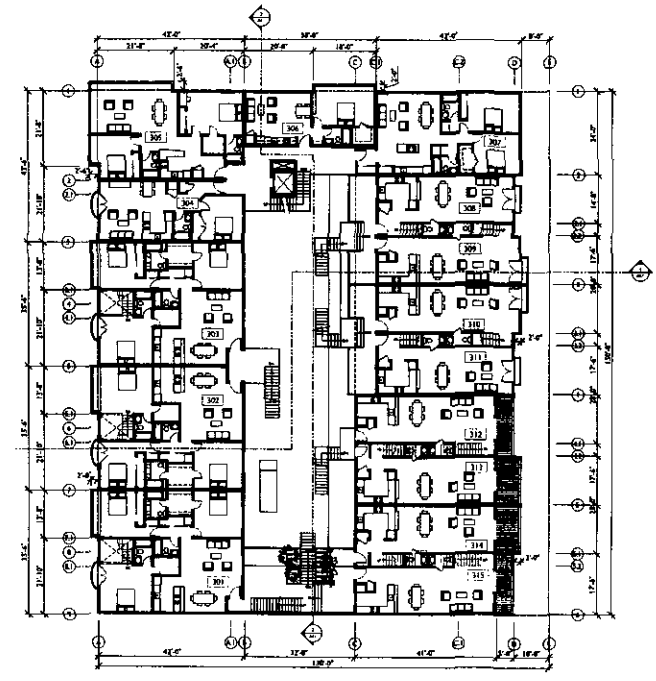
ARCHITECT: K&S DESIGN ASSOCIATES
 1515 MARK AVENUE, SUITE 200, OAKLAND, CA 94612
 WWW.KANDSDESIGN.COM

BASEMENT AND
 FIRST FLOOR PLAN
 SCALE: AS NOTED
 DRAWN BY: LP, TL
 JOB NO.: A2.1
 SHEET

A2.1
 © 2018 K&S DESIGN ASSOCIATES, INC.



2 SECOND FLOOR PLAN
SCALE: 1/16" = 1'-0"



1 THIRD FLOOR PLAN
SCALE: 1/16" = 1'-0"

REVISION	DATE
CAD REVISION	03/10/18

CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY BONDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SURETY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY GUARANTY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY WARRANTIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY RELEASES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY RELEASES.

NEW 51 UNIT CONDO/RESIDENTIAL REHABILITATION PROJECT

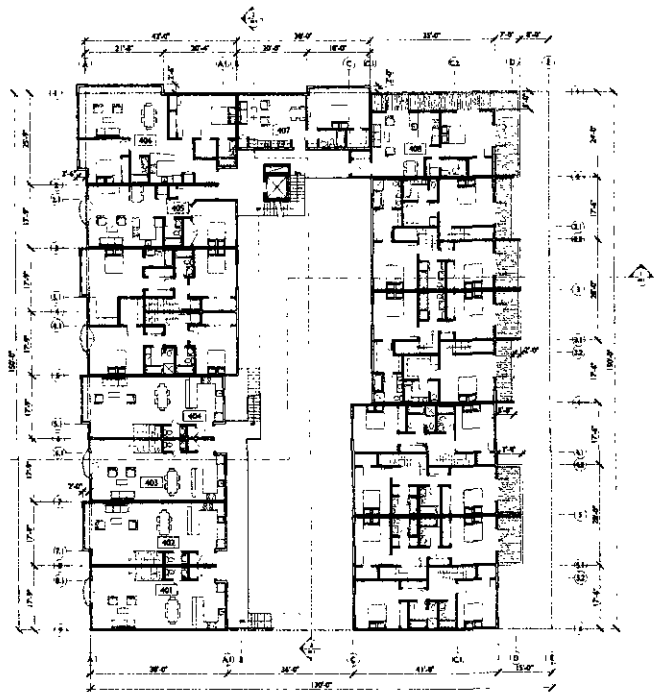
CENTRADA TEMESCAL
 4700 - 4770 TELEGRAPH AVE
 OAKLAND, CA 94708-1464
 (A.P.N. 013-115001701)
 (A.P.N. 013-115001902)
 (A.P.N. 013-115001903)

K&B ARCHITECTS
 1505 RUSHMORE DRIVE, SUITE 200
 OAKLAND, CA 94612
 510.434.8289
 K&BARCHITECTS.COM

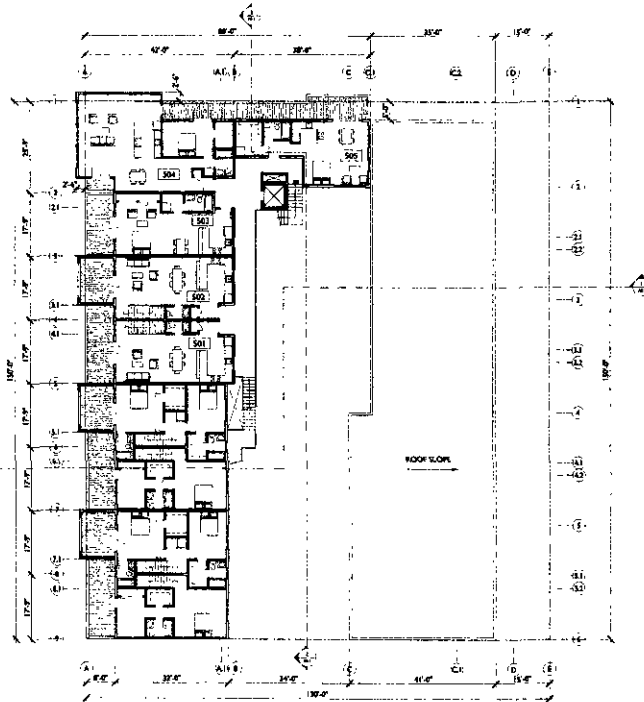
2ND FLOOR AND
THIRD FLOOR PLAN
SCALE: AS NOTED
DRAWN BY: LP TL
JOB NO: A22
SHEET

A2.2

© 2018 K&B ARCHITECTS



2 FOURTH PLAN
SCALE: 1/16" = 1'-0"



1 FIFTH FLOOR PLAN
SCALE: 1/16" = 1'-0"

REVISION	DATE
CAD SUBMITTAL	04/26/20

ARCHITECTURE
KERN DESIGN ASSOCIATES
1000 INTERNATIONAL BLVD., SUITE 200
SAN FRANCISCO, CA 94103
TEL: 415.774.0100
WWW.KERNDENIGN.COM

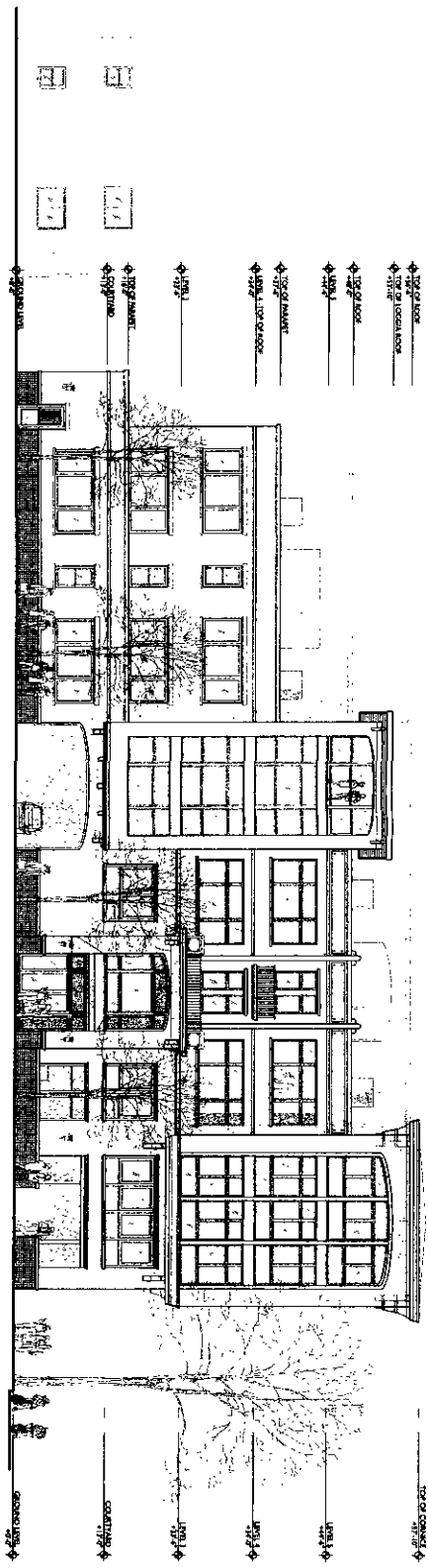
(A.P.N. 013-115001701)
(A.P.N. 013-115001902)
(A.P.N. 013-115001903)

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT
CENTRADA TEMESCAL
4700 - 4770 TELEGRAPH AVE
OAKLAND, CA 94709-1464

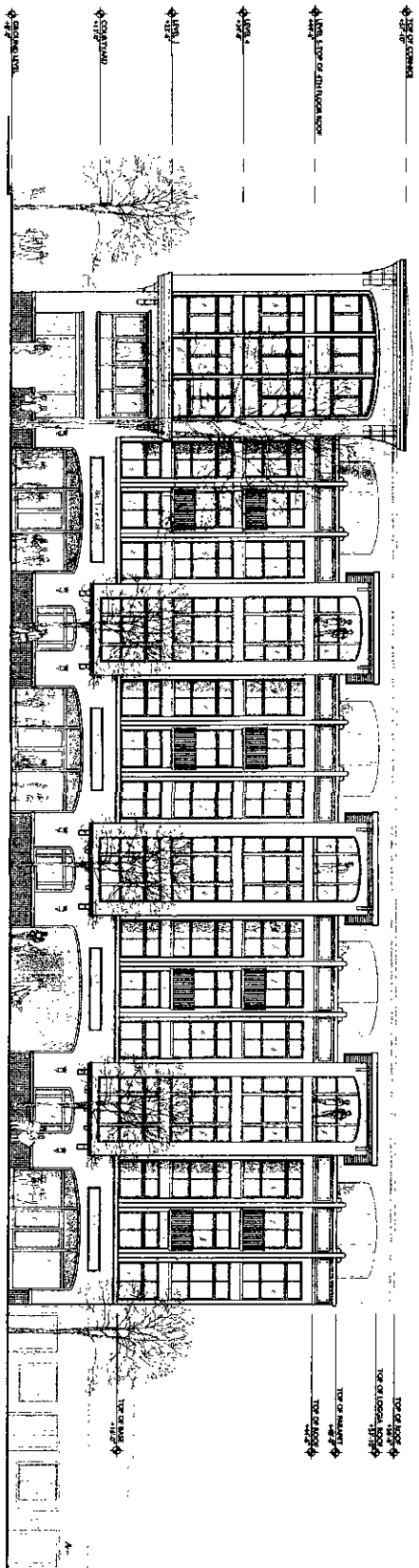
4TH FLOOR AND
5TH FLOOR PLAN

SCALE: AS NOTED
DRAWN BY: LP, TL
JOB NO: A2301

SHEET
A2.3
KERN DESIGN ASSOCIATES INC.



2 48TH STREET ELEVATION
1/8" = 1'-0"



1 TELEGRAPH AVENUE ELEVATION
1/8" = 1'-0"

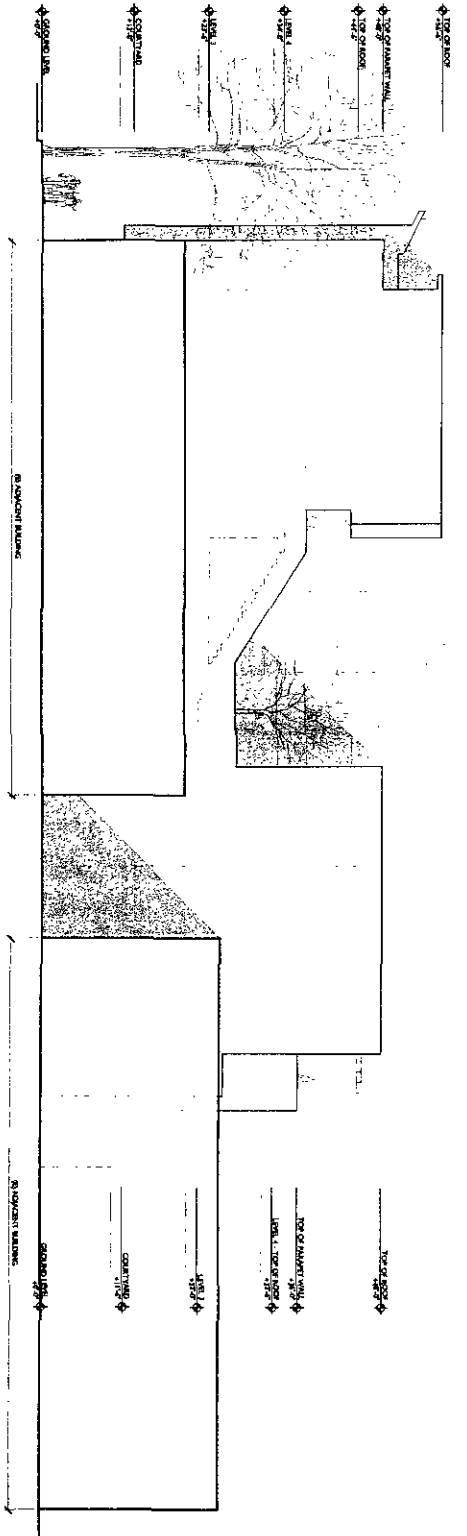
REVISION	DATE

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 THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED HEREIN.
 THE ARCHITECT'S LIABILITY DOES NOT EXTEND TO ANY OTHER SERVICES PROVIDED BY OTHER PROFESSIONALS.
 THE ARCHITECT'S LIABILITY DOES NOT EXTEND TO ANY OTHER SERVICES PROVIDED BY OTHER PROFESSIONALS.
 THE ARCHITECT'S LIABILITY DOES NOT EXTEND TO ANY OTHER SERVICES PROVIDED BY OTHER PROFESSIONALS.

