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2020 **AGENDA REPORT**

TO: Sabrina B. Landreth
City Administrator

FROM: William A. Gilchrist
Director, PBD

SUBJECT: 1750 Broadway: "Appeal by Residents
of the 1770 Broadway Property"

DATE: January 13, 2020

City Administrator Approval

Date:

1/14/2020

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt A Resolution Denying The Appeal By The Residents of 1770 Broadway Led By Joseph Hornof (APL19010) And Upholding The Planning Commission's Environmental Determination And Approval of A Major Conditional Use Permit For Building Construction Over 200,000 Square Feet And Regular Design Review For The Project Located At 1750 Broadway, Oakland CA (PLN18369).

EXECUTIVE SUMMARY

On March 20, 2019, the Oakland City Planning Commission approved application PLN18369 by a vote of 4-0 for a Conditional Use Permit (CUP) and Design Review (DR) Permit for a mixed-use residential and commercial 37-story building in the Downtown Central Business District located at 1750 Broadway (Project). The Project consists of 5,000 square feet of ground floor commercial space, 307 residential units, and a 170-space parking garage. The Planning Commission made findings under the California Environmental Quality Act (CEQA) that the Project satisfied each of the following CEQA Guidelines: (a) 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning; (b) 15183.3 - Streamlining for Infill Projects; and (c) 15332 - Urban Infill Development. The Planning Commission also made findings to support the CUP and DR approvals, as required by the Planning Code. The associated Planning Commission staff report is attached (**Attachment A**).

Subsequent to the Planning Commission approval, an appeal was filed that challenged the approval of the Project. The appellant, represented by Joseph Hornof, claims: 1) the PLN18369 project is peculiar and unique; 2) the planning process has not been transparent; 3) the applicant reported false information; 4) a community meeting was held in short notice by the applicant; 5) the absence of three of seven Planning Commissioners led to unequal representation; 6) the application provided insufficient mitigation measures under CEQA; 7) there are many existing building windows along the property lines in downtown; 8) the Planning Commission did not consider the close distance between the existing and proposed buildings; 9) CEQA analysis did not assess impacts; 10) CEQA did not address construction impacts; 11) CEQA noise measures can't be implemented; 12) construction will violate noise ordinance; 13) construction crane will swing over 1770 Broadway airspace; 14) shadow study

is inaccurate; 15) project demolition is a risk to the 1770 Broadway residence; 16) housing disparity will be inflicted on the residents; 17) the project is not consistent with the General Plan; 18) the findings of approval are disputed; 19) the conditions of approval are insufficient; 20) conditions of approval should protect residents from building loss (**Attachment B**).

Based on the CUP, DR and CEQA findings made by the Planning Commission as part of their decision to approve the application, staff finds the appeal unsupported by the record and recommends that the City Council adopt a resolution denying the appeal and upholding the Planning Commission's approval of the Project.

BACKGROUND / LEGISLATIVE HISTORY

On September 4, 2018, the project applicant, Rubicon Point Partners, filed a formal application with the Bureau of Planning of the Planning & Building Department (PBD) to construct a 37-story high-rise consisting of 307 residential units totaling approximately 499,676 square feet, ground-floor commercial space of 5,000 square feet and a 170-space parking garage. The property contains a three-story commercial building occupied with administrative offices and a rear surface parking lot accessed from 19th Street. The project site is located in the Uptown district, between 16th and 19th Streets and next to the 19th Street Bay Area Rapid Transit (BART) Station on Broadway.

On January 31, 2018, the Design Review Committee (DRC) of the Planning Commission reviewed the proposal under Pre-Application ZP170064, and continued the application with the recommendation to the applicant to articulate the garage screen, refine the ground-floor façade, and keep visible the existing BART elevator. On November 28, 2018, the DRC supported the design revisions, and recommended the Project move forward to the Planning Commission for final review.

On March 20, 2019, the application was presented to the Planning Commission and included Project design revisions as suggested by the DRC. At this meeting, the Planning Commission considered the proposal and received public comments related to building demolition, construction and shadow impacts from the proposed Project (**Attachment A**). Following the public hearing, and deliberation on the record, the Planning Commission approved the application by a vote of 4-0. A copy of the Planning Commission's decision letter is found in **Attachment C**.

On April 1, 2019, residents of the 1770 Broadway property, led by Joseph Hornof, filed a timely appeal (APL19010) of the Planning Commission's approval of the Project.

ANALYSIS AND POLICY ALTERNATIVES

The appellant raises issues that are identified and included in **Attachment B** of this report. The Planning Commission considered and made findings to support the criteria for granting a CUP and DR permits as set forth in Sections 17.134.050 and 17.136.050 of the Planning Code, including CEQA compliance. In reviewing this appeal, City Council acts as an appellate body, and reviews the Planning Commission's findings for "abuse of discretion." The following outlines the appellant's arguments (*italics*), and is followed by staff responses:

1. *"The PLN18369 project is peculiar and unique...is not comparable to other projects...this project is unique due to its prolonged impact upon neighboring residents..."*

Staff Response:

The Project is not peculiar, as claimed by the appellant; it provides visual appeal with its contemporary design and is similar to new buildings and buildings currently under construction throughout downtown. The project is also next to the 19th Street BART Station, and based on design plans submitted, it is not directly above BART's facilities. Based on construction assumptions, the Project would take approximately 28 months to complete, similar to other new high-rises built or being built in the City's Central Business District. The Project's conditions of approval and mitigation measures will be applied and monitored to minimize or prevent impacts to surrounding properties.

2. *"The planning process has not been transparent...we have attended...and submitted written public feedback at each meeting. We have received no response or recognition from the Commissioners..."*

Staff Response:

The Project process has been transparent because public notices were mailed to property owners within 300 feet from the project site, posted on the project site and on the City's website for at least 17 days prior to the scheduled meeting, which is the required amount of time. Copies of all application documents were made available to the public at the Bureau of Planning offices. Public comments were also made available at the DRC and Planning Commission meetings. The Planning Commission did not abuse its discretion in approving the Project since it considered these public comments, which were included in the staff reports and heard in public testimony during the meetings.

3. *"The developers reported false information regarding community engagement...No action was taken by the Planning Commission to follow-up on Mr. Hornof's claim about falsely reported conversations between Rubicon Partners, himself and our residents..."*

Staff Response:

It is under the purview of the Planning Commission and DRC to oversee the General Plan policies and Planning Code in relation to the Project. Project records were made available to the public, and the commissioners had discretion whether to request clarification from the applicant on allegations of false information provided as claimed by the appellant. The Planning Code does not require the Planning Commission to inquire about communication between an applicant and community member(s) outside of the public hearing process.

4. *"A token community meeting was held after the approved plan was submitted...with only 30 hours' notice...from Rubicon Point Partners..."*

Staff Response:

The Planning Code does not regulate notification of community meetings between Project applicant and interested parties, so community meetings led by the project applicant are encouraged but not required to be held prior to public meetings. The

Planning Commission did not abuse its discretion in approving the Project without further applicant-led meetings.

5. *"Absence of Commissioners led to unequal representation at the March 20, 2019 Planning Commission meeting...the PLN18369 Project was approved by a quorum of just four members..."*

Staff Response:

On March 20, 2019, the Planning Commission had a quorum of at least four members who heard the applicant's presentation including the appellant's comments, received the Project staff report and made deliberations on the Project. Staff finds that this vote did not violate City codes because the Planning Commission had a quorum when the Project was heard and it was approved by all four commissioners in attendance. Even if all seven members of the Planning Commission had been in attendance, four votes would have been enough to approve the Project.

6. *"Insufficient mitigation measures...for the residents of 1770 Broadway has been discussed by the Planning Commission...with respect to light and air..."*

Staff Response:

The Planning Commission received a staff report, plans and an environmental analysis of the Project, as well as public comments. During Project deliberation, the Commission considered all conditions of approval related to light and air. In response to neighbors' concerns regarding insufficient light and air mitigation measures, the Commission added a Project design condition that the applicant study the feasibility of including a light-well on the north side of the new building. A large portion of the north side of the new building base is set back at least three feet from the existing light-well of the 1770 Broadway property. In addition, the north side of the Project tower is set back approximately 25 feet from the property line, thus providing light and air to the neighboring residential and commercial building.

7. *"Lot-line windows are found on many Downtown Oakland buildings...There are nine lot-line windows on the southern wall of our building, 1770 Broadway..."*

Staff Response:

Staff believes that the Planning Commission was not questioning or disputing the legality of the existing nine windows on the south side of the neighboring building at 1770 Broadway. However, staff notes that the new Project building would not impede the neighboring residents' windows because floors one through six of the new 1750 Broadway Project will be set back from the property line at least three feet, thus meeting the required building separation by the Building Code.

8. *"The distance between the existing structures has not been accurately calculated or considered...We want to emphasize that the existing building 1750 Broadway and the 1770 Broadway building are separated by no more than two inches at their shared property line..."*

Staff Response:

The Project topographic survey plan prepared by Red Plains Surveying Co. and submitted by the applicant shows an existing 0.3' (3.6 inches) gap between the two buildings, and not tied together as claimed by the appellant. The Planning Commission did not abuse its discretion in relying on the Project survey for the purpose of determining building separation.

9. *"PLN18369 California Environmental Quality Act (CEQA) reports do not accurately assess environmental impacts...in their entirety...the reports contain only scant references to the impacts this project places upon 1770 Broadway with barely a word acknowledging our human existence..."*

Staff Response:

The Project CEQA analysis included and described the 1770 Broadway as a mixed-use residential and commercial building. The CEQA analysis also identified surrounding uses or facilities, but it is not required to quantify in its analysis the number of residential units or occupants living at the 1770 Broadway property. However, the CEQA document analyzed potential impacts such as air quality, noise and shadow on surrounding properties and residents. The standard conditions of approval applicable to the Project would mitigate potential impacts to the neighbors, including vibration and noise reduction measures and the use of Tier 4 equipment to minimize health risks to the neighboring residents. The Planning Commission did not abuse its discretion in finding that the CEQA analysis provides adequate information and analysis regarding the existing conditions and potential impacts of the Project on the neighboring properties and residents.

10. *"PLN18369 CEQA reports minimize construction impacts...contrary to this plan's claims, it is not comparable to other projects..."*

Staff Response:

The Project CEQA analysis provided a thorough analysis of the potential impacts from construction of the Project, and concluded that the City's standard conditions of approval would reduce potential construction impacts to the surrounding properties, including the appellant's 1770 Broadway residences. The CEQA analysis also included other new projects in downtown that contain similar building heights that were approved or are under construction, such as 1314 Franklin St (40-story), 1900 Broadway (36-story) and 1640 Broadway (33-story). The proposed Project height is permitted and anticipated in this location and the construction schedule is not unique for this type of high-rise, high-density development. The Planning Commission did not abuse its discretion in finding that the Project would be in scale with the mix of high-rise buildings in the surrounding area.

11. *"CEQA recommended noise attenuation measures cannot be implemented..."*

Staff Response:

The Project CEQA document provided a detailed analysis that outlined noise attenuation measures to further minimize construction noise impacts to the adjacent residences. The

CEQA analysis also contained a set of site specific noise reduction measures for the Project applicant to implement prior to the submittal of construction plans. These mitigation measures were also included in the Project conditions of approval that the applicant will be required to meet prior to and during construction. In response to the appellant's concerns, the Project applicant also submitted a Construction Noise Management Plan (CNMP), prepared by Charles Salter Associates, Inc. This CNMP includes site-specific noise reduction measures that will be implemented by the Project applicant during construction (**Attachment E**).

12. *"Construction of PLN18369 will violate Oakland Planning Code Noise Ordinance".*

Staff Response:

Based on the approved CEQA Exemption Analysis, the Project would comply with the City Noise Ordinance, and any construction would be subject to the City's Standard Conditions of Approval. In addition, the Project applicant prepared a Construction Noise Management Plan (CNMP) in response to the appellant's concerns. The CNMP are not additional mitigation measures, but are customized to ensure the City's conditions of approval are effectively implemented prior to and during construction. As explained by the City's CEQA consultant in **Attachment F**, the applicant's CNMP shows that the Project construction will not violate the City's Noise Ordinance.