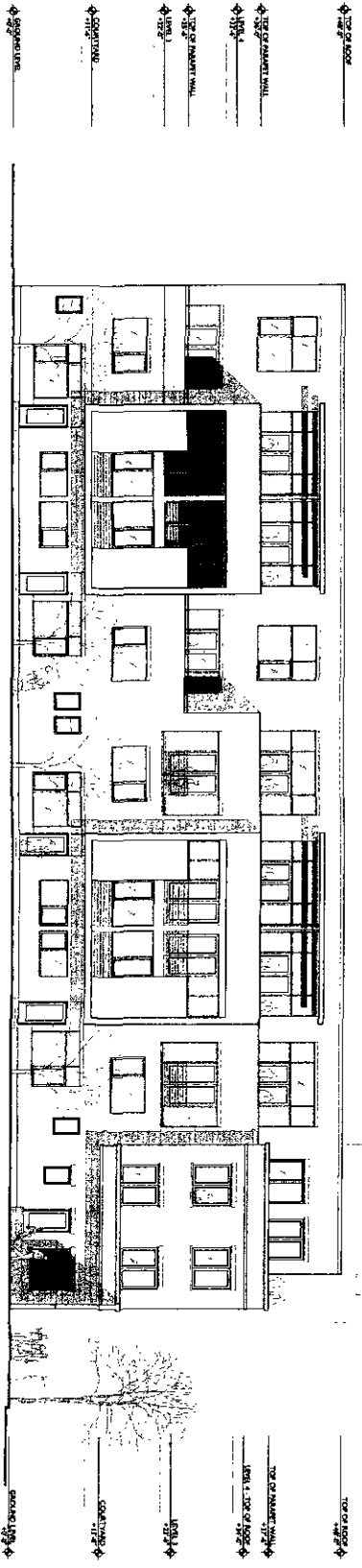
ARCHITECT OF RECORD
skaha design associates
 1616 16th Street, Berkeley, CA 94716
 Phone: 510.861.5555 Fax: 510.861.7325
 skahadesignassociates.com

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT:
CENTRADA TEMESCAL
 4700 - 4770 TELEGRAPH AVE
 OAKLAND, CA 94709-1464
 (A.P.N. 013-115001701)
 (A.P.N. 013-115001902)
 (A.P.N. 013-115001903)

A4.1
 48TH & TELEGRAPH
 ELEVATIONS
 DRAWN BY: TL
 CHECKED BY: MCB
 DATE: 08/21/2014
 SCALE: AS SHOWN
 SHEET NO.: 04



2 SOUTH ELEVATION



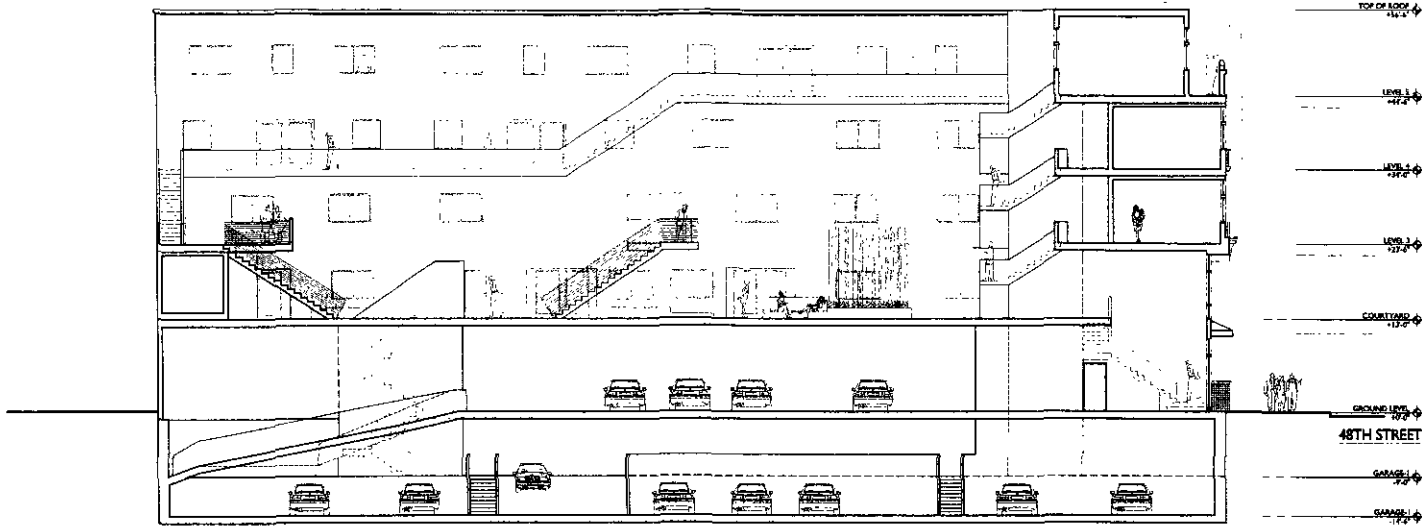
1 EAST ELEVATION

REVISION	DATE

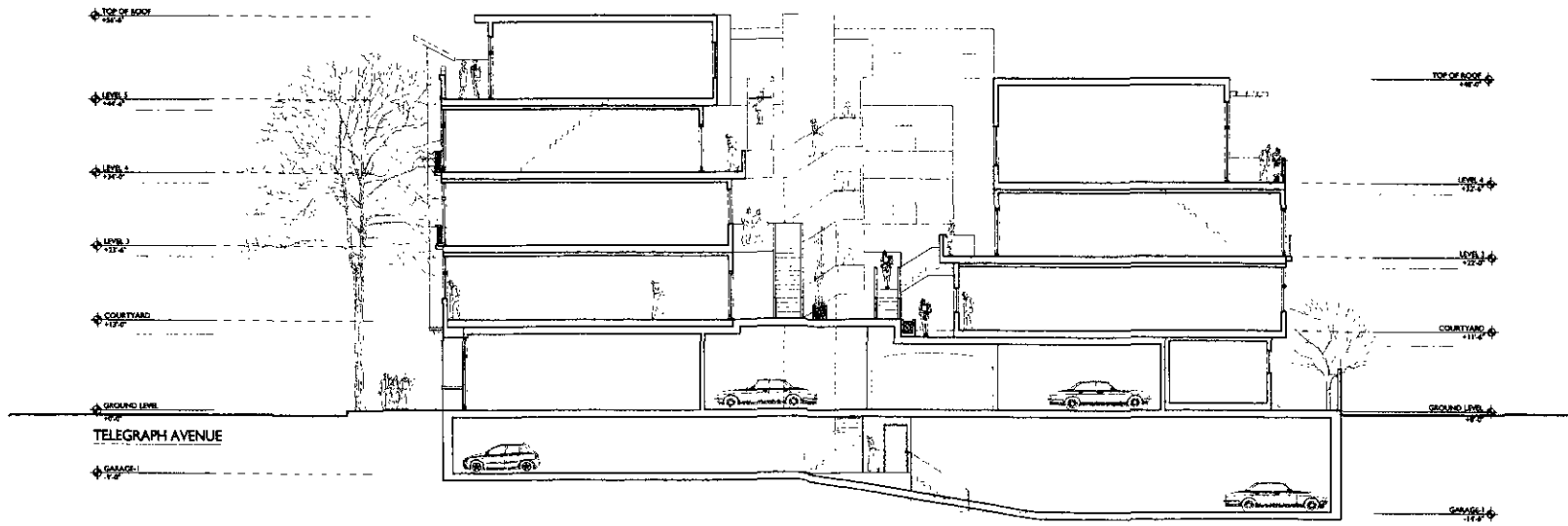
ARCHITECTURE
 bahn design associates
 1218 12th Street, Berkeley, CA 94712
 415.841.1222
 bahn@bahndesign.com

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT:
CENTRADA TEMESCAL
 4700 - 4770 TELEGRAPH AVE
 OAKLAND, CA 94709-1464
 (A.P.N. 013-115001701)
 (A.P.N. 013-115001902)
 (A.P.N. 013-115001903)

A4.2
 EAST ELEVATIONS
 SCALE: 1/8" = 1'-0"
 DRAWING NO. A4.2
 DATE



2 SECTION 2 (LOOKING SOUTH)
1/8" = 1'-0"



1 SECTION 1 (LOOKING NORTH)
1/8" = 1'-0"

REVISION	DATE
CLIP SUBMITTAL	11/13/18

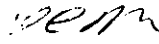
THIS DOCUMENT IS THE PROPERTY OF CENTRADA TEMESCAL ARCHITECTS AND ASSOCIATES. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE OR MODIFICATION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF CENTRADA TEMESCAL ARCHITECTS AND ASSOCIATES IS STRICTLY PROHIBITED. THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE OR INJURY RESULTING FROM THE USE OF THIS DOCUMENT.

ARCHITECTS
CENTRADA TEMESCAL
ARCHITECTS AND ASSOCIATES
310 South Street, Suite 200
Oakland, CA 94612
Tel: 415.763.1464
Fax: 415.763.1465

NEW 51 UNIT CONDOMINIUM & RETAIL MIXED USE PROJECT:
CENTRADA TEMESCAL
(A.P.N. 013-115001701)
4700 - 4770 TELEGRAPH AVE
(A.P.N. 013-115001902)
OAKLAND, CA 94709-1464
(A.P.N. 013-115001903)

SECTION 1 + 2
SCALE: 1/8" = 1'-0"
DRAWN BY: TL
JOB NO: ACK01
SHEET
A5.1
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CITY OF OAKLAND
Community and Economic Development Agency
MEMORANDUM

TO: Maurice Brenyah-Addow
FROM: David Mog 
DATE: June 6 2006

**SUBJECT: TPM 9164 One Lot Subdivision for Condominium Purposes
One Commercial and 51 Residential Condominiums
4700 Telegraph Avenue**

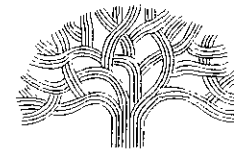
If the project is to be approved by the Advisory Agency, please attach the following "Conditions of Approval":

1. Show location of the City of Oakland monuments used to establish the basis of bearing and the property lines. Provide identification numbers for City of Oakland monuments.
2. Show location of existing and proposed drainage, sanitary sewer, water supply, and other utility facilities for each lot.
3. Provide the name and address of the divider.
4. Show location, purpose, and width of all existing and proposed easements.
5. The City's understanding is that all existing structures on the proposed lot will be demolished. No comments have therefore been prepared regarding the structures.
6. Note that the property lies within a seismic hazard zone with earthquake-induced liquefaction potential. A soils report may be required. If required, submit geotechnical reports meeting the guidelines of Special Publication 117 prepared by a licensed civil engineer or a registered engineering geologist to the City for review when applying for permits. Provide a statement on the final map indicating the property lies within a seismic hazard zone.
7. The proposed project may increase sanitary sewer flows beyond the capacity of the existing sanitary sewer system. Obtain approval from the City Public Works Agency concerning the extent of the sanitary sewer replacement and/or rehabilitation prior to the City issuing the Grading, Demolition or P-job Permit.
8. Improvements and/or replacement of existing sidewalks, curb, gutter, and roadway pavement sections may be required by the City. Any improvements within the public right-of-way will require a P-job permit from the City.

ATTACHMENT B

9. The existing traffic signals along Telegraph Avenue may require improvements to support the proposed traffic. Coordinate with the City's Traffic Engineering. Obtain approval for traffic signal modification/replacement from the City.
10. Obtain approval for driveway locations and proposed traffic movements from PWA prior to obtaining Grading, Demolition, or P-job permits.
11. Coordinate the project with AC Transit to determine if A.C. Transit is proposing any bus stops along this portion of Telegraph. Provide documentation of AC Transit review of the project.
12. Major and Minor Encroachment Permits shall be obtained prior to the approval of the Final Map or the issuance of Grading, Demolition, or P-job permits.
13. Obstruction permits for parking meter removal shall be obtained prior to obtaining Grading, Demolition, or P-job permits.
14. Copies of utility agreements regarding relocation shall be provided to the City prior to approval of the Final Map or issuance of any permits.
15. Overhead utility lines are located within the sidewalk area adjacent to the site. The City may require the overhead lines to be placed underground. Obtain approval from the City for the location of the joint trench and utility boxes.
16. Shoring and/or tie-backs used in construction may require Major Encroachment permits.
17. Utility vaults may require Major Encroachment permits.
18. No dedications or vacations are shown on the Tentative Parcel Map. Please confirm that no dedications or vacations are required for this project.
19. The existing street lights adjacent to the project may be removed during construction. Obtain approval for any removal and/or relocation of lights from the City.
20. New sidewalks and wheelchair ramps shall conform to City of Oakland standards.
21. Obtain a Tree Removal Permit from the City before removing any trees.
22. Note, new and/or revised storm water and Title 24 regulations are in affect. The project design shall conform to the new regulations.
23. Driveways openings and vehicular access shall conform to City of Oakland Standard Plans.

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2031

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3911
FAX: (510) 238-4730
TDD: (510) 839-6451

July 14, 2006

Roy Alper – Managing Member
4700 Telegraph LLC
P.O. Box 3705
Oakland, CA 94609

RE: Case File No. CMDV06-188 & TPM9164; APNs: 013-1150-017-01; 013-1150-019-02; & 013-1150-019-03

Dear Mr. Alper:

Your application as noted above was **APPROVED** at the City Planning Commission meeting of **July 12, 2006**. The Commission's action is indicated below. This action becomes final ten (10) days after the date of the meeting unless an appeal to the City Council is filed by **July 24, 2006**.

An Appeal to the City Council of this decision may be submitted within ten (10) calendar days (by 4:00 p.m.) of **July 12, 2006**. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California, 94612, and to the attention of **Maurice Brenyah-Addow, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence and must include payment of **\$710.31** in accordance with the City of Oakland Master Fee Schedule. The Planning and Zoning Division shall forward a copy of appeals submitted to the City Council to the City Clerk for scheduling. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you from raising such issues during your appeal and/or in court.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. You **may** record the NOE, the Environmental Declaration, and the De Minimis Impact Findings at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$25.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and three copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of **Maurice Brenyah-Addow, Planner III**. Although recordation of the Notice of Exemption (NOE) **is optional** pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE reduces the statute of limitations on challenges to your project, based on environmental issues, to 35 days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for challenges extends to 180 days.

If you have any questions, please contact the case planner, **Maurice Brenyah-Addow** at (510) 238-6342 or **mbrenyah@oaklandnet.com**.

(X) Granted with required conditions. (Vote: 5 - ayes, 0 - no)

ATTACHMENT B

CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

Modifications to the Conditions of Approval as made at the City Planning Commission meeting on July 12, 2006 are indicated in underlined type for additions and ~~cross-out type~~ for deletions.

STANDARD CONDITIONS:

1. Approved Use

Ongoing.

The project shall be recorded, constructed and operated as described in this report and the plans dated April 13, 2006 and submitted on April 13, 2006, and as amended by the following conditions. Any additional uses or facilities other than those approved with these permits, 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 Zoning Administrator.

2. Effective Date, Expiration, and Extensions

Ongoing.

This permit shall expire two calendar years from the date of this letter, the effective date of its granting, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, or proper recordation and filing of the Final Map in the case of the Tentative Map approval, has begun under necessary permits by this date. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of these permits, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

3. Scope of this Approval; Changes to Approval

Ongoing.

The project is approved pursuant to the Subdivision Regulations and the Planning Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. 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.

4. Reproduction of Conditions on Building Plans

Prior to issuance of building permit.

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

5. Modification of Conditions or Revocation

Ongoing.

The City Planning Department reserves the right, after notice and public hearing, if required, to alter Conditions of Approval or revoke this permit if it is found that the approved facility or use is violating any of the Conditions of Approval, any applicable codes, requirements, regulations or guidelines, or is causing a public nuisance.

6. Defense, Indemnification & Hold harmless

Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the 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.