13. *"Will construction cranes be swinging over our heads? ...Will its crane swing heavy materials...above our airspace?"*

Staff Response:

High-rise construction requires cranes to be within the project site. The crane mast is typically anchored within the property, and the horizontal "jib" extension arm circles partially or wholly over adjacent properties during construction. A Project construction management plan is required for review by the City's Building Official that includes, among other items, liability insurance from the applicant to protect private and public properties.

14. *"1770 Broadway must be provided an accurate shadow study...The shadow study fails to consider the shadow...on our residential building..."*

Staff Response:

The Project CEQA document included a shadow analysis showing the Project would not substantially impair the significance of historic buildings within the vicinity. Based on the City's CEQA thresholds of significance, a significant impact would occur if a project was to create a shadow on a designated historic resource that would materially impair the historic resource's significance. In the case of the 1770 Broadway property, the building is a historic property. However, the building does not contain historical significant design features that are sunlight sensitive such as stained glass or design elements that rely on light such as open galleries, arcades or recessed balconies. Therefore, access to natural light is not a material character defining element, and new shadow on the building would not materially impair the building's historic significance. Although the shadow study in the CEQA document shows the correct shadow impacts for CEQA purposes, in

response to the appellant's concerns, the applicant has provided updated shadow diagrams more specifically showing the potential impacts of shadow on 1770 Broadway (**Attachment G**). These show that access to natural light is not a material character defining element of the 1770 Broadway historic building; and new shadow on the building would not materially impair the building's historic significance.

15. *"Demolition of the 1750 Broadway structure poses a risk to our residence."*

Staff Response:

The approval of the Project does not include demolition of the neighboring property at 1770 Broadway. The 1750 Broadway Project will be regulated through Standard Conditions of Approval that will require the applicant to submit a Construction Management Plan for review and approval by the City's Building Official. In addition, because the adjacent property is a historic building, the standard conditions require the applicant to submit a Vibration Analysis for approval prior to construction showing that the vibration from construction equipment will not cause damage to or interfere with the activities within the 1770 Broadway building.

16. *"The effects of housing disparity will inflict damage upon our residence..."*

Staff Response:

The effects of housing disparity and the type of income levels of the residents from the 1770 Broadway property is not project related. The Project does not require the removal or relocation of any of the adjacent residents because the new Project is being developed at a separate address, 1750 Broadway.

17. *"This project is not consistent with the General Plan Policies of the Central Business District... 47 units of existing affordable market-rate housing... may be taken out... if this project is allowed to proceed."*

Staff Response:

The Planning Commission found the Project met the policies of the General Plan for consistency by providing high density residential units in an attractive contemporary building, located next to public transit, and within walking distance of the Central Business District. The appellant claims that the Project may remove the "affordable market-rate" units from the adjacent 1770 Broadway property. Staff finds that the 1750 Broadway Project does not remove or pose a direct threat to any of the residential units in the adjacent 1770 Broadway property.

18. *"We dispute the findings of approval... In the long term the... PLN18369 could affect the structural stability of our residence... PLN18369 has absolutely no compatibility with surrounding buildings in the block."*

Staff Response:

The Project would not affect the stability of the adjacent properties, including 1770 Broadway, because demolition and construction plans will be prepared by qualified engineers and architects and reviewed by the City's Building Official. A vibration analysis

is required by the standard conditions of approval and requires the vibration impacts to be reduced to below thresholds that could damage the adjacent buildings. The Planning Commission did not abuse its discretion in finding that the Project would be compatible with surrounding properties because the new building has a slender design to manage mass, and adds visual interest and context to the urban character of downtown. In the surrounding area, similar high-rise buildings are under construction (1900 Broadway), and completed (1640 Broadway) and are within close proximity.

19. *"The conditions of approval for the PLN18369 project are insufficient...the conditions of approval would include licensed professionals to determine demolition and construction impacts...upon the 1770 Broadway residents..."*

Staff Response:

The Bureau of Building within PBD requires demolition and construction plans to be prepared by certified engineers and architects. The Project conditions of approval also require qualified consultants to prepare specific documents for City review. Staff finds that the Project will not have impacts to the adjacent 1770 Broadway property because the plans and related documents will be prepared by technical experts, and reviewed by the City.

20. *"The conditions of approval should account for the potential loss of our apartments...the rental agreement...affords the tenant rights...from unreasonable ...disturbances from the landlord and/or other neighbors, and a premise that is free of bodily hazards..."*

Staff Response:

The Project does not alter the rental agreement of the adjacent 1770 Broadway property. The conditions of approval for the 1750 Broadway Project regulate building demolition and construction, and a construction management plan, construction noise management plan, and vibration analysis would be required prior to building permit sign-off to minimize noise, vibration and air impacts. The Project would not result in the loss of the adjacent residential building because the Project does not include demolition of the 1770 Broadway property or removal of the residential tenants.

Policy Alternatives

The following options are available to the City Council:

1. Deny the appeal, uphold the Planning Commission's decision, and allow the Project to proceed as approved by the Planning Commission; or provided the City Council can make the appropriate findings;
2. Direct staff to prepare a Resolution for future City Council consideration to deny the appeal with additional Conditions of Approval solely related to the appellants' issues; or
3. Provided City Council can make the appropriate findings, direct staff to prepare a Resolution for future City Council consideration to uphold the appeal, reverse the Planning Commission's decision, and thereby deny the Project. Under this option, the

applicant would have the option of not pursuing the Project or of submitting a new application to the Bureau of Planning.

In selecting an option, the City Council is acting as an appellate body to determine if the Planning Commission's CEQA determination or approval of the Project was in error or an "abuse of discretion," or was not supported by substantial evidence in the record. As articulated above, staff believes that the Planning Commission did not commit error or abuse its discretion in making the CEQA determination and required findings under Sections 17.134.050 and 17.136.050 of the Planning Code and in approving the Project, in consideration of the entire record. Staff believes that there is substantial evidence in the record, including the Project documents, the CEQA Analysis, and all public comments and testimony, including this appeal, to support the Planning Commission's decisions.

FISCAL IMPACT

The Project involves a private development and will not require or result in direct costs to the City. If constructed, the Project would provide a positive fiscal impact by contributing to the funding for construction of affordable housing and capital improvements through development impact fees, increased property taxes, sales taxes, utility user taxes and business license taxes, while at the same time increasing the level of municipal services that must be provided.

PUBLIC OUTREACH / INTEREST

The Project was publicly noticed for a Planning Commission meeting on March 6, 2019, but per the applicant's request the Commission did not discuss the application and continued the item to the following March 20, 2019 public meeting. As required by the Planning Code, Public Notices were sent to all property owners within a 300-foot radius from the property and to interested parties. The two additional DRC public hearings were noticed similarly, and public notice signs were posted on the site at least 17 days prior to each meeting. This appeal was duly noticed by the City Clerk's Office 10 days prior to the City Council meeting, and the Bureau of Planning mailed and emailed public notices of the Project appeal to the appellant, applicant and interested parties at least 17 days prior to this meeting. The associated public notice is attached (*Attachment D*).

Rubicon Point Partners (Applicant) & Community Meeting

On February 26, 2019, the applicant held a community meeting to discuss the Project, and the overall concerns raised by the residents of the 1770 Broadway property regarding the following:

- Loss of sunlight from the existing south facing light-well windows
- Lack of demolition and construction details, and safety for the residents
- Length of construction activity, and potential impacts from noise and dust
- Location of new mechanical equipment near existing resident's windows

Project Applicant's Response to Appeals

On November 15, 2019 the project sponsor's attorney, Pelosi Law Group submitted a letter in regards of the two appeals filed, and requested that this letter be attached to the Agenda Report (***Attachment H***).

COORDINATION

This staff report was reviewed by different City Departments including PBD's Bureau of Planning, the City Attorney's Office, and the Budget Office.

SUSTAINABLE OPPORTUNITIES

Economic: The development of the Project would raise the property tax for the site due to the new 5,000 square foot commercial space, and 307 new residential units. The Project would also provide temporary construction jobs, and support the local retail uses in downtown.

Environmental: The Project is in an urbanized area and reduces pressure to build on undeveloped lands. The Project is near mass transit that enables residents to reduce dependency on vehicles. The Project enhances the urban setting because the site is located in the Central Business District and on Broadway, a major thoroughfare with convenient access to public transportation.

Race & Equity: The Project would contribute to a new supply of much-needed residential units and provide housing opportunities to Oakland residents by using collected fees from the City's Affordable Housing Development Impact Fees.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The California Environmental Quality Act (CEQA) of 1970, as prescribed by the City of Oakland's environmental review requirements, has been satisfied pursuant to CEQA Guidelines Sections 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning; 15183.3 - Streamlining for Infill Projects; and 15332 - Urban Infill Development.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt A Resolution Denying The Appeal By The Residents of 1770 Broadway Led By Joseph Hornof (APL19010) And Upholding The Planning Commission's Environmental Determination And Approval of A Major Conditional Use Permit For Building Construction Over 200,000 Square Feet And Regular Design Review For The Project Located At 1750 Broadway, Oakland CA (PLN18369).

For questions regarding this staff report, please contact Mike Rivera, Project Case Planner at (510) 238-6417.

Respectfully submitted,



WILLIAM A. GILCHRIST
Director, Planning and Building Department

Reviewed by:
Ed Manasse, Deputy Director/City Planner
Bureau of Planning

Prepared by:
Mike Rivera, Planner II
Bureau of Planning/ Development Projects

Attachments (8):

- A: March 20, 2019 Planning Commission Staff Report
- B: April 1, 2019 Appeal by Residents of 1700 Broadway
- C: Planning Commission Decision Letter
- D: Public Notice for the February 4, 2020 City Council Meeting
- E: Report by Charles Salter Associates, Inc., October 22, 2019
- F: ESA Memorandum-Responses, dated October 22, 2019
- G: Updated Shadow Diagrams by PreVision Design
- H. Pelosi Law Group, letter received on November 15, 2019

ATTACHMENT A

March 20, 2019 Planning Commission Staff Report

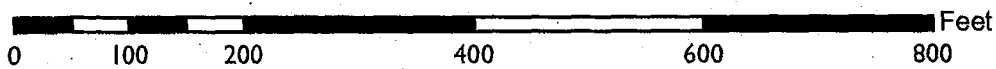
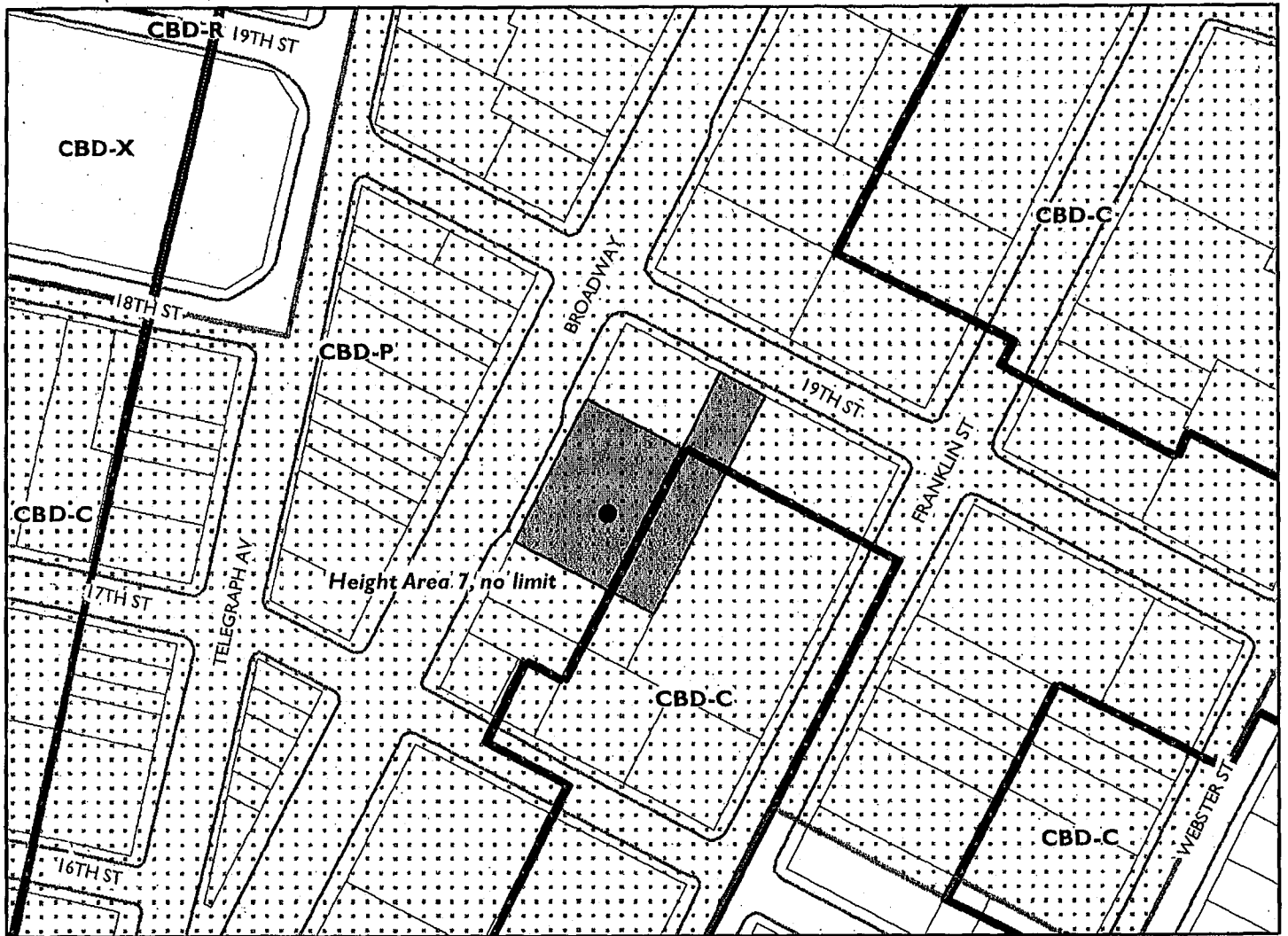
Project Location:	1750 Broadway. The property is located between 17 th and 19 th Streets.
Assessor's Parcel No:	008 062301300
Development Proposal:	To construct a 37-story building consisting of 307 market-rate residential units, approximately 5,000 square feet of retail space, and a five-level parking garage for 170 parking spaces to be accessed from 19 th Street.
Project Applicant / Phone Number:	Rubicon Point Partners, Chris Relf / (415) 500-6410
Property Owner:	1750 Broadway LLC
Case File Number:	PLN18369
Planning Permits Required:	Major Conditional Use Permit for development over 200,000 square feet in floor area in the Central Business District; and Regular Design Review for new building construction.
General Plan:	Central Business District
Zoning District:	CBD-P & CBD-C (Central Business District Pedestrian & Commercial)
Environmental Determination:	<p>A detailed CEQA (California Environmental Quality Act) Analysis was prepared for this project which concludes that the proposed development satisfies each of the following CEQA Guidelines: (A) 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning; (B) 15183.3 - Streamlining for Infill Projects; and (C) 15332-Urban Infill Development. Each of the foregoing provides a separate and independent basis for CEQA compliance.</p> <p>The CEQA Analysis document may be reviewed at the Bureau of Planning offices, located at 250 Frank Ogawa Plaza, 2nd Floor or online at http://www2.oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009157 (1750 Broadway CEQA Analysis Item # 82)</p> <p>The CEQA analysis relied upon in making the Environmental Determination and incorporated by reference within the CEQA Analysis document includes the LUTE (Land Use Transportation Element) EIR which can be viewed here: http://www2.oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009158 (LUTE / Item #1)</p>
Historic Status:	Non-Historic Property
City Council District:	3- McElhaney
Date Filed:	09/06/18
Action to be Taken:	Decision based on staff report
For Further Information:	Contact Project Case Planner, Mike Rivera at (510) 238-6417 or by email at mriviera@oaklandnet.com

#1

SUMMARY

The development proposal is for the construction of a mixed-use project that consists of an approximately 423-foot high, 37-story residential building with retail space, and a five-level parking garage above. The property is located in the Uptown district, and is surrounded by a mix of commercial, civic and residential properties. The project is also located adjacent to the 19th Street BART Station and entertainment venues. The property contains a three-story commercial building with a rear parking lot that would be removed. The application requires two Planning permits, a Major Conditional Use Permit for new development

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN18369
Applicant: Rubicon Point Partners, Chris Relf
Address: 1750 Broadway
Zones: CBD-P & CBD-C
Height Area: 7, no limit

over 200,000 square foot in area, and Regular Design Review for new construction. The proposal requires a determination by the Planning Commission.

For the reasons set forth in this report, staff recommends that the Planning Commission (1) affirm staff's Environmental Determination and adopt the attached CEQA Findings; and (2) approve the project, including Major Conditional Use Permit, and Regular Design Review, subject to the attached findings and conditions (including the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program / SCAMMRP) contained in this report and related project documents.

PROJECT SITE AND SURROUNDINGS

The site consists of a 27,600 square feet parcel that has two separate frontages, the main frontage on Broadway and the second one on 19th Street. The property contains a three-story commercial building that operates as an office with a rear parking lot that will be replaced by the new mixed use development. The proposed development abuts to the north a five-story commercial and residential building, to the east a three-story parking garage and south a three-story commercial buildings. The immediate properties across Broadway and 19th Street are a mix of commercial and residential facilities that contain two-and five-story buildings. Other facilities in the surrounding area are offices, schools, restaurant/bars, entertainment venues, and new commercial and residential buildings under construction. The property is in the Uptown district, the streets are a mix of four-lane (Broadway) and two-lane (19th St.) roads, and is adjacent to the 19th Street BART Stations, AC transit bus lines, and the free "B" shuttle bus.

PROJECT DESCRIPTION

The property is located east of Broadway, between 17th and 19 Streets in the Uptown district. The development proposal is to construct a 37-story building with ground-floor containing two lobby lounges, commercial / retail space, mail room, service rooms, residential loading docks and a front transformer utility room. The existing service elevator for the 19th Street BART Station, located on Broadway, will be replaced as part of the project and remain. The main pedestrian entry to the project would be on Broadway and the parking garage would be accessed from 19th Street. A second access to the residential lobby and garage will be from 19th through a recessed an articulated metal and glass door and a decorative driveway with a perforated metal garage door. The proposed underground basement contains additional utility rooms and tenant storage.

The five-story parking garage (levels 2-6) whose access is from 19th Street provides 170 parking spaces for the project residents and includes a laundry service, dog run park/ dog wash room and additional bicycle parking storage (levels 2 & 3). The building provides an amenity floor area (level 7) that contains fitness/gym, showers/ sauna, lounge, children's play area, lounge/terrace, raised planters and an outdoor lap pool / hot tub (east side).

The 307 residential units (levels 8-35) include a mix of studios, one-bedroom, two-bedroom and three-bedroom units. The project also contains a second residents' amenity floor area (level 36) that includes residents' lounge/dining, game room, library, screening room, bathrooms/showers, solarium and an outdoor terrace / pool (south west of the building). The project includes three new street trees along Broadway.

BUILDING DESIGN

The proposal contains a building footprint that covers the entire parcel area, and tower that covers approximately 85 percent on the parcel area. The building mass of the 37-story tower is broken-up with inward angled facades, recessed wall planes, courtyard terraces and angular glass balconies to provide an interesting visual façade and help define the urban corridor. The building also provides different window size pattern with tall glazing windows on the building northwest corner and on the top of the tower. Some other windows are semi-recessed from the building façade and some contain small viewing balconies. The tower includes vertical and horizontal metal panel siding materials, angled metal screens for the garage façade (curtain wall) colored vent louvers, glazed storefront and dark cladding for the transformer room facing Broadway. The variation of techniques, materials and colors help to manage mass and scale that resulting in a coherent design that creates a distinctive building that adds visual interest to the character of the area and to the skyline of the City.

GENERAL PLAN ANALYSIS

The development proposal is located in the “Central Business District” General Plan Use Classification. The intent of the Central Business District is to encourage, support, and enhance areas as a high density mixed-use urban center of regional importance and a hub for business, communications, office, government, high technology, retail, entertainment and transportation. The desired character and uses include a mix of large-scale offices, commercial, urban high-rise residential, cultural, educational, arts, services, community facilities and visitor uses.

The Central Business District also sets the goals and vision to enhance the identity of Downtown and its distinctive districts by setting policies that are related to specific project developments. The following are the General Plan Policies applicable to the proposal and the project development should be consistent when a future determination is made by the decision body, the Planning Commission. These are:

Policy D1.1: Enhance the visual quality of downtown by preserving and improving existing housing stock and encouraging new, high quality design. New housing development in downtown will provide urban dwellers with expanded options for living in a revitalized inner city, near major transportation lines, employment centers.

The proposal would provide a mix of type and size of new residential units in an attractive contemporary building that fits with the downtown setting, is adjacent to BART and AC Transit lines, and is within walking distance to the Central Business District.

Policy D2.1: Downtown development should be visually interesting, harmonize with its surrounding, respect and enhance important views in and of the downtown, respect the character and pedestrian orientation of the downtown, and contribute to an attractive skyline.

The proposal is a high-rise that is set back approximately 15 feet from the road, contains angled facades, floor-to-ceiling glass windows, metal/stainless steel cladding and architectural features that provide visual interest to the city's skyline.

Policy D5.1: Encouraging twenty-four hour activities and amenities that encourage pedestrian traffic during the work week as well as evenings and weekends should be promoted.

The proposal will create 307 new residential units and ground floor commercial area that would contribute to the increase of foot traffic in the immediate area, and thus serve existing and new commercial and entertainment venues in downtown.

Policy D9.1: Concentrating commercial development in the corridor around Broadway that encourage a pedestrian-friendly environment.

The proposal includes the development of an approximately 5,000 square foot ground-floor retail space, located in the uptown district, on Broadway and in between 17th and 19th Streets. The commercial facility is also adjacent to the 19th Street BART Station that makes it convenient and pedestrian-friendly to the general public.

Policy D10.1: Housing in the downtown should be encouraged as a vital component of a 24-hour community presence.

The proposal creates high density residential development that will contribute to the urban setting by adding new residents, thus supporting the downtown functions that are vital components to the operation for a successful 24-hour community presence.

Policy D10.2: Housing location in downtown should be encouraged in identifiable districts, within walking distance of the 12th Street, 19th Street, City Center and the Lake Merritt BART stations to encourage transit use and in other locations where compatible with surrounding uses.

The 307-residential unit proposal is located in downtown, in the uptown neighborhood, and in the Central Business District. The project is adjacent to the 19th Street BART station and within two blocks from the City Center BART Station, which will encourage new project residents to use this transit system.

Policy D10.3: Downtown residential areas should generally be within the urban density residential and Central Business District. The height and bulk should reflect existing and desired district character, the overall city skyline.

The proposal is located in downtown, in the uptown neighborhood, and in the Central Business District. The project is surrounded by existing medium-density, new high-density residential buildings under construction and other recently approved high-density buildings. The proposals' building height and bulk reflect some of the new buildings in the area with a contemporary design that contributes to the urban setting of the City's skyline.

Policy D10.5: Housing in the downtown should be safe and attractive and of high quality design and respect the downtown distinctive neighborhoods and its history.

The proposal is a high-rise residential development that will meet required Building codes for safety. The building has interesting design features and uses quality materials to create an attractive and distinctive design, while respecting the character of nearby buildings.

ZONING ANALYSIS

The development site is located in the Central Business District Pedestrian, CBD-P (about ¾ of the property) and Commercial, CBD-C (towards the rear and about ¼ of the property) Zones. The purpose of the CBD-P zone is to create, maintain, and enhance areas of the Central Business District for ground-

level, pedestrian-oriented, active storefront uses, and for upper stories to be available for a wide range of office and residential uses. The purpose of the CBD-C is to create, maintain, and enhance areas of the Central Business District appropriate for a wide range of ground-floor office and other commercial activities. Upper-story spaces are intended to be available for a wide range of residential and office or other commercial activities as determined by the designated zone.

The proposal is located in the core of the City's Downtown (Uptown District) where high density and intensity uses are essential and vital to the success of the existing commercial area and contribute to the support of local and regional transportation infrastructure, communication networks, and service and entertainment establishments. The project proposal is a permitted use because the residential units are located on upper levels, and the retail space is located on the ground-floor of the building.