CONSTRUCTION PROVISIONS:

7a. Construction Management Plan.

Prior to insurance of a building permit.

The applicant shall submit a construction staging and phasing plan to the Building Services Division with the application for any building or grading permits for the project. The construction management conditions required by the Planning Commission shall be included, as well as any additional detailed information or conditions required by Building Services. The plan shall at least include the following items:

- Identification of construction staging areas;

- Designation of main access routes to the site for construction equipment and materials, including truck routes that will be used for delivery or hauling away of materials;
- Designation of construction worker parking areas and designation of specific on-street parking areas;
- Power equipment shall include noise shielding and muffling devices;
- Placement of barriers around the project site, as feasible, and around any stationary power equipment (such as compressors) to reduce noise levels;
- Construction hours shall be limited to 7:00 AM to 7:00 PM Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 AM and 4:00 PM Monday through Friday, with no extreme noise permitted between 12:30 PM and 1:30 PM. No construction activities shall be allowed on weekends until after the building is enclosed, and then only within the interior of the building with the doors and windows closed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays;
- A notification process to residents in advance of particularly noisy construction activities. Posted signs at the construction site will include permitted construction days and hours, a day and evening contact number for the job site and a day and evening contact number for the City in the event of problems; and
- An on-site complaint and enforcement manager will be designated to respond to and track complaints. A pre-construction meeting with the job inspectors and the general contractor/on-site project manager will be held, to confirm that noise mitigation measures and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc).

7b. Dust Control.

On-going

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts including: watering all active construction areas as necessary to control dust; covering stockpiles of debris, soils or other material if blown by the wind; and sweeping adjacent public rights of way and streets daily if visible soil material or debris is carried onto these areas.

142

7c. Grading and Erosion Control

Prior to issuance of a grading permit

The applicant shall submit and receive approval for a site grading and drainage plan prior to any grading activities in conformance with City Ordinance 15.01 and Best Management Practices (BMP) for use during construction.

DEC 19 2006

7d. Payment of Sewer Mitigation Fees

Prior to issuance of the building permit

~~ORACOUNCIL~~
DEC 05 2006

~~ORACOUNCIL~~
OCT 31 2006

The applicant shall pay the required Sewer Mitigation Fees, as determined by the Public Works Agency.

UTILITY IMPROVEMENTS AND MAINTENANCE:

8. On-site and Off-site Street Improvements.

Prior to Approval of Final Parcel Map.

Comprehensive improvement plans for the private property and the public rights of way shall be submitted to the Engineering Services division, including but not limited to curbs, gutters, pedestrian ways (either replacement or new construction), sewer laterals, sewer mains, storm drains, street trees, paving details, street lighting, on-street parking and accessibility improvements required to comply with all applicable City standards, including but not limited to the following specific items:

- A site drainage and grading plan incorporating Best Management Practices (BMP) for use during construction and after project completion for maintenance and operation.
- Landscaping plans for the public right of way shall be submitted to the Director of Parks and Recreation for review and approval. Street trees shall conform to the requirements as set forth by the Director of Parks and Recreation.
- Fire safety standards and equipment including sprinklers and the location of fire hydrant to serve the project. These plans and specifications shall be reviewed and approved by the Oakland Fire Prevention Bureau and Engineering Services Division. A P-job permit shall be reviewed and approved from the Engineering Services Division prior to commencement of construction for all the infrastructure improvements.

9. Electrical Facilities.

Prior to installation.

All electric and telephone facilities, fire alarm conduits, exterior light wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Department.

10. Public Safety and Traffic Safety

Upon completion of the public improvements and prior to acceptance of such improvements by the City

The applicant shall implement a sign and pavement marking system consistent with City Standards, Fire Department standards, and Traffic Division requirements that clearly delineates the street frontages to be used for on-street parking, spaces and those areas where parking is prohibited. Other directional traffic signs shall also be included in this system for all public street frontages of the project.

PROJECT DESIGN CONDITIONS:

11. Lighting Plan.

Prior to issuance of the building permit for the first unit.

A lighting plan for the project shall be submitted to and approved by the Director of City Planning, with referral to other departments or divisions as appropriate, and shall include the design and location of all lighting fixtures or standards; and said lighting shall be installed such that it is adequately shielded and does not cast glare onto adjacent properties.

12. Landscaping Plan.

Prior to issuance of the building permit for the first unit.

The applicant shall submit a detailed on-site landscaping plan prepared by a certified landscape architect for the project to the Director of City Planning for review and approval prior to the issuance of a building permit for the first unit. The following items and requirements shall be incorporated into the plan:

- Quantity, sizes, common and botanical names of trees, shrubs, ground cover, and other plantings for the entire site;
- Specific planting details and plant materials shall be provided to screen exposed retaining walls, from both public rights of way and private property, especially, abutting properties;
- Any and all utility meters, transformers, and the like shall be screened from view from any public right-of-way.

SPECIFIC CONDITIONS

13. Modification to Plans

Ongoing

Changes to approved plans that would specifically amend the Tentative Parcel Map or building designs shall be submitted to and approved by the Zoning Administrator prior to recordation of the Final Map.

14. Covenants, Conditions and Restrictions & Homeowner's Association

Prior to certificate of occupancy.

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division for review. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold.

15. Relocation of existing Historic Properties

Prior to demolition of existing structures

The applicant is required to make reasonable efforts to relocate the existing potentially historic

~~Preservation element of the General Plan. Reasonable efforts shall include posting of visible signs at the site and placement of advertisements in major Bay Area news media.~~

15. Relocation of existing Historic Properties

Prior to demolition of existing structures

The applicant is required to make a good faith effort to relocate the existing potentially historic structures to an acceptable site in compliance with Policy 3.7 of the Oakland Historic Preservation element of the General Plan. Good faith efforts shall include posting of large visible signs (such as banners) at the site, placement of advertisements in major Bay Area news media including newspapers and internet sites such as Craig's List, and contacting neighborhood associations and for-profit and non-profit organizations such as the Oakland Heritage Alliance. The applicant shall be required to keep a log of all of the the good faith efforts and submit that along with photos of the subject buildings showing the large banner sign(s) on them to the Planning Department. The good faith effort shall include keeping the signs and advertisements in place as long as possible beyond the 90 day minimum posting period.

16. Submittal of Final Map and Final Map Requirements

Within two years of the effective date of approval, and ongoing

A Final Map shall be submitted to the Building Services Department, within 2 years of the approval of this permit. The Final Map shall include: all easements for right-of-way provided for public services or utilities; all property which is offered for dedication for public use; and all property that may be reserved by deed or covenant for common use of the property owners in the subdivision, in a form acceptable to the City Engineer and acceptance language by the City Engineer, along with all other supplementary maps or plans required as conditions of approval. The applicant shall record the Final Map and a written legal description of the reconfigured parcels as part of the deed with the Alameda County Recorder's Office and proof of such recordation shall be provided to the Planning Department prior to issuance of Building Permits. Except as provided in the Oakland Municipal Code sections 16.12.020 and 16.24.110, failure to file a Final Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Vesting Tentative Parcel Map.

17. Certification of Parcel Map

Ongoing

A Parcel Map may be certified by the City Engineer at the expiration of the ten-day appeal period from the date of this approval.

18. Address Signs

Ongoing

Address signs shall be located at the front of the site where they can be clearly identified from the street. The design and location of illuminated address signs be submitted to and approved by the Zoning Administrator prior to the filing for a final map; the signs shall be installed prior to issuance of the final map.

19. Building Services Requirements

Prior to Filing a Final Map and Ongoing

The applicant shall comply with all the requirements and Conditions of Approval imposed by Building Services (See "Attachment B").

~~20. Step Back at northeast corner of building~~

~~*Prior to application for building permits*~~

~~The applicant shall revise the plans to provide additional step back of the upper floor(s) at the northeast corner of the building to provide a smoother transition to the residential zone.~~

~~21. Modify building bays to meet required 10 foot setback~~

~~*Prior to application for building permits*~~

~~The applicant shall revise the proposed plans to provide the required unobstructed 10 foot side yard setback along the eastern property line.~~

20. Tenant Assistance Program

Prior to evicting current tenants and demolition of existing structures, the developer has voluntarily agreed to:

Develop and submit for review and approval, a comprehensive tenant assistance program that at a minimum includes:

- Incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the new units;
- Professional relocation and moving assistance and information to be provided to each tenant and all the steps the developer will take to ensure the successful relocation of each tenant;
- Additional specific steps that will be taken to assist elderly, disabled, and other tenants who may encounter difficulty in finding new quarters; and
- At least 60 days prior to required move-out of any tenants, the developer shall meet with affected tenants and offer reasonable relocation assistance to them including a minimum financial assistance of \$1000 per occupied unit, which shall be provided to the tenant(s) at least 30 days prior to required move-out.

The project developer shall implement the approved Tenant Assistance Program.

21. Traffic Report Recommendations

Prior to final inspections

The project developer shall implement the recommendations of the July 6, 2006 Traffic Impact Analysis prepared by DKS Associates, subject to City review and approval, as outlined below:

- Repaving of cracked sidewalks along the west side of 48th Street (south) where the sidewalk meets the building frontage;
- In order to provide adequate sight distance, driveway tipping of approximately 28 feet would be required in the westbound direction along Telegraph Avenue. Based on the sight distance analysis results, vehicles leaving the site would also need approximately 75 feet of driveway tipping in the eastbound direction along Telegraph Avenue;
- Upgrading of existing ADA ramps at the intersection of 48th Street & Telegraph Avenue to ADA compliance. The existing ramps are too small and do not include domes.

APPROVED BY:

City Planning Commission: July 12, 2006 (date) 5 - ayes and 0 - no (vote)

City Council: _____ (date) _____ (vote)

RETURN TO:

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

NOTICE OF EXEMPTION

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

Project Title: CMDV06-188 & TPM9164

Project Applicant: 4700 Telegraph LLC - Roy Alper-Managing Member

Project Location: 4700 Telegraph Avenue (APNs: 013-1150-017-01; 013-1150-019-02; & 013-1150-019-03)

Project Description: To construct a new 53,050 square-foot mixed-use building involving 51 residential condominium units (48,000 square feet) and ground floor commercial spaces (5,050 square feet).

Exempt Status: (check one)

Statutory Exemptions

{Article 18:Section 21080; 15260}

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- General Rule {Sec.15061 (b)(3)}
- Other: {Sec. _____}

Categorical Exemptions

{Article 19:Section 21084; 15300}

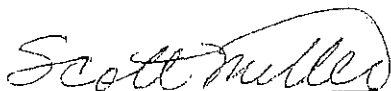
- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- Minor Subdivisions {Sec.15315}
- Infill Projects {Sec.15332}

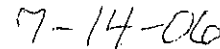
Reasons why project is exempt: Infill developments are categorically exempt from Environmental Review.

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

Department/Contact Person:

Phone:





Signature (Scott Miller, Zoning Manager)

Date:

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

*ENVIRONMENTAL DECLARATION
(CALIF. FISH AND GAME CODE SEC. 711.4)

: FOR COURT USE ONLY
:
:
NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY :
:
LEAD AGENCY: :
COMMUNITY & ECONOMIC :
DEVELOPMENT AGENCY/PLANNING: :
250 Frank H. Ogawa Plaza :
Room 2114 :
Oakland, CA 94612 :
:
APPLICANT: 4700 Telegraph LLC : _____
:
Contact: Roy Alper-Managing Member : FILING NO.
: _____

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:		<u>CLERK'S USE ONLY</u>
1.	NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION	PLU 117
<input checked="" type="checkbox"/>	A - STATUTORILY OR CATEGORICALLY EXEMPT \$25.00 (Twenty-five Dollars) - CLERK'S FEE	
<input type="checkbox"/>	B - DE MINIMUS IMPACT - CERTIFICATE OF FEE EXEMPTION REQUIRED \$25.00 (Twenty-five Dollars) - CLERK'S FEE	PLU 117
2.	NOTICE OF DETERMINATION - FEE REQUIRED	
<input type="checkbox"/>	A - NEGATIVE DECLARATION \$1,250.00 (Twelve Hundred Fifty Dollars)- STATE FILING FEE \$25.00 (Twenty-five Dollars) - CLERK'S FEE	PLU 116
<input type="checkbox"/>	B - ENVIRONMENTAL IMPACT REPORT \$850.00 --- (Eight Hundred Fifty Dollars) - STATE FILING FEE \$25.00 (Twenty-five Dollars) - CLERK'S FEE	PLU 115
<input type="checkbox"/>	C -- Certificate of Fee Exemption & De Minimis Impact Fee \$25.00 (Twenty-five Dollars) - CLERK'S FEE	PLU 117

*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

FIVE COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE. MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK



CITY OF OAKLAND
REQUEST FOR APPEAL OF DECISION TO
PLANNING COMMISSION OR CITY COUNCIL

(REVISED 8/14/02)

PROJECT INFORMATION

Case No. of Appealed Project: CMD 406-188 TRM 9164
Project Address of Appealed Project: 4700 Telegraph

APPELLANT INFORMATION:

Printed Name: Robert Temple Phone Number: 510 654 2329
Mailing Address: 552 47th St Alternate Contact Number:
City/Zip Code Oakland 94609 Representing: Telegraph Ave. Coalition

An appeal is hereby submitted on:

AN ADMINISTRATIVE DECISION (TO THE CITY PLANNING COMMISSION)

YOU MUST INDICATE ALL THAT APPLY:

- Approving an application for an Administrative Project
Denying an application for an Administrative Project
Administrative Determination or Interpretation by the Zoning Administrator
Other (please specify)

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
Determination of General Plan Conformity (OPC Sec. 17.01.080)
Design Review (OPC Sec. 17.136.080)
Small Project Design Review (OPC Sec. 17.136.130)
Minor Conditional Use Permit (OPC Sec. 17.134.060)
Minor Variance (OPC Sec. 17.148.060)
Tentative Parcel Map (OMC Section 16.304.100)
Certain Environmental Determinations (OPC Sec. 17.158.220)
Creek Protection Permit (OMC Sec. 13.16.450)
Creek Determination (OMC Sec. 13.16.460)
Hearing Officer's revocation/impose or amend conditions (OPC Secs. 15.152.150 & 15.156.160)
Other (please specify)

A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)

Granting an application to: OR Denying an application to:
Roy Alper managing member

(continued on reverse)

(Continued)

A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) OPC 17.136.070
17.148.070

An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision.

You must raise each and every issue you wish to appeal on this Request for Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Request for Appeal Form (or attached additional sheets), and provide supporting documentation along with this Request for Appeal Form, may preclude you from raising such issues during your appeal and/or in court.