The project proposal requires two Planning permits, a Major Conditional Use Permit for new buildings containing a floor area over 200,000 square feet, and Regular Design Review for new building construction in the Central Business District. A separate Tree Permit is also required to remove three street trees, located in front of the site along Broadway. The tree permit will be determined by the City's Public Works Tree Division. The following table provides a summary of the applicable standards:

Development Standards	Requirements	Proposed	Comments
Minimum Lot Area	4,000/7,500-sf	27,600-sf	Meets Plan
Minimum Lot Width Mean	25/50-ft	156/50-ft	Meets Plan
Minimum Frontage	25/50-ft	156/50-ft	Meets Plan
Minimum Front Setback	0-ft	3-ft	Meets Plan
Maximum Front / Front Street Side Setbacks for the First Story	5-ft	3/5-ft	Meets Plan
Maximum Front & Street Side Setbacks for the Second and Third Stories or 35 ft. whatever is lower	5-ft	3-ft	Meets Plan
Minimum Interior Side	0-ft	1.5/3-ft	Meets Plan
Minimum Rear	0-ft	1-ft	Meets Plan
Maximum Residential Density	307 units	307 units	Meets Plan
Maximum Floor Area Ratio	20.0	13.0	Meets Plan
Maximum Building Height	No Height Limit	418-ft	Meets Plan
Minimum Residential Parking Spaces	Not Required	210 spaces	Meets Plan
Maximum Residential Parking Spaces	Not Required	210 spaces	Meets Plan

Development Standards	Requirements	Proposed	Comments
Minimum Retail Parking Spaces	Not Required	0 parking spaces	Meets Plan
Minimum Bicycle Spaces (short term)	2 spaces	24 spaces	Meets Plan
Minimum Bicycle Spaces (long term)	2 spaces	200 spaces	
Minimum Residential Loading Berths	1 Space	2 Spaces	Meets Plan

PROJECT BACKGROUND

Design Review Committee / Public Comments

The Design Review Committee of the Planning Commission reviewed preliminary design plans for the proposed project. At its January 31, 2018 Design Review Committee (DRC) meeting, the DRC reviewed the proposal, and recommended the applicant do the following:

- a) Articulate the garage screen wall;
- b) Refine the ground floor façade; and
- c) Keep the existing BART elevator visible to public view.

In addition, at this public meeting, the DRC heard public comments from commercial tenants leasing space at 1750 Broadway, and also received comments from an adjacent residential tenant at 1770 Broadway. The commercial tenant Transdev is a paratransit organization that provides transit program assistance to BART and AC Transit. Transdev expressed concerns to the applicant regarding the leasing terms and relocation of their offices. Furthermore, the adjacent residential tenant expressed concerns regarding shadow casting and length of construction activity from the project. **(See Attachment E)**

At its scheduled February 28, 2018 Design Review Committee (DRC) meeting, the project applicant requested the DRC continue the application to a later date.

At its November 28, 2018 Design Review Committee (DRC) meeting, the DRC received revisions to the project design and supported the changes recommended in the January 31, 2018 meeting. The DRC also received a letter from the applicant stating that meetings have occurred with the commercial tenant, Transdev to discuss the terms of the tenant's leasing space. The applicant, however, indicated that no formal agreements have been reached with the commercial tenants, but that they will continue to assist in the relocation of tenant offices.

The applicant also indicated that meetings were held with BART officials to discuss ways to maintain the operation of the 19th Street BART Station elevator during the construction of the new project. The applicant intends to keep the elevator, and is planned to be part of the proposed project as shown on the latest design plans submitted for Planning Commission review.

PROJECT KEY ISSUES

Building Design

The proposed building footprint would cover most of the entire parcel area; however, the tower which is nearly 80 feet away from 17th Street would cover approximately 70 percent on the parcel area. The mass of the 37-story tower is broken-up with inward angled facades, recessed wall planes, courtyard terraces, angular glass balconies, and include various material textures to provide a slender design that promotes and defines the context of the urban corridor. The building also provides different window size pattern with tall glazing windows on the building northwest corner and on the top of the tower. Other windows are semi-recessed from the building façade and some contain small viewing balconies. The tower includes vertical and horizontal metal panel siding materials, angled metal screens for the garage façade, colored vent louvers, glazing storefront and dark cladding for the transformer room facing Broadway. The project manages mass and scale that results with a compatible design to create a distinctive building that would add visual interest to the character of downtown and to the skyline of the City.

California Environmental Quality Act

A Californian Environmental Quality Act Analysis (CEQA) was prepared for this project which concludes that the proposed project satisfies each of the following CEQA Guidelines: (i) 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning; (ii) 15183.3 - Streamlining for Infill Projects; and (C) 15332- Urban Infill Development. Each of the foregoing provides a separate and independent basis for CEQA compliance. The CEQA Analysis document was published and made publicly available on Friday, February 15, 2019 and separately provided to the Planning Commission. The CEQA Analysis document for 1750 Broadway Project can be reviewed at the Bureau of Planning offices, located at 250 Frank Ogawa Plaza, 2nd Floor or online at the following link here:

<http://www2.oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009157>
(*Current Environmental Review Documents #82*)

The CEQA analysis also relies upon the LUTE (Land Use Transportation Element), EIR which can be viewed at the following links here:

<http://www2.oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009158>
(*LUTE / Item #1*)

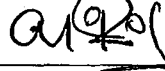
CONCLUSION

The development proposal would provide new residential and retail facilities that are outright permitted in the Central Business District zone. The project also meets the goals and policies of the General Plan by providing new high density housing, ground-floor commercial uses and an attractive building design that are the setting of an urban character and critical to the success of the Downtown District. The requested Planning permits are warranted and are not anticipated to create adverse impacts.

RECOMMENDATIONS

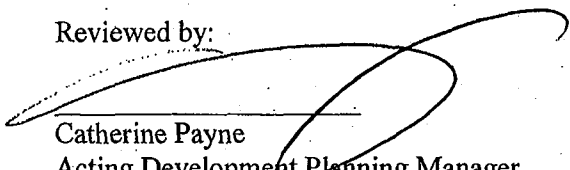
1. Affirm staff's Environmental Determination and adopt the attached CEQA Findings; and
2. Approve the Project, including Conditional Use Permit and Regular Design Review, subject to the attached findings and conditions (including the SCAMMRP).

Prepared by:



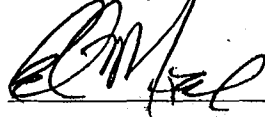
Mike Rivera
Planner II, Development Planning
Bureau of Planning

Reviewed by:



Catherine Payne
Acting Development Planning Manager
Bureau of Planning

Reviewed by:



Ed Manasse, Interim Deputy Director
Bureau of Planning

ATTACHMENTS

- A. Project Findings and CEQA Findings
- B. Conditions of Approval
- C. Standard Conditions of Approval Mitigation Monitoring & Reporting Program (SCAMMRP)
- D. Revised Design Plans, dated March 13, 2019
- E. Public Comments

The CEQA document is provided under a separate cover, and online at or online at <http://www2.oaklandnet.com/government/o/PBN/OurServices/Application/DOWD009157>
(The 1750 Broadway CEQA Analysis / Item # 82)

ATTACHMENT A

Findings for Approval

The findings required for granting approval for this application for Conditional Use Permit, and Regular Design Review are shown in normal type, and the reasons for satisfying these findings are shown in **bold**.

(Note: The Project's conformance with the following findings is not limited to the discussion below, but is also included in all discussions in this report and elsewhere in the record):

SECTION 17.134.050- GENERAL CONDITIONAL USE PERMIT (CUP)

Major CUP for buildings over 200,000 square feet of new floor area in the CBD Zone

- 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 development proposal for a residential and commercial-retail mixed use project over 200,000 square foot is conditionally permitted in the downtown district. The size of the approximately 499,676 square foot building and design are in scale with the mix of high-rise buildings under construction in the surrounding area. While the building base covers most of the site, the location and shape of the tower will reduce bulk to allow outdoor areas and views to the project residents. The transportation analysis prepared for this project shows no significant traffic or transportation-related impacts in the surrounding area.

- 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 proposal is located in the uptown area of the Central Business District, near transit system and entertainment areas. The building design will provide functional living and working environment to the residents with amenities such as outdoor recreational areas and fitness center. The project includes a retail facility that can also be used by other commercial uses and serve the general public.

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

The proposal for a high-rise building with 307 residential units and ground-floor retail space will increase activity in the surrounding area and increase the patronizing of existing and future commercial development. The project will also encourage the use and support public transportation such as BART, AC Transit, Bike-Share and the free "B" shuttle bus that runs within the downtown area.

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

The proposal for the residential and commercial development meets the Design Review Findings listed below in this report.

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

The project proposal conforms to the policies of the General Plan by providing residential and commercial development in high-density areas and along commercial corridors in the Central Business District. As described within this report, the project also conforms to the applicable design review criteria.

SECTION 17.136.050 (B) - DESIGN REVIEW CRITERIA / Non-Residential Facilities

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060.

The proposal will create a storefront with approximately 18-foot high glazing surfaces with dark aluminum framing and granite cladding finish (transformer room) along Broadway. The storefront is set back approximately five feet from street line; and the residential entry has a suspended canopy with decorative landscaping on the side wall to create a visual interest and façade articulation. Furthermore, the bronze color perforated aluminum screens with vertical light color aluminum bands on the parking podium (curtain wall) façade results with a design technique that creates interest and provides transition to the tower when seen from different street views, and provides a design rhythm with the adjacent building. The perforated screen panels will be folded and mounted at an angle in seven vertical sections to reduce mass, create depth and visual appeal. The garage screens will also have a backdrop LED lighting for accent.

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

The ground-floor commercial space has interesting design and high quality materials that create character and harmony with surrounding retail/commercial uses and development. The development proposal protects and increases the value of private and public investment in the Uptown district by creating a high-quality residential building with active ground floor uses.

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

As discussed earlier in this report, the design proposal conforms to the General Plan by creating an attractive commercial space in downtown and conforms to the design review criteria discussed in the applicable design review findings.

SECTION 17.136.050- DESIGN REVIEW CRITERIA

A. For Residential Facilities.

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 proposal has a 29-story residential tower over the five-level parking garage and ground-floor commercial area that relates to and is compatible in scale to the site and surrounding high-rise buildings. The residential tower has a slender design to manage building mass to create a compatible scale of development that relates to the mix of new residential high-rise buildings that are under construction in downtown. The tower has inward wall planes, segmented and articulated windows frames with floor to ceiling windows, bronze window mullions, glass railing balconies, metal and stainless steel cladding with reveal-joints, and a mix of colored materials all of which create an interesting design that relates to the style and texture of the surrounding area.

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

The residential tower with its contemporary architecture will enhance the streetscape of downtown by creating a transparent storefront with tall ceilings and prominent entries. The facade articulation and mix of materials and colors of the residential tower will encourage the development of high quality design, thus promoting desirable future neighborhood characteristics. The project has an approximately 15-foot tall wall that runs on the westerly side of the property line (next to the entry lobby on 17th Street). The wall is also adjacent to the neighboring apartment building at 1770 Broadway. To enhance desirable neighborhood characteristics, staff recommends a Condition that the proposed wall has a finish texture. See Condition of Approval # 15

3. That the proposed design will be sensitive to the topography and landscape.

The property has a three-story commercial building and paved surface parking lot that would be removed and developed with the proposed building. There are three street trees along Broadway that would be removed and will require a separate tree permit. The applicant proposes to install new street trees on Broadway. Staff recommends a Condition that at least three new 36-inch box size London Plane street trees are installed in front of the property. See Condition of Approval # 16

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 not situated on a hill or on a hillside property.

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

As discussed earlier in this report, the proposal conforms to the related policies of the General Plan by providing residential and commercial uses in high-density areas and along major corridors in the Central Business District. The project also conforms to the applicable design review criteria as discussed in the findings sections within this report.

CEQA COMPLIANCE FINDINGS

- I. Introduction: These findings are made pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.; "CEQA") and the CEQA Guidelines (Cal. Code Regulations title 14, section 15000 et seq.; "CEQA Guidelines") by the Planning Commission in connection with the environmental analysis of the effects of implementation of the 1750 Broadway-Mixed Use project, as more fully described elsewhere in this Staff Report and in the City of Oakland ("City") CEQA Analysis document entitled "1750 Broadway CEQA Analysis" dated February 2019 ("CEQA Analysis") (the "Project"). The City is the lead agency for purposes of compliance with the requirements of CEQA. These CEQA findings are attached and incorporated by reference into each and every decision associated with approval of the Project and are based on substantial evidence in the entire administrative record.
- II. Applicability/Adoption of Previous CEQA Documents
 - A. Adoption of General Plan Land Use and Transportation Element (LUTE) and Certification of the 1998 LUTE EIR: The City finds and determines that (a) the Oakland City Council on March 24, 1998 adopted Resolution No. 74129 C.M.S. which adopted the General Plan Land Use and Transportation Element, made appropriate CEQA findings, including certification of the 1998 LUTE Environmental Impact Report ("EIR"); and (b) the LUTE satisfies the description of "Community Plan" set out in Public Resources Code section 21083.3(e) and in CEQA Guidelines section 15183, as well the description of "Planning Level Document" set out in Public Resources Code section 21094.5 and in CEQA Guidelines section 15183.3. The City Council, in adopting the LUTE following a public hearing, approved applicable mitigation measures which are largely the same as those identified in the other Program EIRs prepared after the 1998 LUTE EIR, either as mitigation measures or as a part of newer Standard Conditions of Approval ("SCAs") which constitute uniformly applied development policies or standards (together with other City development regulations) and determined that the mitigation measures set out in the 1998 LUTE EIR, would substantially mitigate the impacts of the LUTE and future projects thereunder. While approved after certification of the 1998 LUTE EIR, growth and potential effects of the development of the Project would have been considered in the cumulative growth projections factored into the LUTE EIR analysis.
- III. CEQA Analysis Document: The CEQA Analysis and all of its findings, determinations and information is hereby incorporated by reference as if fully set forth herein. The CEQA Analysis concluded that the Project satisfies each of the following CEQA provisions, qualifying the Project for three separate CEQA exemptions as summarized below and provides substantial evidence to support the following findings.

The City hereby finds that, as set forth below and as part of the CEQA Analysis, the Project is exempt from any additional CEQA Analysis under Public Resources Code section 21083.3 (CEQA Guidelines §15183) for Projects Consistent with a Community Plan, General Plan, or Zoning and/or under Public Resources section 21094.5 (CEQA Guidelines §15183.3) for Qualified Infill Projects, thus no additional environmental analysis beyond the CEQA Analysis is necessary. As a separate and independent basis, the Project meets the conditions for a categorical exemption under CEQA Guidelines §15332 (In-Fill Development Projects) and no exceptions to the CEQA categorical exemptions under CEQA Guidelines §15300.2 apply. The specific statutory exemptions and the categorical exemption are discussed below in more detail.

- A. Projects Consistent with a Community Plan, General Plan, or Zoning; Public Resources Code Section 21083.3 (CEQA Guidelines §15183): The City finds and determines that, for the reasons set out below and in the CEQA Analysis, streamlining under CEQA Guidelines §15183 applies to the Project. No further environmental analysis is required because the Project is consistent with the development density and land use characteristics established by existing zoning and General Plan policies for which an EIR was certified, and all of the Project's effects on the environment were adequately analyzed and mitigation measures provided in the 1998 LUTE EIR for the overall project (collectively called "Previous CEQA Documents"); there are no significant effects on the environment which are peculiar to the Project or to the parcel upon which it is located not addressed and mitigated in the Previous CEQA Documents; and there is no new information showing that any of the effects shall be more significant than described in the Previous CEQA Documents.

As set out in detail in the attached CEQA Analysis, the City finds that, pursuant to CEQA Guidelines section 15183 and Public Resources Code section 21083.3, the Project is consistent with the development density analyzed in the Previous CEQA Documents and that there are no environmental effects of the Project peculiar to the Project or the Project Site which were not analyzed as significant effects in the Previous CEQA Documents or that will not be substantially mitigated by the imposition of the City's SCAs, nor are there potentially significant off-site impacts and cumulative impacts not discussed in the Previous CEQA Documents or that will not be substantially mitigated by the imposition of the City's SCAs; nor are any of the previously identified significant effects which, as a result of substantial information not known at the time of certification of the Previous CEQA Documents, are now determined to present a more severe adverse impact than discussed in the Previous CEQA Documents. As such, no further analysis of the environmental effects of the Project is required.

- B. Streamlining for In-Fill Projects; Public Resources Code Section 21094.5 (CEQA Guidelines §15183.3): The City finds and determines that, for the reasons set forth below and in the CEQA Analysis, Streamlining for In-Fill Projects applies to the Project and no further environmental analysis is required since the Project meets the criteria under CEQA Guidelines §15183.3, and all the Project's effects on the environment were adequately analyzed and mitigation measures provided in the Previous CEQA Documents; the Project will cause no new specific effects not addressed in the Previous CEQA Documents that are specific to the Project or the Project Site; and there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the Previous CEQA Documents.

The City finds that, pursuant to CEQA Guidelines section 15183.3, the CEQA Analysis contains in Attachment A, a written analysis consistent with Appendix M to the CEQA Guidelines examining whether the Project will cause any effects that require additional review under CEQA. The contents of Attachment A documents that the Project is located in an urban area satisfying

the requirements of CEQA Guidelines §15183.3(a), satisfies the applicable performance standards set forth in Appendix M to the CEQA Guidelines, and is consistent with the General Plan land use designation, density, building intensity and applicable policies satisfying the requirements of CEQA Guidelines §15183.3(c). It also explains how the effects of the Project were analyzed in the Previous CEQA Documents; and indicates that the Project incorporates all applicable mitigation measures and SCAs from the Previous CEQA Documents. Attachment A also determines that the Project will cause no new specific effects not analyzed in the Previous CEQA Documents; determines that there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the Previous CEQA Documents, determines that the Project will not cause new specific effects or more significant effects, and documents how uniformly applicable development policies or standards (including, without limitation, the SCAs) will mitigate environmental effects of the Project. Based upon the CEQA Analysis and other substantial evidence in the record, the City finds and determines that no further environmental analysis of the effects of the Project is required.

- C. Infill Exemption under Public Resources Section 21084 (CEQA Guidelines §15332): The City finds and determines that for the reasons set forth in the CEQA Analysis, that the Project is consistent with CEQA Guidelines section 15332 and that no exceptions apply to the Project (per CEQA Guidelines Section 15300.2). Specifically, the Project (a) is consistent with applicable general plan policies and zoning designations; (b) occurs within a project site smaller than five acres and is substantially surrounded by urban uses; (c) has no value as habitat for endangered, rare or threatened species; (d) would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) is located on a site that can be adequately served by all required utilities and public services. In addition, none of the specific exceptions to CEQA categorical exemptions (CEQA Guidelines Section 15300.2) are applicable to the Project.
- IV. Severability: The City finds that all three CEQA provisions discussed and determined to be applicable in Section III above are separately and independently applicable to the consideration of the Project and should any of the three be determined not to be so applicable, such determinations shall have no effect on the validity of these findings and the approval of the 1750 Broadway Project on any of the other grounds.
- V. Incorporation by Reference of Statement of Overriding Considerations: Each of the Previous CEQA Documents identified significant and unavoidable impacts.¹ The 1998 LUTE EIR identified six areas of environmental effects of the LUTE that presented significant and unavoidable impacts. Because the Project may contribute to some significant and unavoidable impacts identified in the Previous CEQA Documents identified above, but a Subsequent and/or Supplemental EIR is not required in accordance with CEQA Guidelines sections 15162, 15163, 15164, 15168, 15180, 15183 and 15183.3, a Statement of Overriding Considerations is not legally required. Nevertheless, in the interest of being conservative, the Statements of Overriding Consideration for the 1998 LUTE EIR, adopted by the City Council on March 24, 1998, via Resolution No. 74129 C.M.S are all hereby incorporated by reference as if fully set forth herein.

¹ If these or any other findings inaccurately identify or fail to list a significant and unavoidable impact identified in the analysis, findings and conclusions of the 1988 LUTE EIR or their administrative records as a whole, the identification of that impact and any mitigation measure or SCA required to be implemented as part of the Project is not affected.

ATTACHMENT B

CONDITIONS OF APPROVAL

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, and staff report dated, March 20, 2019, and the approved design plans, dated received March 13, 2019, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire two years from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the "project applicant" or "applicant") shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations.

These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

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

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement ("p-job") permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Compliance Matrix

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

13. Construction Management Plan

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments.

such as the Fire Department, Department of Transportation, and the Public Works Department as directed. The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, stormwater pollution prevention, noise control, complaint management, and cultural resource management (see applicable Conditions below). The CMP shall provide project-specific information including descriptive procedures, approval documentation, and drawings (such as a site logistics plan, fire safety plan, construction phasing plan, proposed truck routes, traffic control plan, complaint management plan, construction worker parking plan, and litter/debris clean-up plan) that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the project.

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

- a. All mitigation measures identified in the 801 Pine Street CEQA Analysis are included in the Standard Condition of Approval / Mitigation Monitoring and Reporting Program (SCAMMRP) which is included in these Conditions of Approval and are incorporated herein by reference, as Attachment C as Conditions of Approval of the project. The Standard Conditions of Approval identified in the 801 Pine Street CEQA Analysis document are also included in the SCAMMRP, and are, therefore, incorporated into these Conditions by reference but are not repeated in these Conditions. To the extent that there is any inconsistency between the SCAMMRP and these Conditions, the more restrictive Conditions shall govern. In the event a Standard Condition of Approval or mitigation measure recommended in the 801 Pine Street CEQA Analysis document has been inadvertently omitted from the SCAMMRP, that Standard Condition of Approval or mitigation measure is adopted and incorporated from the 801 Pine Street CEQA Analysis document into the SCAMMRP by reference, and adopted as a Condition of Approval. The project applicant and property owner shall be responsible for compliance with the requirements of any submitted and approved technical reports, all applicable mitigation measures adopted, and with all Conditions of Approval set forth herein at his/her sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or Condition of Approval, and subject to the review and approval by the City of Oakland. The SCAMMRP identifies the timeframe and responsible party for implementation and monitoring for each Standard Condition of Approval and mitigation measure. Unless otherwise specified, monitoring of compliance with the Standard Conditions of Approval and mitigation measures will be the responsibility of the Bureau of Planning, with overall authority concerning compliance residing with the Environmental Review Officer. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in section 21081.6 of CEQA.
- b. Prior to the issuance of the first construction-related permit, the project applicant shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

PROJECT SPECIFIC CONDITIONS

15. Building Wall Finish Along Property Line

Prior to issuance of a demolition, grading, or building permit to construct / Ongoing

The applicant shall include on final construction plans that the new wall along the property line and adjacent to the building at 1770 Broadway has a finish texture material.

16. New Street Trees in Front of the Property

Prior to issuance of a demolition, grading, or building permit to construct / Ongoing

Subject to City review and approval, the applicant shall install at least three (3) new city street trees on Broadway in front of the property. The plans shall indicate at least 36-box size trees and include tree metal grates. Said trees shall also meet the City's standard specifications for tree planting of the Public Works/Tree Division. In case that the street trees and wells cannot be installed, the applicant shall consult with the City to install instead large trees with decorative vase planters above the sidewalk, subject to any required permits.

17. Improvements-Ongoing

The approval of this development application does not constitute approval of public improvements. It is the applicant's responsibility to seek and service any required permits from the appropriate departments or agencies.

18. Storefront Windows and Doors

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

The applicant shall submit construction plans, for City review and approval that provide details for the new storefront windows and doors. All of the windows and door glass shall be clear. The applicant shall keep all of the façade windows and doors clear of visual obstruction including window/door coverage materials, except for the submittal of any future proposal of new business signage that meets Section 17.104.020 (k) of the Oakland Planning Code.

19. New Business Signage

Ongoing

Any new business signage on the property shall require a separate small project design review application and permit by the Planning and Building Service Divisions. All future proposed business and residential signage shall be designed to be compatible to the building design. New signs are not allowed to be above the storefront awning and/or block the curtain wall of the garage.

20. Garage and Utility Doors

Prior to issuance of a demolition, grading or building permit

The applicant shall submit for staff review and approval plans that show design details for the garage, and utility doors. The doors shall be designed to be inconspicuous and blend in with the building design.