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

see attached letter

Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form.)*

Ruber Dey
Signature of Appellant or Representative of
Appealing Organization

7/24/06
Date

Below For Staff Use Only

Date/Time Received Stamp Below:

Cashier's Receipt Stamp Below:

8/14/02

PTS100-01

UPDATE/QUERY PROJECT INFORMATION

7/24/06 15:47:52

Next Option: 101

Applic#* A06379 Type:

Date Filed: 07/24/06 Complete By: 08/23/06 Disposition:

	NUMBER	STREET NAME	SUFFIX*	SUITE	ASSESSOR	PARCEL#
Site addr: 1)	4700	TELEGRAPH	AV		013	-1150-017-01
2)						
3)						

Zoning* C-28 S-18

GP Use 3NC Prcl Cond: X Cond Aprvl: Viol: X

Proj Descr: Appeal of CMDV06-188 & TPM 9164 and CEQA exemption.

Environ Rev: Exempt? (Y/N): Y Sect: 15601

EX ER Applic#:

Track:

Lic#	Phone#	Applicant

Owner: 4700 TELEGRAPH LLC

Contractor:

Arch/Engr:

Agent: ROBERT TEMPLE

(510)654-2329 X

Applicant Addr: 552 47TH STREET

No Fee:

City/State: OAKLAND CA

Zip: 94609

Other Related Applic#s: CMDV06188 TPM9164 T0600046 VMCD06188

F3=Ext F5=Chg F6=Add F7=Fwd F8=Bck F11=Fnd F12=Prv F23=Dsc F24=Com

See Supporting documents

July 23, 2006

Maurice Brenyah-Addow
Planner III
City of Oakland
250 Frank Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Case Number CMDV06-188 & TPM9164; APNs: 013-1150-017-01;013-1150-019-02; & 013-1150-019-03

Dear Mr. Brenyah-Addow,

This letter constitutes our appeal to the Oakland City Council of the Planning Commission's decision on July 12, 2006 to approve the project at 4700 Telegraph (Case Number CMDV06-188 & TPM9164; APNs: 013-1150-017-01;013-1150-019-02;& 013-1150-019-03). Attached is a check in the amount of \$710.31.

The developers requested minor variances to allow for the following:

- a 56'6" building where 40' maximum is allowed in the C-28 Zone
- a building the height of 48' where 30' is allowed in the R35 Zone
- a zero front yard setback in the R-35 Zone where 20' minimum is required
- an 8' side yard setback where 10 feet minimum is required and a
- zero rear yard setback where 10' minimum is required in the C-28 Zone

We are appealing the Planning Commissions' decision to approve these variances and the Major Conditional Use Permit. In summary, we are challenging this based on the following:

- Height, scale in inconsistent with several policies of the General Plan
- Removal of PDHPs will alter historic character of neighborhood, contradicting General Plan policies
- It is not clear that PDHPs are being replaced with comparable or better quality and designed structures.
- The project removes 11 rental units and does not include affordable housing, diminishing the neighborhood's traditional social fabric
- Unreported traffic and traffic-related impacts
- Review of this project should be deferred until Community Planning Process currently underway for the area in which the project occurs is completed.

Objective N7 of the General Plan specifically states that, "While mixed unit neighborhoods are generally desirable, lack of attention to compatibility concerns has affected the character and stability of some areas of the City."

The General Plan clearly outlines the importance of keeping new development projects compatible with their surroundings. It clearly states that projects must be in scale and compatible with the surrounding fabric. The scale of the project proposed for 4700 Telegraph is not compatible with the fabric of the Temescal neighborhood. It also

removes historic buildings which have contributed to the neighborhood's character for over a century. The staff report states "the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations." The arguments below show this development is not in conformance with all applicable general plan policies of the General Plan.

Non Compliance with the General Plan or Zoning

The minor variances should not be granted because the development is not compatible with the density, scale, design, and existing or desired character of surrounding neighborhood.

The Staff Report lists a number of General Plan policies which are applicable to the project. There are, however, other relevant General Plan policies which the Staff Report does not mention. While it may not be necessary for the project to comply with each and every policy of the General Plan, Staff and Planning Commissioners should provide the rationale for why they place certain General plan policies over others. Following are the specific General Plan policies that were either omitted or not fully supported in the Staff Report and the Planning Commissioners' public comments.

Policy N7.1: Ensuring Compatible Development The Staff Report does not give the entire picture when it describes the project as satisfying Policy N7.1 , which states that "New residential development in Detached Unit and Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development."

The Telegraph façade is 16'6" over the 40' maximum allowed by C-28 zoning. The height is significantly taller than any building in the surrounding area, except for two buildings, one of which, a large condominium complex on 48th St., was completed two years ago by the applicant. Even with the proposed step-back on the Telegraph side, the project at nearly 57' significantly departs from residential neighborhood's defining scale. A step-back helps visually when viewed from directly opposite or below the facade, but views of buildings from along Telegraph and 48th St. will reveal the project's full height. Additionally, merging three parcels significantly changes the neighborhood look and feel.

The project partially falls within an area designated by the General Plan as "Mixed Housing Type Residential." Where the project steps down in the R-35 zoned area, the height is 18' over the 30' height limit allowed by R-35. Only a few examples of 3- and 4-story mixed housing types can be found in the general vicinity.

Also, it is unclear why the Notice of Exemption omits requiring the step back on the northeast corner of the building and modifying building bays to meet required 10 foot setback. (See #20 and 21 on the Notice of Exemption, page 26).

In addition, the density of this project and the cumulative effect of this and other developers' projects on or near Telegraph over time will create impacts that the neighborhood's infrastructure simply will not be able to absorb.

Traffic noise and the general pedestrian "stress-alert" instigated by traffic proximity are already so heavy at times on this particular section of Telegraph that the pleasure of walking is in danger of being significantly degraded by further development.

In a letter to A C Transit opposing further traffic tie-ups on this very section of Telegraph, the developer of the current project (Roy Alper) has himself spoken eloquently in words that support our urging more attention than the traffic report for this project gives. (See below for details of our specific appeal of the traffic study for the Centrada project). On behalf of area merchants seeking to enhance walkability, pleasant ambiance, and attract customers (presumably including potential buyers of housing on Telegraph) Mr. Alper stated,

“The Temescal Commercial Corridor is a rapidly growing commercial center. Vehicular traffic along this part of Telegraph Ave. is frequently dense and slow, particularly during rush hours. It is not uncommon for it to take more than one cycle of traffic signals to move through the 51st/Telegraph/Claremont intersection... The 51st/Telegraph/Claremont intersection is one of the most heavily traveled in Oakland. It is unique along Telegraph Ave., being impacted by four freeway on and off ramps, being the cross street for major east/west and north/south streets in North Oakland and being just a few blocks from the MacArthur BART station. The layout of streets at the intersection is certainly not optimal. Traffic frequently slows behind cars parking and trucks stopped to make deliveries to neighborhood businesses. A fire station is adjacent to the intersection and police/highway patrol use Telegraph for high speed movement. The concentration of hospitals on either side of Telegraph within two miles of the intersection results in Telegraph being a major corridor for speeding ambulances.

The current problems will be compounded in the future if care is not taken. The area is targeted for further growth and change in the Oakland General Plan, including a significant increase in housing and housing density to the west of Telegraph Ave between 40th and 51st Streets. Development of the MacArthur Transit Village, with hundreds of new housing units, is beginning to accelerate. “

A related crucial aspect of the current development brought to mind as well by Mr. Alper's letter of two years ago is the acknowledged impact of the planned MacArthur Transit Village just a seven blocks from the current proposal. There is a kind of “catch 22” situation that can occur when developers in an area cannot be expected to foresee all cumulative impacts of proposals on the books within a close timeframe. However, Mr. Alper (again, nothing personal, we believe he and his associates are doubtless very good people with the best of intentions for the area, though with a different perspective and vision for the area, and with different tastes for living directly on an urban traffic corridor perhaps than some of us) was well aware of this plan as well, no doubt, of most

if not all the other projects recently built, approved, or planned, many by himself and his associates.

Policy N7.1: Ensuring Compatible Development, as well as good urban design practice, requires the project to also relate to the nearby fabric of the Telegraph Ave. corridor. Both relationships should be reflected in the design.

In Policy N9.1: Recognizing Distinct Neighborhoods, the General Plan recognizes the importance of preserving the unique fabric of Oakland's neighborhoods. Policy N9.1 states "The City should encourage and support the identification of distinct neighborhoods." The related Objective N9 directs the City to "support and enhance the distinct character of different areas of the city."

Among the factors that define Temescal's commercial district—what differentiates it from, Fruitvale, Montclair, or downtown—are the two- and three-story, commercial-over-residential buildings; the mature Sycamores that line Telegraph; the beautifully maintained, historic block that is immediately south of the project; the views of the hills and sky; and the diverse range of storefront businesses and small cultural organizations up and down Telegraph. Telegraph Ave.'s human scale is a crucial part of what makes Temescal distinct, and the proposed 56'6" building at 4700 Telegraph would be a *significant break in the fabric of the neighborhood*.

While Telegraph Ave. in the Temescal neighborhood is designated as a "Grow and Change" area that should emphasize a significant increase in density, the General Plan does not specify any particular height or density. Even its formulas for maximum allowable density are expressly stated not to be taken as entitlements. Were all new proposals for Telegraph Ave. to stay within the 40' height limit allowed by the current C-28 zoning, density would be significantly increased.

Taking rental units away from the neighborhood changes the demographics of the traditionally working- and middle-class character of neighborhood. Without an affordable housing component, this project would further change the distinctive social fabric of the neighborhood. As local housing prices have escalated in recent years, the economic and ethnic diversity of those able to afford living in Temescal has decreased. This trend adversely affects the long-standing character of Temescal as an economically diverse neighborhood. The project's residential units may provide some diversity among residents, but all the units will be offered at market rate, making it impossible for lower income individuals and families to buy into the project.

This project should include a meaningful specified percentage of units as affordable housing, particularly when the city is poised to pass some form of an inclusionary housing ordinance. In so doing, the Temescal neighborhood will remain more affordable, and the city as a whole, as well as the Bay Area region, will be well served. Greenbelt Alliance, perhaps better than anyone else, understands the complex relationship between in-fill development and suburban sprawl. They know that building market-rate urban in-fill projects doesn't stem the tide of sprawl development unless affordable housing is provided in our cities.

Policy N9.8: Preserving History and Community The General Plan also promotes the uniqueness of neighborhoods through its Policy N9.8, which states, "Locations that create a sense of history and community within the City should be identified and preserved where feasible."

The Oakland Cultural Heritage Survey has given the existing buildings on the site a C-3 rating, making them Potential Designated Historic Properties (PDHPs). Having been built in 1903, these buildings have contributed to Temescal's architectural heritage for over 100 years. In addition, these non-blighted buildings provide eleven residential rental units. Demolishing these buildings would diminish both Temescal's heritage and much needed rental housing stock in the neighborhood. For these reasons, these buildings should be preserved on-site.

The Staff Report states that the "new building will be equal to or better in quality and appearance as compared to the pre-existing structures." This is arguable, as the PDHPs are unique in Temescal and have been judged by the Oakland Cultural Heritage Survey to be in excellent condition.

Policy N9.8: Preserving History and Community

Oakland planning commissioners, merchants speaking at planning commission hearings, and writing to commissioners, as well as the developer himself (see letter referenced above) have often urged concern for walkability and attractiveness to potential customers, to enliven retail business in the area. We who are appealing this project at this time, and urging at least a reprieve until neighbors can weigh in together in the planning process already begun by Councilwoman Brunner and Claudia Cappio of the planning department (see below), want increased density and shopping at businesses in the project area. However, as stated above, and by Mr. Alper himself, there is danger if the pace and density are more than the community can comfortably absorb. Community is not enhanced by the traffic congestion foreseen by Mr. Alper himself if extreme care is not taken. (See below for specific analysis of traffic report).

Policy N11.3: Requiring Strict Compliance with Variance Criteria

The General Plan warns against this type of development in its Policy N11.3: Requiring Strict Compliance with Variance Criteria, which states "As variances are exceptions to the adopted regulations and undermine those regulations when approved in large numbers, they should not be granted lightly and without strict compliance with defined conditions, including...that the variance will not adversely affect the surrounding area..."

Given the applicant's recently completed 63-foot-high project on 48th and Telegraph and the approval of his 56-foot-high project on Telegraph and 51st St., the approval of height and density variances on this project would further establish a precedent for incremental changes and increased height along Telegraph Ave. Currently there are at least a dozen sites in Temescal and lower Rockridge, along Telegraph, Claremont, and Broadway, that developers are eyeing, including several that the applicant now owns and intends to develop. Planning staff's recommendations and the Planning

Commission's approvals of developers' requests for height and setback variances is causing incremental change to the distinctive, historic fabric of the Temescal neighborhood.

CEQA EXEMPTION see supporting documents marked in red

Given that the project proposes 5,000 sq. ft. of ground floor commercial space, the eleven on-site parking spaces proposed for customers--and none for employees--seems grossly inadequate. While both 48th St. and Telegraph might be able to absorb some of the additional parking generated by the project, these public streets will not be able to accommodate all of the parking needs of retail customers, employees, and project residents who choose not to pay for an optional electric lift in the underground garage.

Under CEQA regulation this in-fill project is categorically exempt from environmental review. However, as described in the General Plan Analysis section, above, the project is inconsistent with several applicable General Plan policies. Therefore, it does not meet criterion a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations under the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines ("In-Fill Development Projects"). For this reason, this project does not qualify for the in-fill exemption.

The project also does not meet criterion d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, of the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines ("In-Fill Development Projects"). For this reason, this project does not qualify for the in-fill exemption.

Cumulative Impacts

SEE TRAFFIC BELOW

CEQA regulations pertaining to categorical exemptions are "inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." (CEQA Section 15300.2(b)).

1) The Traffic Study failed to include any analysis of potential cumulative traffic and air quality impacts from other pending development projects nearby, such as the Kaiser Hospital expansion, the MacArthur BART transit village, and the 4th bore/Caldecott Tunnel project.

2) The project developers have completed, have under construction or are planning to buy land parcels for the purpose of constructing mixed-use or residential only projects in the immediate neighborhood. These include:

- * The Kingfish Pub on Claremont Ave. and adjacent buildings on Claremont, and the two historic houses on Telegraph Ave;
- * Numerous properties on Telegraph and Claremont
- * 51st and Telegraph

- * The historic apartment buildings on the southeast corner of 48th and Telegraph, and the adjacent vacant lot;
- * The northwest corner of 48th St. and Shattuck Ave.(former Boys and Girls Club);
- * The north side of 48th St. between Shattuck and freeway.

Some of these projects are literally within footsteps of the proposed development and the others all are within four blocks of the heart of the neighborhood commercial shopping district that the proposed project anchors. The cumulative effect of these projects will significantly impact the environmental quality of the Temescal neighborhood.

3) Besides those mentioned above, there are other development proposals or opportunities in the neighborhood that will further add to the cumulative impact on the surrounding Temescal neighborhood. These include:

- * Telegraph Ave.and 43rd St., northeast corner;
- * Telegraph Ave.and 55th St., southeast corner;
- * 42nd and Opal (Matilda Brown Home);
- * Broadway between 45th and 49th streets, west side;
- * Broadway and 42nd St., southwest corner.