21. Screening of PG&E Transformers, Utility Meters, HVAC and other Equipment

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

The applicant shall submit plans for City review and approval that show within the property and not within the public right-of-way the placement and details for screening from public view all exterior PG&E transformers, utility meters, HVAC and related equipment.

22. Trash and Recyclable Containers Odor Control/Loading Area***Ongoing***

The trash and recycling containers shall be kept and maintained and placed away from public view, except for during regular service pick up dates. The applicant shall sweep around these containers and the loading commercial area daily, and use power-generated steam equipment in this area once weekly or as often as required.

23. Recommendations by Project Transportation Consultant. Incorporated as Conditions of Approval / Ongoing. Subject to City review and approval**Recommendation 1:**

- Install mirrors on all curved ramps in the garage to ensure that motorists can see on-coming vehicles.
- Designate one parking space near the residential lobby on 19th Street for passenger pick-up/drop off.
- Convert one of the no parking zones in the Broadway pull-out to either a metered parking space or passenger pick-up/drop off.

Recommendation 2:

- Explore the feasibility of and, only if feasible, install directional curb ramps at all four corners of the Broadway/19th Street, Franklin Street/19th Street, and Broadway/17th Street intersections that the East Bay BRT Project would not upgrade. Considering that fire hydrants, signal poles, light poles, and/or storm drain inlets may be present at these locations, construction of curb extensions (bulbouts) may also be required at some locations to accommodate the directional curb ramps.
- Explore the feasibility and only if feasible, install the City of Oakland 2017 *Pedestrian Plan Update* recommendations at the Broadway/17th Street and Broadway/19th Street intersections, which consist of converting signal operations to fixed pedestrian recall, reducing signal cycle lengths, and implementing Leading Pedestrian Interval.
- Explore the feasibility and only if feasible, install the City of Oakland 2017 *Pedestrian Plan Update* recommendations at the Broadway/17th Street and Broadway/19th Street intersections, which consist of converting signal operations to fixed pedestrian recall, reducing signal cycle lengths, and implementing Leading Pedestrian Interval.

Recommendation 3:

- Coordinate with City of Oakland and AC Transit to explore the feasibility and if feasible, install bus stop amenities such as shelter, bench, and trash receptacle at the bus stops on northbound Broadway just north of 17th Street and on southbound Broadway just north of 19th Streets and midblock between 15th and 17th Streets.

Applicant Statement

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

Name of Project Applicant

ATTACHMENT C

STANDARD CONDITIONS OF APPROVAL AND MITIGATION MONITORING AND REPORTING PROGRAM

This standard Conditions of Approval and Mitigation Monitoring and Reporting Program (SCA/MMRP) is based on CEQA Analysis prepared for the **1750 Broadway Project**.

These SCAs are incorporated into projects as conditions of approval, regardless of the determination of a project's environmental impacts. As applicable, the SCAs are adopted as requirements of an individual project when it is approved by the City, and are designed to, and will, avoid or substantially reduce a project's environmental effects.

In reviewing project applications, the City determines which SCAs apply based upon the zoning district, community plan, and the type of permits/approvals required for the project. Depending on the specific characteristics of the project type and/or project site, the City will determine which SCAs apply to a specific project. Because these SCAs are mandatory City requirements imposed on a city-wide basis, environmental analyses assume that these SCAs will be imposed and implemented by the project, and are not imposed as mitigation measures under CEQA.

All SCAs identified in the CEQA Analysis—which is consistent with the measures and conditions presented in the City of Oakland General Plan, Land Use and Transportation EIR (LUTE EIR, 1998)—are included herein. To the extent that any SCA identified in the CEQA Analysis was inadvertently omitted, it is automatically incorporated herein by reference.

- The first column identifies the SCA applicable to that topic in the CEQA Analysis.
- The second column identifies the monitoring schedule or timing applicable to the project.
- The third column names the party responsible for monitoring the required action for the project.

In addition to the SCAs identified and discussed in the CEQA Analysis, other SCAs that are applicable to the project are included herein.

The project sponsor is responsible for compliance with any recommendations in approved technical reports and with all SCAs set forth herein at its sole cost and expense, unless otherwise expressly provided in a specific SCA, and subject to the review and approval of the City of Oakland. Overall monitoring and compliance with the SCAs will be the responsibility of the Planning and Zoning Division. Prior to the issuance of a demolition, grading, and/or construction permit, the project sponsor shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

Note that the SCAs included in this document are referred to using an abbreviation for the environmental topic area and are numbered sequentially for each topic area—i.e., SCA-AIR-1, SCA-AIR-2, etc. The SCA title and the SCA number that corresponds to the City’s Master SCA list are also provided—i.e., SCA-AIR-1: Construction-Related Air Pollution (Dust and/or Equipment Emissions) (#21).

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
General		
<p>a. SCA GEN-1 (Standard Condition of Approval 15) <i>Regulatory Permits and Authorizations from Other Agencies</i> <u>Requirement:</u> The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.</p>	Prior to activity requiring permit/authorization from regulatory agency.	City of Oakland Bureau of Planning and applicable regulatory agency with jurisdiction
Aesthetics, Shadow, and Wind		
<p>SCA AES-1 (Standard Condition of Approval 16) <i>Trash and Blight Removal</i> <u>Requirement:</u> The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.</p>	Ongoing.	City of Oakland Bureau of Building
<p>SCA AES-2 (Standard Condition of Approval 17) <i>Graffiti Control</i> <u>Requirement:</u></p> <p>a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:</p> <ol style="list-style-type: none"> i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces. ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces. iii. Use of paint with anti-graffiti coating. iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED). v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement. <p>b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:</p> <ol style="list-style-type: none"> i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system. ii. Covering with new paint to match the color of the surrounding surface. 	Ongoing.	City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
iii. Replacing with new surfacing (with City permits if required).		
Aesthetics, Shadow, and Wind (cont.)		
<p>SCA AES-3 (Standard Condition of Approval 18) Landscape Plan.</p> <p>a. Landscape Plan Required</p> <p>The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf and http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf, respectively), and with any applicable streetscape plan.</p> <p>b. Landscape Installation</p> <p>The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.</p> <p>c. Landscape Maintenance</p> <p>All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.</p>	<p>a. Prior to approval of construction-related permit.</p> <p>b. Prior to building permit final.</p> <p>c. Ongoing</p>	<p>a. City of Oakland Bureau of Planning</p> <p>b. City of Oakland Bureau of Building</p> <p>c. City of Oakland Bureau of Building</p>
<p>SCA AES-4 (Standard Condition of Approval 19): Lighting</p> <p>Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties.</p>	Prior to building permit final.	City of Oakland Bureau of Building
<p>SCA AES-5 (Standard Condition of Approval 20) Public Art for Private Development</p> <p>Requirement: The project is subject to the City's Public Art Requirements for Private Development, adopted by Ordinance No. 13275 C.M.S. ("Ordinance"). The public art contribution requirements are equivalent to one-half percent (0.5%) for the "residential" building development costs, and one percent (1.0%) for the "non-residential" building development costs.</p> <p>The contribution requirement can be met through: 1) the installation of freely accessible art at the site; 2) the installation of freely accessible art within one-quarter mile of the site; or 3) satisfaction of alternative compliance methods described in the Ordinance, including, but not limited to, payment of an in-lieu fee contribution. The applicant shall provide proof of full payment of the in-lieu contribution and/or provide plans, for review and approval by the Planning Director, showing the installation or improvements required by the Ordinance prior to issuance of a building permit.</p> <p>Proof of installation of artwork, or other alternative requirement, is required prior to the City's issuance of a final certificate of occupancy for each phase of a project unless a separate, legal binding instrument is executed ensuring compliance within a timely manner subject to City approval.</p>	Payment of in-lieu fees and/or plans showing fulfillment of public art requirement - Prior to Issuance of Building permit Installation of art/cultural space - Prior to Issuance of a Certificate of Occupancy.	City of Oakland Bureau of Planning and Bureau of Building.

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Also SCA UTIL-2, Underground Utilities. See <i>Utilities and Service Systems</i> , below.		
Air Quality		
<p>SCA AIR-1 (Standard Condition of Approval 21) Dust Controls – Construction Related</p> <p>Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:</p> <ol style="list-style-type: none"> Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer). All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. Limit vehicle speeds on unpaved roads to 15 miles per hour. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph. All trucks and equipment, including tires, shall be washed off prior to leaving the site. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. Apply and maintain vegetative ground cover (e.g., hydroseed) or non-toxic soil stabilizers to disturbed areas of soil that will be inactive for more than one month. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.). Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. When working at a site, install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of the site, to minimize wind-blown dust. Windbreaks must have a maximum 50 percent air porosity. Post a publicly visible large on-site sign that includes the contact name and phone number for the project complaint manager responsible for responding to dust complaints and the telephone numbers of the City's Code Enforcement unit and the Bay Area Air Quality Management District. When contacted, the project complaint manager shall respond and take corrective action within 48 hours. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. 	During construction.	City of Oakland Bureau of Building
<p>SCA AIR-2 (Standard Condition of Approval 22) Criteria Air Pollutant Controls – Construction Related</p> <p>Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:</p> <ol style="list-style-type: none"> Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points. 	During construction.	City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Air Quality (cont)		
<p>b. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").</p> <p>c. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.</p> <p>d. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and use propane or natural gas generators cannot meet the electrical demand.</p> <p>e. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.</p> <p>f. All equipment to be used on the construction site and subject to the requirements of Title 13, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") and upon request by the City, the project applicant shall provide written documentation that fleet requirements have been met.</p>		
<p>SCA AIR-3 (Standard Condition of Approval 23) <u>Diesel Particulate Matter Controls-Construction Related</u></p> <p>a. <u>Diesel Particulate Matter Reduction Measures</u> <u>Requirement:</u> The project applicant shall implement appropriate measures during construction to reduce potential health risks to sensitive receptors due to exposure to diesel particulate matter (DPM) from construction emissions. The project applicant shall choose one of the following methods:</p> <p>i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with current guidance from the California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment to determine the health risk to sensitive receptors exposed to DPM from project construction emissions. The HRA shall be submitted to the City (and the Air District if specifically requested) for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then DPM reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, DPM reduction measures shall be identified to reduce the health risk to acceptable levels as set forth under subsection b below. Identified DPM reduction measures shall be submitted to the City for review and approval prior to the issuance of building permits and the approved DPM reduction measures shall be implemented during construction.</p> <p>- or -</p> <p>ii. All off-road diesel equipment shall be equipped with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by CARB. The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. This shall be verified through an equipment inventory submittal and Certification Statement that the Contractor agrees to compliance and acknowledges that a significant violation of this requirement shall constitute a material breach of contract.</p>	<p>a. Prior to issuance of a construction related permit (i), during construction (ii).</p> <p>b. Prior to issuance of a construction related permit.</p>	<p>a. City of Oakland Bureau of Planning and Bureau of Building.</p> <p>b. City of Oakland Bureau of Planning and Bureau of Building.</p>