In total, all of the above mentioned projects represent at least 1,000 new residential units and dozens of new commercial spaces that will be built in the neighborhood. What the proposed project and these future projects have in common is that they will generate more vehicles that use the intersection of 51st St. and Telegraph Ave. as the main road to enter and exit Highway 24 and travel to a number of important destinations in North Oakland and Berkeley, such as the Rockridge Shopping Center, College Ave., Piedmont Ave., Grand Lake/Lakeshore, and UC Berkeley, to name just a few.

Traffic Impacts

As page 21 of the DKS Associates traffic study, states, "Intersection turning movement volumes for the other three study intersections [intersections of Telegraph Avenue & 51st Street, Telegraph Avenue & Claremont Avenue-52nd Street, and Shattuck & 52nd Street] were included in the recently completed 5110 Telegraph Avenue Mixed-Use development Project - Final TIA report, and used (in?) this analysis as well." Data for the first two of these three key intersections were not gathered directly by DKS for their analysis. It is important to note that nowhere in the DKS traffic study does DKS cite when the City-supplied turning movement data originally had been collected.

Document (2) shows that the turning movement counts provided by the City and incorporated into DKS Associates report were gathered April 28, 2004, making the data two years old. Document (3) was apparently gathered on a day sometime in December of 2005. According to Henry Choi, Assistant Transportation Engineer with the Traffic Engineering & Parking Division, the Division considers turning movement counts provided by the City to a traffic consultant to be out of date if data are more than six months old. In a telephone conversation on January 27, 2006, with Mark Spencer of DKS Associates, Mr. Spencer likewise explained to Jeff Norman that, in accordance with Traffic Engineering and Parking Division's expectation, it is the practice of DKS

Associates when performing a traffic study to update turning movement counts for intersections if those provided by the City are more than six months old. In using out-of-date data (while providing no justification for doing so), DKS Associates' actual performance contradicted its stated policy to use current data.

While a recent response by the city planning staff to this concern regarding the approved Civiq project by the same developers in the same area states "...The traffic consultant collected additional counts at these intersections in September 2005 to compare to the data provided ...and found that the City-provided data from 2004 were 25 percent higher on average than recent counts. To provide a more conservative analysis, the traffic study used the data provided by the city."

Several factors counter the planner's earlier response:

1) Both Mark Spencer of DKS Associates and Henry Choi of the Traffic Engineering & Parking Division in Oakland stated in conversations with neighbors that traffic volumes along Telegraph have been steadily rising.

2) There is no written confirmation provided for the assertion that more recent data collection at comparable times showed significantly less traffic than the earlier study. This is not to say that the traffic study or planners would intentionally mislead, but there are times when a desired outcome sways methods of gathering as well as of reporting data. There are discrepancies in both the traffic report as well as in the response from planners to our previously begun appeal to the Civic project. (See below). We must believe that the developers and their supporters in the planning department in good faith believe the project will fulfill promises such as to reduce air quality impacts elsewhere if infill developments such as this are built, (despite increasing evidence that the demographics of those who would buy market-rate condominiums on busy transit corridors are not the same as those for families moving out of cities. We who are appealing this project as presented also wish to increase density in Oakland. But with such significant changes as are presented to the many stakeholders in this community, as well as to the larger area and quality of life for the area by this project as well as cumulatively with proposals by the same developer and others in the area, we believe we must take utmost care to make statistics meaningful and consistent. (see below for some inconsistencies in the report.)

Despite planners' often requesting transit peakload information for certain times of the day, none are given in this traffic report.

The traffic study calls the area "relatively pedestrian friendly," page 16. Please see above to counter that.

The bicycle recommendations are inadequate, partly for the reasons given under livability criteria for pedestrians in the area (see above). The recommendation to extend Telegraph as a bike lane is not an attractive enticement for bicycle riders.

The cumulative impacts assumed in the traffic report were simply calculated based on a growth rate of 1.18%. It's somewhat complicated to gauge a boundary for the Temescal area, but Jeff Norman, who has worked much on the history of this area, has come up with a fairly good analysis. The 2000 census showed the area to have 6439 residents. If

one very conservatively estimates only the approximate 200 additional residents from recently approved or proposed projects, the growth rate by 2010 would be 3%. As stated elsewhere in this appeal, there are at least 1000 new residents planned for the area, an actual growth rate of 15%.

ABAG projections for the last 10 years have been low compared with actual number of residents in Oakland. If we look at statistics for Oakland's population by Oakland Real Estate websites, projections were almost 100,000 people low. The cumulative portion of the traffic report is therefore not relevant to the actual situation in Temescal.

Air Quality Impacts

This project will adversely affect the air quality for a number of reasons:

- 1) Residents' cars will be parked for several hours and then "started." A cold start from a car puts more pollutants in the air than a "warm start." There will be 51 residential cars cold starting on, presumably, a daily basis. Additionally, commercial tenants will qualify as cold starters since, again, presumably, they will be parked in their space for several hours before leaving to go home.
- 2) The traffic generated by this project throughout the neighborhood will lower the air quality as commercial tenants and residents with a second car park on the surrounding streets and cold start their cars.
- 3) There will be additional cumulative impacts to air quality from the additional vehicles that this project will bring into the neighborhood. Drivers of these vehicles will circle around looking for places to park since overflow from the project garage will tend to use up available on-street parking. These vehicles will emit exhaust and other materials that diminish air quality.

Findings for Approval

We are challenging the approval of the General Conditional Use Permit under sections 17.134.050 for the following reasons:

The Staff Report's Findings for Approval, Section 17.134.050 – General Use Permit Criteria, A is not supported because the approved height and setback variances WILL affect the livability of the surrounding neighborhood, and have a harmful effect with respect to "harmony in scale, bulk coverage and density," as well as "upon the desirable neighborhood character." In view of this, it is difficult to see how the Staff Report justifies the claim that "The portion of the project near the Temescal residential neighborhood is designed to preserve the existing character of the residential neighborhood by utilizing building forms and massing arrangements similar to the surrounding neighborhood."

The increased traffic and strain on the capacity of surrounding streets to support it, as well as the increased vulnerability of pedestrians and bicyclists resulting from the project, will adversely affect the livability of the immediate neighborhood.

Staff report does not give the entire picture when it describes the project as satisfying Policy N7.1: Ensuring Compatible Development, which states that "New residential development in Detached Unit and Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development." The height of the portion of the project that falls within the R-35 area of the project is a full 18' above the 30' allowed.

Under the Guidelines to Determine Project Conformity (Interim CUP for General Plan Density) the Staff Report includes the finding, "That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area." This finding is not supported. While specific design details might attempt to minimize visual impacts of the project, the project as a whole is out of scale with the neighborhood.

We are contesting the Staff Report's explanations provided in Section 17.136.070A - Residential Design Review for the following reasons:

17.136.070A - Residential Design Review, Variance Finding 1 The set of buildings, contrary to what is stated in the Staff Report, are NOT "well related to the surrounding area in their setting, scale, bulk, height." As mentioned, the overall height of the project is significantly higher than all but one of the buildings in the immediate vicinity.

With respect to Section 17.148.050 - Variance Findings, we are challenging the approval of the Major Variance and Minor Variances because the building height is not fully supported. It achieves density but is not consistent with the character of the neighborhood.

Public Participation

In the late 1980s, the Upper Telegraph Coalition formed to bring Telegraph Ave., from 38th St. to the Berkeley border, from what had been a hodgepodge of zoning classifications, into a single, C-28 designation. Among the many objectives of this widespread community effort was to increase meet-the street, higher density, residential-over commercial, mixed-use development. The many who were involved in the effort were clear that the 40-foot height limit established by C-28 would significantly increase density but to a level that complemented the existing fabric of the neighborhood and that the existing infrastructure could support. In 1992, with the cooperation of the Planning Department, the City Councilmember from District 1, Temescal Neighbors Together, and the Temescal Merchants Association, C-28 was adopted for Telegraph Ave., from 38th St. to the Berkeley border.

In 1998 the City adopted a new General Plan. The General Plan, which states that Zoning Regulations are the most important tool in controlling land development activities (section b1: Revise zoning regulations), requires the City "To establish and

maintain zoning regulations consistent with the General Plan..." This, however, has not been done, even though Policy N11.1: Required Zoning Consistency states that "Consistency between the General Plan and Zoning Regulations should be provided within a reasonable time period of adoption of the final elements." The result is that there remain significant inconsistencies between the two planning documents, and it is the Planning Commission that has the authority to resolve any discrepancies on a project-by-project basis. The pattern of decisions made in recent years by the Planning Commission, however, suggests a bias in favor of allowing maximum density projects as permitted by the General Plan even though the General Plan also clearly states that formulas deriving maximum project density are not entitlements. In this vacuum, the extended effort by the North Oakland community to define a unified approach to planning along Telegraph Ave. has been rendered null and void.

As a result of recent decisions by the Planning Commission to allow significantly taller, higher density projects in Temescal, hundreds of residents have voiced their opposition to this trend. In response, Councilmember Jane Brunner was joined by the rest of the City Council, in passing a resolution on March 21, 2006 creating in each of the city's council districts a facilitated process, supported by the Planning Department, whereby each community would create a set of guidelines for future development for their neighborhood. In Temescal, meetings have been held in April and July. Three more meetings, in August, September, and October, are scheduled. This process not only will bridge the gap between the General Plan and the city's Zoning Ordinance but give everyone in the community who is interested the opportunity to help determine what future development along Telegraph will look like.

This recent approval of new 5-6 story projects in Temescal has met much contention in the community. Our neighborhood group wants more development. But, we want responsible development that reflects the wide range of community values and the entire range of policies contained in the General Plan.

Discrepancies in Traffic Report:

Traffic Report Discrepancies

Projected trips generated (see 3+ pages following page 27) seem very low. There is a discrepancy with page 26 "projected trips..." and page 25 significance defined.

Cumulative impacts section of Traffic Study:

The cumulative impacts assumed in the traffic report were simply calculated based on a growth rate of 1.18%. It's somewhat complicated to gauge a boundary for the Temescal area, but Jeff Norman, who has worked much on the history of this area, has come up with a fairly good analysis. The 2000 census showed the area to have 6439 residents. If one very conservatively estimates only the approximate 200 additional residents from recently approved or proposed projects, the growth rate by 2010 would be 3%. As stated elsewhere in this appeal, there are at least 1000 new residents planned for the area, an actual growth rate of 15%.

Respectfully,

Robert Temple
On behalf of the Telegraph Ave. Coalition

4705 Telegraph PLEASE

see red below

while there is a small discussion of pedestrian safety, there is no discussion of bicycle use (unless dismissed as a mere footnote to see something through maps of so-called bicycle paths & lanes) are included

community, specifically pedestrian and bicycle transportation, and yet the Traffic Study says that the project is anticipated to increase those modes of travel.

3) The Oakland Pedestrian Master Plan calls for improving intersections to entice more citizens to walk. The failure of the Traffic Study to address the need to improve pedestrian safety at the Clarke Street and 51st Street intersection is a serious oversight. Many pedestrians can be seen attempting to cross the intersection from one side of 51st Street to the other to access the Redondo playground and the video store. The increased need for pedestrian safety which the project creates makes it imperative to improve the crossing at Clarke Street and 51st Street. A goal of enticing more citizens to walk is not achieved in raising the noise and fume level from new traffic sources in an already noisy and fumey area to the point where decreasing numbers of people will choose to want to walk here.

6) The Traffic Study also fails to account for additional traffic and parking generated by the staff of the project's commercial establishment(s), residents' visitors, and maintenance staff.

7) The accuracy of the Traffic Study's rating of the Telegraph Avenue and Claremont Avenue intersection in the p.m. north bound direction as LOS C must be challenged. The segment of Telegraph Avenue between 51st Street and Claremont Avenue often backs up in the north bound direction at commute and other hours because of the lack of coordination between the light signals and the amount of motor vehicle traffic turning from 51st Street east bound and heading north on Telegraph Avenue. As a result, it is not uncommon when traveling north to get stuck in the middle of 51st Street and Telegraph Avenue intersection.

8) The Traffic Study rates the intersection of Telegraph Avenue and 51st Street at LOS D (a.m. peak) and E (p.m. peak). This begs the question of how the City can categorically exempt from CEQA review such a dangerous and "under-performing" intersection. To make an analogy, if this report were your child's school report card, as a parent you would make every effort to work with your child to improve his or her grades, not ignore the report as too unimportant to give any attention. The City of Oakland, by categorically exempting this project, glosses over a very important finding which, at best, shows this to be a very difficult intersection to travel through and will, inevitably, at its worst, be the scene of any number of traffic accidents, some of which will result in very serious injury if not fatalities.

Air Quality Impacts

This project will adversely affect the air quality for a number of reasons:

while bus routes ~~are~~ & peak-traffic hour schedules are included the report does not address

several aspects of current OR planned transit use (not even mentioning nearby BART xid vitt)

over

no discussion of bicycle use (unless dismissed as a mere footnote to see something through maps of

so-called bicycle paths & lanes) are included

See next bunch bottom p

Due to many challenges of people who are already over

delivery etc.

change to

several

CEQA

~~capacitally at~~
~~night~~, buses often
don't come when
they're scheduled -
especially at night.

Real-Time LED signs
at stations could improve
that situation considerably,

~~This report~~

but this needs to
be planned for and addressed,
before we're asked
to accept significant
~~eyes~~ ^{cumulative} changes to
our neighborhood

~~Street~~
- Crime is a very
real issue that
does prevent people
from using ~~not~~ buses
~~mass transit~~

BACK

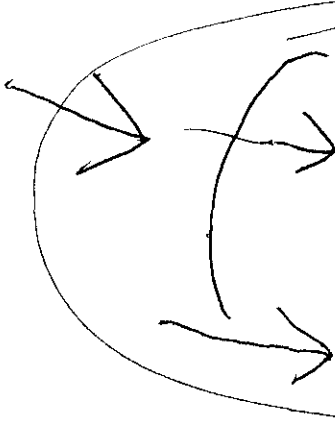
CEQA

increase in vehicle speed on the facility

Vehicle accident severity and injury fatality rates are proportional to vehicle speed. On average, each 1mph change in speed may reduce accident frequency by 5% with effects greatest for urban main roads and low speed residential roads.⁵ This project will increase speed between SR 13 and Fish Ranch Road in the East bound direction in the AM peak travel hours. The tunnel project has the potential to significantly worsen accident severity.

1. The EIR should analyze the impact of vehicle speed on the **distribution** of severe accidents, injuries and fatalities on the roadway based on available empirical research. *The number of severe accidents per vehicle trip or mile is not an appropriate metric from the cumulative human health burden of roadway accidents.*

This project will increase air quality and health hazards on sensitive receptors such as Chabot School



Vehicle emissions are associated with increases in acute and chronic respiratory disease among people living near roadways.^{6 7 8 9} The California Air Resources Board recently published guidelines which aim to decrease exposure to criteria air pollutants and toxic air contaminants related to vehicle air emissions.¹⁰ The CARB handbook bases its land use guidelines both on the long term lung cancer risks as well as short term health effects, including reduced lung function¹¹, bronchitis, asthma, and cardiovascular mortality.¹² These non-cancer health effects are not related exclusively to diesel exhaust particulates but also to non-diesel particulates from gasoline fueled cars and trucks.

1. The EIR should identify any existing sensitive populations and existing or sensitive uses for poor air quality (e.g. schools, child care facilities, residences). Sensitive receptors in proximity to the SR 24 corridor include as Chabot School, Claremont School, Chabot Field, Frank Ogawa Fields, Frog Park, and Rock La Fleche School, as well as numerous day care facilities. These sensitive receptors are already located in areas where fine and ultra fine particulate matter from vehicles on SR already creates a risk to health. Tunnel building will increase vehicle trips through the tunnel via induced demand and increase not decrease exposure fine and ultra fine particulate pollution to sensitive receptors the immediate area.
2. The EIR should analyze existing particulate levels using field measures or available modeling techniques.
3. The EIR should provide quantitative estimates of increases in vehicle emissions, including PM 10, PM 2.5, and ultra fine particulates in areas adjacent to the project which will bear project-related increases in vehicle trips.
4. The EIR should determine whether these changes in local air emissions might result in any adverse impacts on human health or childhood development in populations.¹³
5. The project should analyze appropriate mitigations in areas where exposure due to freeway emissions is greater than background exposure levels distant from the freeway. Examples of mitigations would include building ventilation and filtration systems for existing schools and planned school construction.

Limited and competitive funding for transportation infrastructure could harm environmental quality by limiting funding for environmentally preferable alternatives

Any potentially significant environmental effects indirectly related to social or economic effects of a decision must be analyzed under CEQA. The project has significant committed revenues to the Caldecott Tunnel Project but will require additional funding to enable construction. The use of limited transportation infrastructure funding resources for this project will involve trade-offs with other regional and local transportation projects. Many competing projects could facilitate reductions in vehicle travel, resulting in improvements in environmental quality. The Caldecott project might thus indirectly result in adverse environmental quality impacts due to funding limitations for environmentally beneficial transport projects.

1. The EIR should identify all sources of committed funding for the project, the likely sources of shortfall funding, and the potential alternative uses these sources of

RECEIVED

OCT 25 2005

CITY PLANNING COMMISSION
ZONING DIVISION

CITY OF OAKLAND
Public Works Agency
Transportation Services Division

Memorandum

To: Andrew Smith, CEDA
From: Philip Ho
cc: - Ade Oluwasogo, Wladimir Wlassowsky, Gary Patton
Date: October 21, 2005
Subject: Civiq
Scope of Study, Traffic Study Guidelines, and TSD Staff Cost

This memorandum is in response to your request for information on scope of study, traffic study guidelines, and TSD staff cost for future study and design review of this project. The information provided herein is based, in part, on the architectural plans we received.

Scope of Study

The following intersections should be analyzed as a part of a traffic study:

1. Telegraph Avenue / Shattuck Ave / 45th Street
2. Telegraph Avenue / 51st Street
3. Telegraph Avenue / 52nd Street - Claremont Ave
4. Telegraph Avenue / SR24 Eastbound On-Ramp
5. Telegraph Avenue / SR24 Westbound Off-Ramp
6. Claremont Avenue / Clifton Street / SR24 Eastbound Off-Ramp
7. Claremont Avenue / Clark Street
8. Clark Street / 51st Street
9. Broadway / 51st Street - Pleasant Valley Avenue
10. Shattuck Avenue / 52nd Street
11. Dover Street / 52nd Street
12. Martin Luther King Jr. Way / 52nd Street
13. Market Street / 52nd Street
14. Market Street / 53rd Street
15. Adeline Street / 53rd Street
16. San Pablo Avenue / 47th Street

Traffic Study Guidelines

A copy of the guidelines is attached.

15332. In-Fill Development Projects.

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

Discussion: This section is intended to promote infill development within urbanized areas. The class consists of environmentally benign in-fill projects which are consistent with local general plan and zoning requirements. This class is not intended to be applied to projects which would result in any significant traffic, noise, air quality, or water quality effects. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2.

5.0 PROJECT CONDITION

This section evaluates existing traffic conditions plus project-generated traffic estimated for the proposed project. The amount of traffic associated with a project is estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. Trip generation is the process of predicting the number of peak hour trips a proposed development would contribute to the roadways, and whether these trips would be entering or exiting the site. After the number of trips is determined, the distribution process projects the direction these trips use to approach and depart the site, from a regional perspective. Trip assignment involves determining which specific roadways a vehicle would use to travel between its origin and destination.

5.1 Significance Criteria and Project Impacts

The City of Oakland¹ defines a traffic impact as significant if:

- At a study signalized intersection the addition of the project traffic causes an intersection operating at LOS D or better under the existing condition to operate at LOS E or F.
- At a study signalized intersection the addition of the project traffic increases the average delay of any of the critical movements by six (6) seconds or more or degrade to worse than LOS E.
- At a study signalized intersection already operating at LOS E the addition of the project traffic increases the total intersection average vehicle delay by four (4) or more seconds.
- At a study signalized intersection already operating at LOS F the addition of the project traffic (a) increases the total intersection average vehicle delay by two (2) or more seconds or (2) an increase in average delay for any of the critical movements of four (4) seconds or more; or (c) the volume-to-capacity (V/C) ratio exceeds three (3) percent².
- At a study unsignalized intersection the criteria is established on a case - by-case basis; For this analysis an impact at an unsignalized intersection is considered significant if the project would add ten (10) or more peak-hour vehicles, and after project completion would satisfy the Caltrans peak hour volume traffic signal warrant³.

¹City of Oakland. CEQA Thresholds/Criteria of Significance Guidelines. August 17, 2004.

²But only if the delay values cannot be measured accurately.

³This approach is consistent with that used in the Oakland Army Base EIR. A Caltrans peak-hour traffic signal warrant is one of several warrants specified in the Caltrans *Traffic Manual*, Chapter 9 to determine the possible necessity for a new traffic signal installation.

5.3 Trip Distribution

The direction of approach and departure for project trips of the proposed project was estimated based on existing travel patterns and the locations of complementary land uses. DKS reviewed traffic volumes, turning movements at intersections, and locations of various land uses as part of this analysis. Based on existing travel patterns, it is assumed that most vehicles traveling within the study area along Telegraph Avenue travel to/from City of Berkeley and City of Oakland. Vehicles traveling along 51st Street and 52nd Street are assumed to be traveling to/from SR 24. Other vehicular activity is assumed to be internal within the vicinity of the project.

MEMO:
overlaid - for the
for SR 24, etc.

Appendix F includes the trip distribution at all study intersections.

5.4 Trip Assignment

Project-generated trips were assigned to the roadway network based on access points, trip distribution assumptions and likely travel patterns. The proportion of these trips that would travel through the study intersections was used for the intersection LOS analysis under the project condition. **Figure 5 and Figure 6** illustrate the trip assignment of the proposed development (commercial and residential), respectively.

5.5 Project Condition – Intersection Level of Service Analysis

Figure 7 illustrates the project scenario traffic volumes at each of the study intersections for the A.M. and P.M. peak hours. Intersection operational levels of service along with their associated critical and average delays are summarized in **Table 7**.

Even if parking were considered an environmental impact under CEQA, the project provides more parking than its projected demand. The City has recently used a parking demand rate of between 1.11 - 1.2 parking spaces per unit for high-density housing near transit lines (based upon adjusted ITE rates), which equates to a demand of about 81 spaces. For small, neighborhood serving commercial establishments, a demand rate of between .80-1.6 spaces per 1,000 square feet of retail has been used (adjusted ITE rates), which equates to a demand of about five spaces. Therefore, the total of 100 parking spaces is sufficient to meet demand, even if parking were considered a CEQA impact, which it is not. Also, as noted by the appellant, the project is characterized by convenience to public transportation and the ability of project residents to walk to nearby businesses in Temescal and Rockridge (see Attachment F, page 6).

In addition, the proposal provides more off-street parking than is required by the Zoning Regulations. The Zoning Regulations require a minimum of 93 off-street parking spaces to serve the 67 residential units in the project or approximately 1.4 parking spaces per unit (the zoning in the western portion of the site requires one space per unit while the zoning in the eastern portion of the site requires one and one-half spaces per unit). No off-street parking is required for the proposed 2,990 square-foot commercial space because it is less than the minimum 3,000 square-foot size threshold for when commercial parking is required. The proposal includes 100 off-street parking spaces in the underground parking garage. The seven surplus parking spaces could be used for commercial customers, commercial employees, residential visitors, or maintenance staff.

- 16. Traffic Generation:** The traffic study does not account for traffic generated by employees of the commercial space, visitors to the residential units, and maintenance staff.

Staff Response: The estimated vehicle trip generation rates for the project were based upon the Institute of Transportation Engineers Trip Generation manual (7th Edition, 2003). The trip generation rates take into account all expected vehicles trips associated with the project including traffic generated by commercial employees, residential visitors, and project maintenance staff.

- 17. LOS for Telegraph Avenue/Claremont Avenue intersection:** Assigning an LOS C to the Telegraph Avenue/Claremont Avenue intersection during p.m. peak hours must be challenged because it is not uncommon when traveling northbound to get stuck in the middle of the Telegraph Avenue/51st Street intersection.

Staff Response: The rating of the Telegraph Avenue/Claremont Avenue intersection as LOS B during p.m. peak hours (not LOS C as stated in the appeal) was based upon standard traffic impact analysis methodology. Level of Service B means that there will be short traffic delays of between 10-15 seconds at controlled intersections.

- 18. Telegraph Avenue/51st Street Intersection:** The project should not be considered exempt from CEQA review because the Telegraph Avenue/51st Street intersection

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City Council
March 21, 2006

2011/11/15

currently performs poorly with an LOS D (a.m. peak hours) and LOS E (p.m. peak hours) and the project will exacerbate this situation.

Staff Response: According to the traffic study the existing rating of the intersection is LOS C (during both a.m. and p.m. peak hours) not LOS D or E as stated in the appeal. The intersection will continue to operate at LOS C after the project is built.

NO - it's F during PM

- 19. Maneuvering From Clarke Street to Telegraph Avenue:** During peak hours it will be difficult for vehicles leaving the project on Clarke Street to turn right onto 51st Street and cross two lanes of traffic to turn left onto Telegraph Avenue because there is not enough road on 51st Street to travel from Clarke Street to the left-turn lanes.

Staff Response: The traffic study estimates that approximately 12 vehicles (six during a.m. peak hours and six during p.m. peak hours) will exit the project on Clarke Street, turn right onto 51st Street, and turn left onto Telegraph Avenue, equaling approximately one vehicle every ten minutes. According to the traffic consultant (see Attachment H), given the relatively low volume of traffic associated with the project that would use this route, the traffic consultant does not expect this to be a problem because the Clarke Street/51st Street intersection and the 51st Street/Telegraph Avenue intersection are approximately 525 feet apart which is considered a sufficient distance to allow the type maneuvering in question.

- 20. Westbound Traffic on 51st Street:** Currently, westbound traffic on 51st Street occasionally backs up as far as Miles Avenue, preventing drivers on Clarke Street and Miles Avenue from turning onto 51st Street, and the project will cause this situation to happen more frequently and for longer periods.

Staff Response: Based on field observations by the traffic consultant, the westbound queue on 51st Street normally dissipates within each signal cycle length thereby allowing existing and projected traffic from Clarke Street and Miles Avenue to merge into 51st Street.

- 21. Trip Reduction for Existing Parking Lot:** The number of vehicle trips expected to be generated by the project was erroneously calculated in the traffic study because the study subtracts 35 vehicle trips that are currently associated with the existing Children's Hospital parking lot on the site that would be replaced by the project. The 35 trips associated with the existing parking lot should not be compared to the proposed project because the peak in and out traffic for the parking lot would be at different times than for the project.

Staff Response: The trip reduction was calculated correctly. According to the traffic consultant (see Attachment H), the trip reduction was applied for vehicles arriving to the site during the a.m. peak hour (when vehicles currently arrive at the parking lot) and for vehicles departing the site during the p.m. peak hour (when vehicles currently depart the parking lot).

- 22. Age of Traffic Data:** The traffic counts used in the study are not current because they were collected in 2004.

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March 21, 2006

Staff Response: According to the traffic consultant (see Attachment H), data for the intersections of Clarke Street/51st Street and Clarke Street/Claremont Avenue were based upon vehicle counts taken during September 2005. Data for the intersections of Telegraph Avenue/Claremont Avenue and Telegraph Avenue/51st Street were based upon vehicle counts provided by the City. These counts were collected in 2004. The traffic consultant collected additional counts at these intersections in September 2005 to compare to the data provided by the City and found that the City-provided data from 2004 were 25 percent higher on average than recent counts. To provide a more conservative analysis, the traffic study used the data provided by the City.

No-
it's
FDWing PM

CEQA Exemption – Air Quality Impacts

23. Air Quality Impacts: The additional traffic generated by the project will negatively impact air quality in the neighborhood.

Staff Response: Potential air quality impacts due to traffic generated by the project are not significant. The traffic study expects the project to generate 778 vehicle trips per day, far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District considers the normal minimum traffic volume warranting a detailed air quality analysis. There is nothing unique about this project, site, or location warranting a detailed air quality analysis. Indeed, one of the main purposes of an urban in-fill project, like this project, is to reduce air quality impacts that might otherwise occur with more suburban or rural development, not located in employment centers or near mass transit. That is one reason why the Sierra Club supports this project.

Conditional Use Permit Criteria

24. Height and Density: The project is not consistent with conditional use permit Criterion A because the height and density of the project will affect the livability of the surrounding neighborhood, and have a harmful effect with respect to “harmony in scale, bulk, coverage and density,” as well as “upon the desirable neighborhood character.” Buildings 2, 3, and 4 are significantly taller than all nearby residential buildings which are predominantly one- and two-story single-family homes.

Staff Response: The Planning Commission found that the project is consistent with Criterion A as stated in the “Findings” section of the Planning Commission staff report (see Attachment C). Also, see the response to Argument #2 above. As noted by the appellant, there are other three- and four-story buildings in the neighborhood, including a four-story building close to the project site on Clarke Street (see Attachment F, page 9).

25. Traffic Impact on Livability: The project is not consistent with conditional use permit Criterion A because the traffic generated by the project will adversely affect the livability of the immediate neighborhood.

All Traffic Data

Site Code : 00000000

Start Date: 04/28/04

File I.D. : OAK7

Page : 2

CITY OF BERKELEY

(916) 771-8700

Fax 786-2879

Berkley

TELEGRAPH AVE.

6	20	505	132	277
				431
				241
				====
				949
		Inbound	663	
		Outbound	949	
		Total	1612	

20

241

808	95
	693
	20

277

693

Inbound 905

Outbound 808

515 Total 1713

Inbound 1056

Outbound 689 102

Total 1745

84

132	
515	689
42	

51ST ST.