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Air Quality (cont.)		
<p>b. Construction Emissions Minimization Plan (if required by a above)</p> <p><u>Requirement:</u> The project applicant shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified DPM reduction measures (if any). The Emissions Plan shall be submitted to the City (and the Bay Area Air Quality District if specifically requested) for review and approval prior to the issuance of building permits. The Emissions Plan shall include the following:</p> <ol style="list-style-type: none"> i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date. ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. 		
<p>SCA AIR-4 (Standard Condition of Approval 24) Exposure to Air Pollution (Toxic Air Contaminants)</p> <p>a. Health Risk Reduction Measures</p> <p><u>Requirement:</u> The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. The project applicant shall choose <u>one</u> of the following methods:</p> <ol style="list-style-type: none"> i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of project residents/occupants/users to air pollutants. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City. <p>- or -</p> <ol style="list-style-type: none"> ii. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City: <ul style="list-style-type: none"> • Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for residents and other sensitive populations in the project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-13 or higher. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required. • Where appropriate, install passive electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph). • Phasing of residential developments when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible. • The project shall be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these 	<ol style="list-style-type: none"> a. Prior to issuance of a construction related permit. b. Ongoing. 	<ol style="list-style-type: none"> a. City of Oakland Bureau of Planning and Bureau of Building b. City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p>sources as feasible. If near a distribution center, residents shall be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods.</p> <ul style="list-style-type: none"> Sensitive receptors shall be located on the upper floors of buildings, if feasible. 		
Air Quality (cont.)		
<p>Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (<i>Pinus nigra</i> var. <i>maritima</i>), Cypress (<i>X Cupressocyparis leylandii</i>), Hybrid poplar (<i>Populus deltoids X trichocarpa</i>), and Redwood (<i>Sequoia sempervirens</i>).</p> <ul style="list-style-type: none"> Sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible. Existing and new diesel generators shall meet CARB's Tier 4 emission standards, if feasible. Emissions from diesel trucks shall be reduced through implementing the following measures, if feasible: <ul style="list-style-type: none"> Installing electrical hook-ups for diesel trucks at loading docks. Requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards. Requiring truck-intensive projects to use advanced exhaust technology (e.g., hybrid) or alternative fuels. Prohibiting trucks from idling for more than two minutes. Establishing truck routes to avoid sensitive receptors in the project. A truck route program, along with truck calming, parking, and delivery restrictions, shall be implemented. <p>b. Maintenance of Health Risk Reduction Measures</p> <p><u>Requirement:</u> The project applicant shall maintain, repair, and/or replace installed health risk reduction measures, including but not limited to the HVAC system (if applicable), on an ongoing and as-needed basis. Prior to occupancy, the project applicant shall prepare and then distribute to the building manager/operator an operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.</p> <p>NOTE: This Standard Condition of Approval has been implemented by the project applicant and no further action is required. An HRA for the Proposed Project was prepared and presented in the 1750 Broadway Project CEQA Checklist/Exemption Report, Consistent with Measure SCA AIR-3.a.i, no health risk reduction measures are required.</p>		
<p>SCA AIR-5 (Standard Condition of Approval 25) Stationary Sources of Air Pollution (Toxic Air Contaminants)</p> <p><u>Requirement:</u> The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to on-site stationary sources of toxic air contaminants. The project applicant shall choose one of the following methods:</p> <p>a. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk associated with proposed stationary sources of pollution in the project. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Planning and Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p>the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City.</p> <p>- or -</p> <p>b. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:</p>		
Air Quality (cont.)		
<p>i. Installation of non-diesel fueled generators, if feasible, or;</p> <p>ii. Installation of diesel generators with an EPA-certified Tier 4 engine or engines that are retrofitted with a CARB Level 3 Verified Diesel Emissions Control Strategy, if feasible.</p>		
<p>SCA AIR-6 (Standard Condition of Approval 27) Asbestos in Structures <u>Requirement:</u> The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.</p>	Prior to approval of construction-related permit	Applicable regulatory agency with jurisdiction
See SCA TRA-4, Transportation and Parking Demand Management Plan. See <i>Transportation and Circulation</i> , below.		
Biological Resources		
<p>SCA BIO-1 (Standard Condition of Approval 30) Tree Removal During Bird Breeding Season <u>Requirement:</u> To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the California Department of Fish and Wildlife, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.</p>	Prior to removal of trees	City of Oakland Bureau of Planning and Bureau of Building
<p>SCA BIO-2 (Standard Condition of Approval 31) Tree Permit a. Tree Permit Required <u>Requirement:</u> Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.</p>	<p>a. Prior to approval of construction-related permit</p> <p>b. During construction.</p>	<p>a. City of Oakland Public Works Department, Tree Division and Bureau of Building</p>

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p><i>b. Tree Protection During Construction</i></p> <p><u>Requirement:</u> Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:</p> <p>i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.</p>	<p>c. Prior to building permit final</p>	<p>b. City of Oakland Public Works Department, Tree Division and Bureau of Building</p> <p>c. City of Oakland Public Works Department and Tree Division; Bureau of Building</p>

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Biological Resources (cont.)		
<p>ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.</p> <p>iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.</p> <p>iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.</p> <p>v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.</p> <p>vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.</p> <p>c. Tree Replacement Plantings <u>Requirement:</u> Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:</p> <p>i. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.</p> <p>ii. Replacement tree species shall consist of <i>Sequoia sempervirens</i> (Coast Redwood), <i>Quercus agrifolia</i> (Coast Live Oak), <i>Arbutus menziesii</i> (Madrone), <i>Aesculus californica</i> (California Buckeye), <i>Umbellularia californica</i> (California Bay Laurel), or other tree species acceptable to the Tree Division.</p> <p>iii. Replacement trees shall be at least twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.</p>		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Biological Resources (cont.)		
<p>iv. Minimum planting areas must be available on site as follows:</p> <ul style="list-style-type: none"> For Sequoia sempervirens, three hundred fifteen (315) square feet per tree; For other species listed, seven hundred (700) square feet per tree. <p>v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.</p> <p>vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.</p>		
Cultural Resources		
<p>SCA CUL-1 (Standard Condition of Approval 33) Archaeological and Paleontological Resources – Discovery During Construction</p> <p><u>Requirement:</u> Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City.</p> <p>Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.</p> <p>In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.</p> <p>In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be</p>	During construction.	City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Cultural Resources (cont.)		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p>SCA CUL-2 (Standard Condition of Approval 34) <i>Archaeologically Sensitive Areas – Pre-Construction Measures</i>.</p> <p><u>Requirement:</u> The project applicant shall implement either Provision A (Intensive Pre-Construction Study) or Provision B (Construction ALERT Sheet) concerning archaeological resources.</p> <p>a. <i>Provision A: Intensive Pre-Construction Study</i></p> <p>b. The project applicant shall retain a qualified archaeologist to conduct a site-specific, intensive archaeological resources study for review and approval by the City prior to soil-disturbing activities occurring on the project site. The purpose of the site-specific, intensive archaeological resources study is to identify early the potential presence of history-period archaeological resources on the project site. At a minimum, the study shall include:</p> <p>a. Subsurface presence/absence studies of the project site. Field studies may include, but are not limited to, auguring and other common methods used to identify the presence of archaeological resources.</p> <p>b. A report disseminating the results of this research.</p> <p>c. Recommendations for any additional measures that could be necessary to mitigate any adverse impacts to recorded and/or inadvertently discovered cultural resources.</p> <p>c. If the results of the study indicate a high potential presence of historic-period archaeological resources on the project site, or a potential resource is discovered, the project applicant shall hire a qualified archaeologist to monitor any ground disturbing activities on the project site during construction and prepare an ALERT sheet pursuant to Provision B below that details what could potentially be found at the project site. Archaeological monitoring would include briefing construction personnel about the type of artifacts that may be present (as referenced in the ALERT sheet, required per Provision B below) and the procedures to follow if any artifacts are encountered, field recording and sampling in accordance with the Secretary of Interior’s Standards and Guidelines for Archaeological Documentation, notifying the appropriate officials if human remains or cultural resources are discovered, and preparing a report to document negative findings after construction is completed if no archaeological resources are discovered during construction.</p> <p>d. <i>Provision B: Construction ALERT Sheet</i></p> <p>The project applicant shall prepare a construction “ALERT” sheet developed by a qualified archaeologist for review and approval by the City prior to soil-disturbing activities occurring on the project site. The ALERT sheet shall contain, at a minimum, visuals that depict each type of artifact that could be encountered on the project site. Training by the qualified archaeologist shall be provided to the project’s prime contractor, any project subcontractor firms (including demolition, excavation, grading, foundation, and pile driving), and utility firms involved in soil-disturbing activities within the project site.</p> <p>e. The ALERT sheet shall state, in addition to the basic archaeological resource protection measures contained in other standard conditions of approval, all work must stop and the City’s Environmental Review Officer contacted in the event of discovery of the following cultural materials: concentrations of shellfish remains; evidence of fire (ashes, charcoal, burnt earth, fire-cracked rocks); concentrations of bones; recognizable Native American artifacts (arrowheads, shell beads, stone mortars [bowls], humanly shaped rock); building foundation remains; trash pits, privies (outhouse holes); floor remains; wells; concentrations of bottles, broken dishes, shoes, buttons, cut animal bones, hardware, household items, barrels, etc.; thick layers of burned building debris (charcoal, nails, fused glass, burned plaster, burned dishes); wood structural remains (building, ship, wharf); clay roof/floor tiles; stone walls or footings; or gravestones. Prior to any soil-disturbing activities, each contractor shall be responsible for ensuring that the ALERT sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, and supervisory personnel. The ALERT sheet shall also be posted in a visible location at the project site.</p>	<p>Prior to approval of construction-related permit; during construction.</p>	<p>City of Oakland Bureau of Planning and Bureau of Building</p>

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Cultural Resources (cont)		
<p>SCA CUL-3 (Standard Condition of Approval 35) Human Remains – Discovery During Construction <u>Requirement:</u> Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.</p>	During construction.	City of Oakland Bureau of Building
Also SCA NOI-6, Vibration Impacts on Adjacent Historic Structures or Vibration-Sensitive Activities. See Noise, below.		
Geology, Soils, and Geohazards		
<p>SCA GEO-1 (Standard Condition of Approval 37) Construction-Related Permit(s) <u>Requirement:</u> The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Building
<p>SCA GEO-2 (Standard Condition of Approval 38) Soils Report <u>Requirement:</u> The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Building
<p>SCA GEO-3 (Standard Condition of Approval 40) Seismic Hazards Zone (Landslide/Liquefaction) <u>Requirement:</u> The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the site, an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Building
Greenhouse Gases and Climate Change		
Also SCA AES-3, Landscape Plan. See <i>Aesthetics, Wind, and Shadow</i> , above.		
Also SCAs AIR-1, Dust Controls – Construction Related. See <i>Air Quality</i> , above.		
Also SCAs AIR-2, Criteria Air Pollutant Controls - Construction Related. See <i>Air Quality</i> , above.		
Also SCAs AIR-3, Diesel Particulate Matter Controls - Construction Related. See <i>Air Quality</i> , above.		

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	Schedule	Responsibility
Also SCA TRA-4, <i>Transportation and Parking Demand Management</i> . See <i>Transportation and Circulation</i> , below.		
Also SCAs UTIL-1, <i>Construction and Demolition Waste Reduction and Recycling</i> ; and UTIL-4, <i>Green Building Requirements</i> . See <i>Utilities and Service Systems</i> , below.		
Hazards and Hazardous Materials		
<p>SCA HAZ-1 (Standard Condition of Approval 43) <i>Hazards Materials Related to Construction</i> <u>Requirement:</u> The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:</p> <ol style="list-style-type: none"> Follow manufacture’s recommendations for use, storage, and disposal of chemical products used in construction; Avoid overtopping construction equipment fuel gas tanks; During routine maintenance of construction equipment, properly contain and remove grease and oils; Properly dispose of discarded containers of fuels and other chemicals; Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City’s Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate. 	During construction.	City of Oakland Bureau of Building
<p>SCA HAZ-2 (Standard Condition of Approval 45): <i>Hazardous Materials Business Plan</i> <u>Requirement:</u> The project applicant shall submit a Hazardous Materials Business Plan for review and approval by the City, and shall implement the approved Plan. The approved Plan shall be kept on file with the City and the project applicant shall update the Plan as applicable. The purpose of the Hazardous Materials Business Plan is to ensure that employees are adequately trained to handle hazardous materials and provides information to the Fire Department should emergency response be required. Hazardous materials shall be handled in accordance with all applicable local, state, and federal requirements. The Hazardous Materials Business Plan shall include the following:</p> <ol style="list-style-type: none"> The types of hazardous materials or chemicals stored and/or used on-site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids. The location of such hazardous materials. An emergency response plan including employee training information. A plan that describes the manner in which these materials are handled, transported, and disposed. 	Prior to building permit final.	Oakland Fire Department
See SCA AIR-6, <i>Asbestos in Structures</i> . See <i>Air Quality</i> , above.		
See SCA TRA-1, <i>Construction Activity in the Public Right-of-Way</i> . See <i>Transportation and Traffic</i> , below.		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Hydrology and Water Quality		
<p>SCA HYD-1 (Standard Condition of Approval 49) Erosion and Sedimentation Control Plan for Construction</p> <p><i>a. Erosion and Sedimentation Control Plan Required</i></p> <p><u>Requirement:</u> The project applicant shall submit an Erosion and Sedimentation Control Plan to the City for review and approval. The Erosion and Sedimentation Control Plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading and/or construction operations. The Plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the City. The Plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.</p> <p><i>b. Erosion and Sedimentation Control During Construction</i></p> <p><u>Requirement:</u> The project applicant shall implement the approved Erosion and Sedimentation Control Plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Bureau of Building.</p>	<p>a. Prior to approval of construction-related permit.</p> <p>b. During construction.</p>	<p>City of Oakland Bureau of Building</p>
<p>SCA HYD-2 (Standard Condition of Approval 54) NPDES C.3 Stormwater Requirements for Regulated Projects</p> <p><i>a. Post-Construction Stormwater Management Plan Required</i></p> <p><u>Requirement:</u> The project applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The project applicant shall submit a Post-Construction Stormwater Management Plan to the City for review and approval with the project drawings submitted for site improvements, and shall implement the approved Plan during construction. The Post-Construction Stormwater Management Plan shall include and identify the following:</p> <p>f. i. Location and size of new and replaced impervious surface;</p> <p>g. ii. Directional surface flow of stormwater runoff;</p> <p>h. iii. Location of proposed on-site storm drain lines;</p> <p>i. iv. Site design measures to reduce the amount of impervious surface area;</p> <p>j. v. Source control measures to limit stormwater pollution;</p> <p>k. vi. Stormwater treatment measures to remove pollutants from stormwater runoff, including the method used to hydraulically size the treatment measures; and</p> <p>l. vii. Hydromodification management measures, if required by Provision C.3, so that post-project stormwater runoff flow and duration match pre-project runoff.</p>	<p>a. Prior to approval of construction-related permit</p> <p>b. Prior to building permit final</p>	<p>a. City of Oakland Bureau of Planning and Bureau of Building</p> <p>b. City of Oakland Bureau of Building</p>