29

Inbound	579
Outbound	691
Total	1270

102	95	431
505		
84		
====		
691		

42 11

All Traffic Data

CITY OF BERKELEY

(916) 771-8700

Fax 786-2879

Site Code : 00000000

Start Date: 04/28/04

File I.D. : OAK7

Page : 2

11	46	580	262	523
				715
				204
				====
				1442
		Inbound	899	
		Outbound	1442	
		Total	2341	

32

204

764	132
	586
	46

523

586

	Inbound	1461
	Outbound	764
799	Total	2225

	Inbound	910
	Outbound	1174
	Total	2084

90

262
799
113

51ST ST.

49

	Inbound	986
	Outbound	758
	Total	1744
88		132
580		715
90		
====		
758		

113

26

All Traffic Data

Site Code : 00000000
Start Date: 04/28/04
File I.D. : OAK6D
Page : 2

CITY OF BERKELEY

(916) 771-8700
Fax 786-2879

18	382	514	96	38
				767
				166
				====
				971
		Inbound	1010	
		Outbound	971	
		Total	1981	

16

52ND ST.

638	19
	237
	382

38

237

	Inbound	159
	Outbound	638
14	Total	797

	Inbound	499	
	Outbound	273	80
	Total	772	

63

96	
14	273
163	

44

	Inbound	949
	Outbound	657
	Total	1606

80	19	767
514		
63		
====		
657		

CLAREMONT AVE.

163

0

PM ①

All Traffic Data

CITY OF BERKELEY

(916) 771-8700
Fax 786-2879

Site Code : 00000000
Start Date: 04/28/04
File I.D. : OAK6D
Page : 2

27

52ND ST.

523	16
	118
	389

TELEGRAPH AVE.

389	752	119	5
			1050
			150
			=====
			1205
Inbound	1287		
Outbound	1205		
Total	2492		

14

150

5

Inbound	68
Outbound	523
4 Total	591

23

Inbound	395	
Outbound	499	113
Total	894	

118

119

4 499

376

36

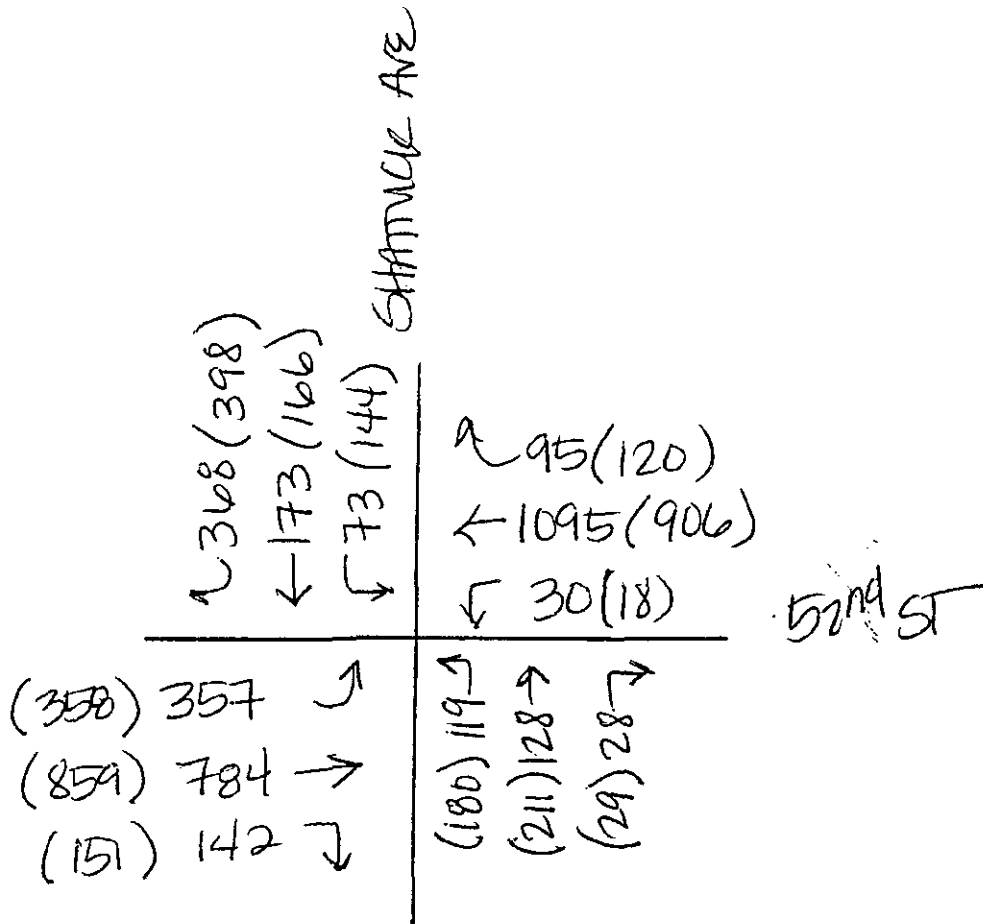
Inbound	1442
Outbound	888
Total	2330

113	16	1050
752		
23		
=====		
888		

376

0

CLAREMONT AVE.



SOURCE: 5110 TELEGRAPH AVE TIA
DEC 2005
DKS ASSOCIATES

PM ①

All Traffic Data

CITY OF BERKELEY

(916) 771-8700
Fax 786-2879

Site Code : 00000000
Start Date: 04/28/04
File I.D. : OAK6D
Page : 1

Start Time	TELEGRAPH AVE. Southbound					CLAREMONT AVE. Westbound					52ND ST. Northbound					52ND ST. Eastbound					Total		
	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Total	Peds	
4:00pm	22	141	84	247	6	24	23	30	77	0	5	234	57	296	0	2	2	5	9	16	651	22	629
4:15	23	130	86	239	5	26	26	29	81	2	3	255	59	317	0	4	4	7	15	8	667	15	652
4:30	28	171	90	289	7	34	24	32	90	5	3	254	62	319	0	2	3	4	9	10	729	22	707
4:45	24	171	85	280	4	34	28	34	96	2	2	264	67	333	0	4	2	9	15	3	733	9	724
Hour Total	97	613	345	1055	22	118	101	125	344	9	13	1007	245	1265	0	12	11	25	48	37	2780	68	2712
5:00pm	32	174	102	308	9	39	34	40	113	6	6	265	82	353	0	1	0	6	7	7	803	22	781
5:15	32	190	98	320	4	26	31	41	98	3	3	259	98	360	0	1	2	4	7	13	805	20	785
5:30	26	192	92	310	8	25	24	32	81	2	4	252	104	360	0	2	0	8	10	9	780	19	761
5:45	29	146	97	322	6	23	29	37	89	3	3	274	92	369	0	1	2	5	8	7	804	16	788
Hour Total	119	752	389	1260	27	113	118	150	381	14	16	1050	376	1442	0	5	4	23	32	36	3192	77	3115
Grand	216	1365	734	2315	49	231	219	275	725	23	29	2057	621	2707	0	17	15	48	80	73	5972	145	5827
% of Total	3.6	22.9	12.3%			3.9	3.7	4.6%			.5	34.4	10.4%		.3	.3	.8%				2.4%	97.6%	
Approch %				39.6%					12.5%					45.3%							2.6%		
% of Approch	9.1	57.7	31.0%			30.9	29.3	36.8%			1.1	76.0	22.9%		11.1	9.8	31.4%						

Peak Hour Analysis By Entire Intersection for the Period: 04:00pm to 05:45pm on 04/28/04

Direction	Street Name	Start Peak Hour	Peak Hr Factor	Volumes					Percentages			
				Left	Thru	Rght	Peds	Total	Left	Thru	Rght	Peds
Southbound	TELEGRAPH AVE.	05:00pm	.981	119	752	389	27	1287	9.2	58.4	30.2	2.0
Westbound	CLAREMONT AVE.		.830	113	118	150	14	395	28.6	29.8	37.9	3.5
Northbound			.977	16	1050	376	0	1442	1.1	72.8	26.0	.0
Eastbound	52ND ST.		.850	5	4	23	36	68	7.3	5.8	33.8	52.9

ATT ①

All Traffic Data

CITY OF BERKELEY

(916) 771-8700
Fax 786-2879

Site Code : 00000000
Start Date: 04/28/04
File I.D. : OAK6D
Page : 1

Start Time	TELEGRAPH AVE. Southbound					CLAREMONT AVE. Westbound					Northbound					52ND ST. Eastbound					Total - Peds		
	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Total	Peds	
7:00am	4	48	50	102	2	9	9	10	28	1	1	104	9	114	0	1	4	6	11	5	263	8	255
7:15	5	68	66	139	5	10	10	12	32	2	1	127	15	143	0	3	2	4	9	5	335	12	323
7:30	10	73	69	152	7	14	16	23	53	3	3	134	37	174	0	2	3	7	12	8	409	18	391
7:45	16	111	92	219	4	16	23	31	70	9	2	158	46	206	0	7	1	9	17	9	534	22	512
Hour Total	35	300	277	612	18	49	58	76	183	15	7	523	107	637	0	13	10	26	49	27	1541	60	1481
8:00am	21	101	86	208	3	17	42	40	99	5	5	190	39	234	0	6	2	13	21	15	585	23	562
8:15	24	132	97	253	5	23	65	39	127	4	4	189	42	235	0	9	4	19	32	9	665	18	647
8:30	27	148	85	260	7	21	71	42	134	3	6	180	37	223	0	11	3	17	31	11	669	21	648
8:45	24	133	114	271	3	19	59	45	123	4	4	208	45	257	0	12	5	14	31	9	698	16	682
Hour Total	96	514	382	992	18	80	237	166	483	16	19	767	163	949	0	38	14	63	115	44	2617	78	2539
Grand	131	814	659	1604	36	129	295	242	666	31	26	1290	270	1586	0	51	24	89	164	71	4158	138	4020
% of Total	3.2	19.6	15.8%			3.1	7.1	5.8%			.6	31.0	6.5%		1.2	.6	2.1%			3.3%	96.7%		
Apprch %				39.4%					16.8%				38.1%								5.7%		
% of Apprch	8.0	49.6	40.2%			18.5	42.3	34.7%			1.6	81.3	17.0%		21.7	10.2	37.9%						

Peak Hour Analysis By Entire Intersection for the Period: 07:00am to 08:45am on 04/28/04

Direction	Street Name	Start Peak Hour	Peak Hr Factor	Volumes					Percentages			
				Left	Thru	Rght	Peds	Total	Left	Thru	Rght	Peds
Southbound	TELEGRAPH AVE.	08:00am	.922	96	514	382	18	1010	9.5	50.8	37.8	1.7
Westbound	CLAREMONT AVE.		.911	80	237	166	16	499	16.0	47.4	33.2	3.2
Northbound			.923	19	767	163	0	949	2.0	80.8	17.1	.0
Eastbound	52ND ST.		.946	38	14	63	44	159	23.8	8.8	39.6	27.6

PM ③

All Traffic Data

CITY OF BERKELEY

(916) 771-8700
Fax 786-2879

Site Code : 00000000
Start Date: 04/28/04
File I.D. : OAK7
Page : 1

Start Time	TELEGRAPH AVE. Southbound					51ST ST. Westbound					Northbound					Eastbound					Total- Peds-		
	Left	Thru	Right	Totl	Peds	Left	Thru	Right	Totl	Peds	Left	Thru	Right	Totl	Peds	Left	Thru	Right	Totl	Peds	Total	Peds	
4:00pm	54	110	6	170	6	18	114	51	183	7	27	149	40	216	5	96	164	26	286	18	891	36	855
4:15	52	104	7	163	5	20	123	43	186	11	26	153	31	210	7	121	184	26	331	14	927	37	890
4:30	73	126	10	209	3	22	134	48	204	5	31	152	26	209	11	119	195	27	341	22	1004	41	963
4:45	76	125	13	214	8	25	146	42	213	12	36	170	23	228	10	121	183	25	329	13	1027	43	984
Hour Total	255	465	36	756	22	85	517	184	786	35	120	624	119	863	33	457	726	104	1287	67	3843	157	3692
5:00pm	65	142	12	219	3	21	157	50	228	9	28	174	30	232	7	129	194	24	347	16	1061	35	1026
5:15	63	146	11	220	2	22	145	44	211	9	35	183	32	250	9	133	202	26	361	11	1073	31	1042
5:30	71	144	10	225	4	23	143	57	223	5	41	179	24	244	5	124	216	22	362	9	1077	23	1054
5:45	63	148	13	224	2	22	141	53	216	9	28	179	27	234	5	137	187	18	342	13	1045	29	1016
Hour Total	262	580	46	888	11	88	586	204	878	32	132	715	113	960	26	523	799	90	1412	49	4256	118	4138
Grand	517	1045	82	1644	33	173	1103	388	1664	67	252	1339	232	1823	59	980	1525	194	2699	116	8105	275	7830
% of Total	6.4	12.9	1.0%			2.1	13.6	4.8%			3.1	16.5	2.9%			12.1	18.8	2.4%			3.4%	96.6%	
Approch %			20.7%					21.4%					23.2%					34.7%					
% of Apprch	30.8	62.3	4.9%			10.0	63.7	22.4%			13.4	71.1	12.3%			34.8	54.2	6.9%					

Peak Hour Analysis By Entire Intersection for the Period: 04:00pm to 05:45pm on 04/28/04

Direction	Street Name	Start Peak Hour	Peak Hr Factor	Volumes					Percentages			
				Left	Thru	Right	Peds	Total	Left	Thru	Right	Peds
Southbound	TELEGRAPH AVE.	05:00pm	.981	262	580	46	11	899	29.1	64.5	5.1	1.2
Westbound	51ST ST.		.960	88	586	204	32	910	9.6	64.3	22.4	3.5
Northbound			.952	132	715	113	26	986	13.3	72.5	11.4	2.6
Eastbound			.982	523	799	90	49	1461	35.7	54.6	6.1	3.3

AM (3)

All Traffic Data

CITY OF BERKELEY

(916) 771-8700
Fax 786-2879

Site Code : 00000000
Start Date: 04/28/04
File I.D. : OAK7
Page : 1

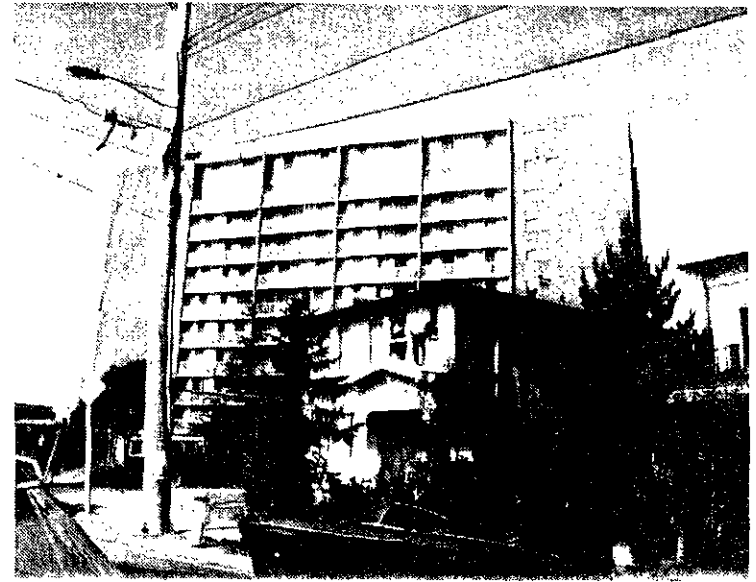
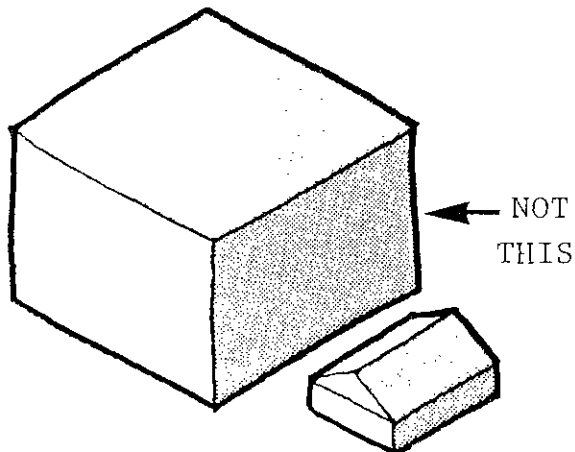
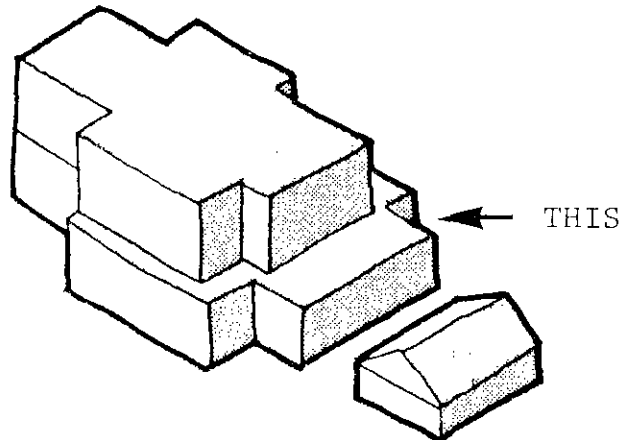
Start Time	TELEGRAPH AVE. Southbound					51ST ST. Westbound					Northbound					Eastbound							
	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Left	Thru	Rght	Totl	Peds	Total-	Peds=	
7:00am	8	54	1	63	0	6	79	18	103	5	16	75	9	100	0	21	57	8	86	4	361	9	352
7:15	13	67	2	82	1	10	89	26	125	2	12	66	8	86	2	51	71	12	134	7	439	12	427
7:30	20	71	3	94	0	12	108	35	155	5	19	77	13	109	2	62	83	14	159	3	527	10	517
7:45	36	94	6	136	1	17	125	64	206	6	16	76	11	103	5	66	129	19	214	6	677	18	659
Hour Total	77	286	12	375	2	45	401	143	589	18	63	294	41	398	9	200	340	53	593	20	2004	45	1955
8:00am	25	103	3	131	2	25	152	58	235	5	24	107	8	139	3	69	133	19	221	5	741	15	726
8:15	29	141	4	174	2	21	195	62	278	4	22	107	11	140	0	66	157	24	247	15	860	21	839
8:30	43	138	5	186	1	26	183	57	266	7	23	104	12	139	1	62	117	21	200	6	806	15	791
8:45	35	123	8	166	1	30	163	64	257	4	26	113	11	150	7	80	108	20	208	3	796	15	781
Hour Total	132	505	20	657	6	102	693	241	1036	20	95	431	42	568	11	277	515	84	876	29	3203	66	3137
Grand	209	791	32	1032	8	147	1094	384	1625	38	158	725	83	966	20	477	855	137	1469	49	5207	115	5092
% of Total	4.0	15.2	.6%			2.8	21.0	7.4%			3.0	13.9	1.6%			9.2	16.4	2.6%			2.2%	97.8%	
Approch %			20.0%					31.9%					18.9%					29.2%					
% of Approch	20.1	76.1	3.1%			8.8	65.8	23.1%			16.0	73.5	8.4%			31.4	56.3	9.0%					

Peak Hour Analysis By Entire Intersection for the Period: 07:00am to 08:45am on 04/28/04

Direction	Street Name	Start Peak Hour	Peak Hr Factor	Volumes				Percentages				
				Left	Thru	Rght	Peds	Total	Left	Thru	Rght	Peds
Southbound	TELEGRAPH AVE.	08:00am	.886	132	505	20	6	663	19.9	76.1	3.0	.9
Westbound	51ST ST.		.936	102	693	241	20	1056	9.6	65.6	22.8	1.8
Northbound			.922	95	431	42	11	579	16.4	74.4	7.2	1.8
Eastbound			.864	277	515	84	29	905	30.6	56.9	9.2	3.2

3. Neighborhood Scale

BREAK UP WALLS AND BUILDING BULK INTO COMPONENTS TO REFLECT SCALE OF ADJACENT DEVELOPMENT.



A larger new building often appears out of scale with its neighbors if not carefully designed.

A large building which is of a different scale than smaller structures in the immediate area can be softened and made more a part of the community by reducing its bulk over into smaller component parts.

This does not necessarily mean that the entire building should be broken down into sections that are more the size of nearby buildings. The same objective might be achieved by sensitive use of setbacks and variations in the building plan and profile.

MEMORANDUM

TO: Maurice Brenyah-Addow, City of Oakland
FROM: Mark Spencer and Patty Camacho, DKS Associates
DATE: October 9, 2006
SUBJECT: Response to Comments on Traffic Analysis – P 06124-000
Centrada Temescal Mixed-Use Project

DKS has prepared the following responses to comments noted in the appeal to the Centrada Temescal project (letter dated July 23, 2006).

Cumulative Impacts

1. The Traffic Study failed to include any analysis of potential cumulative traffic and air quality impacts from other pending development projects nearby, such as the Kaiser Hospital Expansion, the MacArthur BART transit village, and the 4th bore/Caldecott Tunnel project.

In order to determine the cumulative traffic at the study intersections, a growth factor of 1.18% per year to year 2025 was applied to the existing intersection volumes. The growth factor was based on projected growth within the vicinity of the project, as determined by a comparison of data in the Kaiser Hospital EIR.

The Kaiser Hospital EIR does not include any overlapping intersections to the Centrada Temescal project. Therefore, the intersection of 51st Street & Broadway was used as a basis for determining the projected growth. The growth factor takes into consideration traffic from proposed developments as well as ambient traffic growth that may occur due to speculative development in the area and the region.

The growth factor of 1.18% was reviewed and confirmed for use in traffic analysis by City of Oakland staff as part of the 5110 Telegraph Avenue (Civiq) project.

The MacArthur BART Transit Village Plan includes four (4) of the eight (8) study intersections analyzed as part of the Centrada Temescal Mixed-Use project. The intersections are:

1. Shattuck Ave & 52nd St
2. Telegraph Ave & 52nd St-Claremont Ave
3. Telegraph Ave & 51st St
4. Telegraph Ave – Shattuck Ave & 45th St

These intersections were studied to determine whether the project would result in significant cumulative impacts at the study intersections. In order for a project to have significant cumulative impact there must be unacceptable levels of service, the project must contribute five (5) percent or more of the cumulative traffic, and for unsignalized intersections, the unsignalized intersections must satisfy a Caltrans Peak-Hour traffic signal warrant.

Based on the cumulative impact criteria, the project would not contribute 5% or more of the cumulative traffic to these intersections. Therefore, the project would not cause a significant cumulative transportation impact.

Table 1 and **Table 2** provide a summary of the cumulative with project intersection level of service during the A.M. and P.M. peak hour, respectively.

TABLE 1

Existing vs. Cumulative with Project
Traffic Comparison Summary
A.M. Peak Hour

#	INTERSECTION	Existing	Cumulative w/Project	Δ	5% Threshold	Project Trips	More than 5%	Signal Warrant?
1	Shattuck Ave & 52 nd St	3,392	4,169	777	39	17	No	
2	Telegraph Ave & 52 nd St – Claremont Ave	2,539	3,177	638	32	9	No	
3	Telegraph Ave & 51 st St	3,087	3,879	792	40	27	No	
4	Telegraph Ave – Shattuck Ave & 45 th St	1,618	1,988	370	18	7	No	

TABLE 2

Existing vs. Cumulative with Project
Traffic Comparison Summary
P.M. Peak Hour

#	INTERSECTION	Existing	Cumulative w/Project	Δ	5% Threshold	Project Trips	More than 5%	Signal Warrant?
1	Shattuck Ave & 52 nd St	3,540	4,353	813	41	19	No	
2	Telegraph Ave & 52 nd St – Claremont Ave	3,115	3,897	782	39	10	No	
3	Telegraph Ave & 51 st St	4,138	5,194	1,056	53	31	No	
4	Telegraph Ave – Shattuck Ave & 45 th St	2,214	2,719	505	25	9	No	

The proposed 4th Bore of the Caldecott Tunnel is not approved and is not fully funded, and thus it is speculative to include these potential projects in the cumulative analysis.

2. Completed, under construction or planned projects.

Cumulative traffic is addressed in the response to comment number 1.

3. Other cumulative impacts.

Cumulative traffic is addressed in the response to comment number 1. It is also worth noting that each development must undergo its own environmental review process, at a level of detail determined to be appropriate per the City of Oakland.

Traffic Impacts

1. Intersection turning movement volumes for the other three study intersections [intersections of Telegraph Avenue & 51st Street, Telegraph Ave Telegraph Avenue/Claremont Avenue-52nd Street and Shattuck & 52nd Street] were included in the recently completed 5110 Telegraph Avenue Mixed-Use development Project – Final TIA Report and used (in?) this analysis as well," Data for the first two of these three key intersections were not gathered directly by DKS for their analysis. It is important to note that nowhere in the DKS traffic study does DKS cite when the City-supplied turning movement data originally had been collected.

The City of Oakland provided intersection turning movement volumes for the intersection of Telegraph Avenue/Claremont Avenue and Telegraph Avenue/51st Street. Both of these intersections are dated April 28, 2004. City staff suggested DKS should confirm traffic data for accuracy. DKS performed additional counts at these locations to compare to the data provided, and found that the City provided data were 25% higher on average than current conditions. Therefore, to provide a more conservative analysis, DKS used intersection turning movement volumes as provided by City of Oakland.

It is the intent of every traffic study to provide a conservative analysis. As a rule of thumb, data that is more than six months old are not used unless there are circumstances that warrant its use. This is one of those cases, as the older data provided for a more conservative analysis. This is consistent with standard traffic engineering practice.

There was no "desired outcome" for the traffic study other than to provide a conservative analysis that corresponds to the City of Oakland Traffic Impact Study guidelines and satisfies the City's rigorous review process.

2. Despite planner's often requesting transit peak load information for certain times of the day, none are given in this traffic report.

Based on the land use and size of the proposed project, it is anticipated that the transit mode share of the proposed project would be one to two percent of total trips. As such, the proposed project would generate one (1) to two (2) peak-hour transit trips each weekday. This would not significantly increase load factors on transit vehicles.

Regarding peak load information at certain times of the day, the information may be available from AC Transit. Transit peak loading data (by transit stop location or in terms of the number of transit riders by stop or line) were not part of the traffic analysis.

3. The traffic study calls the area "relatively pedestrian friendly," page 16. Please see above to counter that

Pedestrian facilities within the vicinity of the project site include sidewalks, crosswalks, ADA ramps and pedestrian signals. Sidewalks are provided on all sides adjacent to the project site and appear to be in good condition. The proposed project includes ground floor retail which will make pedestrian activity more appealing and significantly enhance the pedestrian experience. It has also been recommended that cracked sidewalks along the building frontage near 48th Street (south) be repaved in order to improve off-site circulation.

4. The bicycle recommendations are inadequate, partly for the reasons given under livability criteria for pedestrians in the area (see above). The recommendation to extend Telegraph as a bike lane is not attractive enticement for bicycle riders.

The proposed project will have bicycle parking and the local bike route is two blocks east at Webster St and 48th Street. Telegraph Avenue is a designated Class II (bike lane) facility. Shafter Avenue is a designated Class III (bike route).

5. The cumulative impacts assumed in the traffic report were simply calculated based on a growth rate of 1.18%. It's some what complicated to gauge a boundary for the Temescal area, but Jeff Norman, who has worked much on the history of this area, has come up with a fairly good analysis. The 2000 census showed the area to have 6,439 residents. If one very conservatively estimates only the approximate 200 additional residents from recently approved or proposed projects, the growth rate by 2010 would be 3%. As stated elsewhere in this appeal, there are at least 1000 new residents planned for the area, an actual growth rate of 15%.

ABAG projection for the lasts 10 years have been low compared with actual number of residents in Oakland. If we look at statistics for Oakland's population by Oakland Real Estate website, projection were almost 100,000 people low. The

cumulative portion of the traffic report is therefore not relevant to the actual situation in Temescal.

Comments regarding traffic growth on Telegraph Avenue and population growth should be taken in context. Traffic impact studies are typically based on an analysis of weekday AM and PM peak hours, which generally correspond to the morning and afternoon commute hours. Traffic can increase in some parts of the day and decrease in other parts of the day, and over the course of an entire day may increase or decrease over time. Factors such as land uses changes, location of land uses and their time-of-day peaking characteristics, and the directional orientation of traffic (e.g., residential uses have different traffic patterns at different times of day than commercial uses) and locations of job and shopping centers play an important role in projected traffic conditions. Also, both local and regional traffic patterns play an important role along Telegraph Avenue, as it is used for both types of traffic. For these reasons, traffic growth rates do not necessarily correspond to local or regional residential growth rates.

CENTRADA TEMESCAL
TENANT RELOCATION ASSISTANCE PLAN

The following elements of the Centrada Temescal Tenant Relocation Assistance Plan are submitted in compliance with Interim Conditional Use Permit CMDV06-188, Condition #20.

1. Tenants shall be provided no less than 60 days advance notice of their move-out date.
2. Rental deposit shall be returned after the move-out inspection per terms of the Rental Agreement. Tenants can request a pre-move out inspection according to State law.
3. Each household will receive 2 month's rent, but in no case shall this amount be less than \$1,000 per household. *(The City of Oakland's Redevelopment Agency requires a relocation allowance of 2 months' rent.)*
4. In addition to #3 above, each household shall receive a moving allowance of: \$500 for Studios/1 Bedroom; \$750 for 2 Bedroom; \$1000 for 3 Bedroom
5. An additional \$1,000 will be provided to any elderly person (65 years of age or older) or state certified disabled person.
6. Owners' representatives will provide referrals and resources from a local apartment management firm that specializes in area rentals.
7. Tenants interested in buying a unit in the future project may provide a forwarding address and receive information about affordable financing programs available for purchasing a unit.

Owner

Roy Alper for 4700 Telegraph, LLC

Date