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	Schedule	Responsibility
Hydrology and Water Quality (cont.)		
<p>b. Maintenance Agreement Required <u>Requirement:</u> The project applicant shall enter into a maintenance agreement with the City, based on the Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement, in accordance with Provision C.3, which provides, in part, for the following:</p> <p>m. i. The project applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and</p> <p>n. ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary.</p> <p>o. The maintenance agreement shall be recorded at the County Recorder's Office at the applicant's expense.</p>		
Also SCAs GEO-1, Construction-Related Permit(s) and GEO-2, Soils Report. See <i>Geology, Soils, and Geohazards</i> , above.		
Also SCA UTIL-6, Storm Drain System. See <i>Utilities and Service Systems</i> , below.		
Noise		
<p>SCA NOI-1 (Standard Condition of Approval 62) Construction Days/Hours <u>Requirement:</u> The project applicant shall comply with the following restrictions concerning construction days and hours:</p> <p>a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.</p> <p>b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.</p> <p>c. No construction is allowed on Sunday or federal holidays.</p> <p>Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.</p> <p>Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/ emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.</p>	During construction.	City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Noise (cont.)		
<p>SCA NOI-2: (Standard Condition of Approval 63) Construction Noise</p> <p>Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:</p> <ul style="list-style-type: none"> a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible. <p><u>Except as provided herein</u>, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, <u>if such jackets are commercially available</u>, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever <u>such procedures are available and consistent with construction procedures</u>.</p> <ul style="list-style-type: none"> b. Applicant shall use temporary power poles instead of generators where feasible. c. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or <u>use other measures as determined by the City to provide equivalent noise reduction</u> d. <u>The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.</u> 	<p>During construction.</p>	<p>City of Oakland Bureau of Building</p>
<p>SCA NOI-3 (Standard Condition of Approval 64) Extreme Construction Noise</p> <ul style="list-style-type: none"> a. Construction Noise Management Plan Required <p>Requirement: Prior to any extreme noise generating construction activities (e.g.; pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures <u>include, but are not limited to, the following:</u></p> <ul style="list-style-type: none"> i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings; ii. Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions; iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site; iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example <u>and implement such measure if such measures are feasible and would noticeably reduce noise impacts;</u> and v. Monitor the effectiveness of noise attenuation measures by taking noise measurements. 	<ul style="list-style-type: none"> a. Prior to approval of construction-related permit b. During construction. 	<p>City of Oakland Bureau of Building</p>

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Noise (cont.)		
<p>b. Public Notification Required</p> <p><u>Requirement:</u> The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.</p>		
<p>• SCA NOI-4: (Standard Condition of Approval 65) Project-Specific Construction Noise Reduction Measures</p> <p><u>Requirement:</u> The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts on adjacent residences. The project applicant shall implement the approved Plan during construction.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Building
<p>SCA NOI-5 (Standard Condition of Approval 66) Construction Noise Complaints</p> <p><u>Requirement:</u> The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:</p> <ol style="list-style-type: none"> Designation of an on-site construction complaint and enforcement manager for the project; A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit; Protocols for receiving, responding to, and tracking received complaints; and Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request. 	Prior to approval of construction-related permit.	City of Oakland Bureau of Building
<p>SCA NOI-6 (Standard Condition of Approval 67) Exposure to Community Noise</p> <p><u>Requirement:</u> The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:</p> <ol style="list-style-type: none"> 45 dBA: Residential activities, civic activities, hotels 50 dBA: Administrative offices; group assembly activities 55 dBA: Commercial activities 65 dBA: Industrial activities 	Prior to approval of construction-related permit.	City of Oakland Bureau of Planning and Bureau of Building
<p>SCA NOI-7 (Standard Condition of Approval 68) Operational Noise</p> <p><u>Requirement:</u> Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.</p>	Ongoing.	City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Noise (cont.)		
<p>SCA NOI-8 (Standard Condition of Approval 70) <i>Vibration Impacts on Adjacent Historic Structures or Vibration-Sensitive Activities</i></p> <p>Requirement: The project applicant shall submit a Vibration Analysis prepared by an acoustical and/or structural engineer or other appropriate qualified professional for City review and approval that establishes pre-construction baseline conditions and threshold levels of vibration that could damage the structure and/or substantially interfere with activities located 1770 Broadway abutting the Project site to the north. The Vibration Analysis shall identify design means and methods of construction that shall be utilized in order to not exceed the thresholds. The applicant shall implement the recommendations during construction.</p>	Prior to construction.	City of Oakland Bureau of Building
<p>SCA NOI-9 (Standard Condition of Approval 69) <i>Exposure to Vibration</i></p> <p>Requirement: The project applicant shall submit a Vibration Reduction Plan prepared by a qualified acoustical consultant for City review and approval that contains vibration reduction measures to reduce groundborne vibration to acceptable levels per Federal Transit Administration (FTA) standards. The applicant shall implement the approved Plan during construction. Potential vibration reduction measures include, but are not limited to, the following:</p> <ol style="list-style-type: none"> a. Isolation of foundation and footings using resilient elements such as rubber bearing pads or springs, such as a "spring isolation" system that consists of resilient spring supports that can support the podium or residential foundations. The specific system shall be selected so that it can properly support the structural loads, and provide adequate filtering of groundborne vibration to the residences above. b. Trenching, which involves excavating soil between the railway and the project so that the vibration path is interrupted, thereby reducing the vibration levels before they enter the project's structures. Since the reduction in vibration level is based on a ratio between trench depth and vibration wavelength, additional measurements shall be conducted to determine the vibration wavelengths affecting the project. Based on the resulting measurement findings, an adequate trench depth and, if required, suitable fill shall be identified 	Prior approval of construction-related permit.	City of Oakland Bureau of Planning and Bureau of Building
Population and Housing		
<p>SCA POP-1 (Standard Condition of Approval 72) <i>Affordable Housing Impact Fee</i></p> <p>Requirement: The project applicant shall comply with the requirements of the City of Oakland Affordable Housing Impact Fee Ordinance (chapter 15.72 of the Oakland Municipal Code).</p>	Prior to issuance of building permit; subsequent milestones pursuant to ordinance.	City of Oakland Bureau of Building
Public Services		
<p>SCA PUB-1 (Standard Condition of Approval 74) <i>Capital Improvements Impact Fee</i></p> <p>Requirement: The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).</p>	Prior to issuance of building permit.	City of Oakland Bureau of Building
Transportation and Circulation		
<p>SCA TRA-1 (Standard Condition of Approval 76) <i>Construction Activity in the Public Right-of-Way</i></p> <ol style="list-style-type: none"> a. <i>Obstruction Permit Required</i> 	a. Prior to approval of construction-related permit.	a. City of Oakland Department of Transportation

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p>Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.</p>		
<p>Transportation and Circulation (cont.)</p>		
<p>b. Traffic Control Plan Required Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or Detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.</p> <p>c. Repair of City Streets Requirement: The project applicant shall repair any damage to the public right-of-way, including streets and sidewalks caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.</p>	<p>b. Prior to approval of construction-related permit.</p> <p>c. Prior to building permit final.</p>	<p>b. City of Oakland Department of Transportation</p> <p>c. City of Oakland Department of Transportation</p>
<p>SCA TRA-2 (Standard Condition of Approval 77) Bicycle Parking Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.</p>	<p>Prior to approval of construction-related permit.</p>	<p>City of Oakland Bureau of Planning and Bureau of Building</p>
<p>SCA TRA-3 (Standard Condition of Approval 78) Transportation Improvements Requirement: The project applicant shall implement the recommended on- and off-site transportation-related improvements contained within the Transportation Impact Review for the project (e.g., signal timing adjustments, restriping, signalization, traffic control devices, roadway reconfigurations, transportation demand management measures, and transit, pedestrian, and bicyclist amenities). The project applicant is responsible for funding and installing the improvements, and shall obtain all necessary permits and approvals from the City and/or other applicable regulatory agencies such as, but not limited to, Caltrans (for improvements related to Caltrans facilities) and the California Public Utilities Commission (for improvements related to railroad crossings), prior to installing the improvements. To implement this measure for intersection modifications, the project applicant shall submit Plans, Specifications, and Estimates (PS&E) to the City for review and approval. All elements shall be designed to applicable City standards in effect at the time of construction and all new or upgraded signals shall include these enhancements as required by the City. All other facilities supporting vehicle travel and alternative modes through the intersection shall be brought up to both City standards and ADA standards (according to Federal and State Access Board guidelines) at the time of construction. Current City Standards call for, among other items, the elements listed below:</p> <p>a. 2070L Type Controller with cabinet accessory</p> <p>b. GPS communication (clock)</p>	<p>Prior to building permit final or as otherwise specified.</p>	<p>City of Oakland Bureau of Building and Department of Transportation</p>

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
c. Accessible pedestrian crosswalks according to Federal and State Access Board guidelines with signals (audible and tactile) d. Countdown pedestrian head module switch out e. City Standard ADA wheelchair ramps f. Video detection on existing (or new, if required)		
Transportation and Circulation (cont.)		
g. Mast arm poles, full activation (where applicable) h. Polara Push buttons (full activation) i. Bicycle detection (full activation) j. Pull boxes k. Signal interconnect and communication with trenching (where applicable), or through existing conduit (where applicable), 600 feet maximum l. Conduit replacement contingency m. Fiber switch n. PTZ camera (where applicable) o. Transit Signal Priority (TSP) equipment consistent with other signals along corridor p. Signal timing plans for the signals in the coordination group q. Bi-directional curb ramps (where feasible, and if project is on a street corner) r. Upgrade ramps on receiving curb (where feasible, and if project is on a street corner)		
SCA TRA-4 (Standard Condition of Approval 79) Transportation and Parking Demand Management a. <i>Transportation and Parking Demand Management (TDM) Plan Required</i> <u>Requirement:</u> The project applicant shall submit a Transportation and Parking Demand Management (TDM) Plan for review and approval by the City. p. i. The goals of the TDM Plan shall be the following: <ul style="list-style-type: none"> • Reduce vehicle traffic and parking demand generated by the project to the maximum extent practicable. • Achieve the following project vehicle trip reductions (VTR): <ul style="list-style-type: none"> – Projects generating 50-99 net new a.m. or p.m. peak hour vehicle trips: 10 percent VTR – Projects generating 100 or more net new a.m. or p.m. peak hour vehicle trips: 20 percent VTR • Increase pedestrian, bicycle, transit, and carpool/vanpool modes of travel. All four modes of travel shall be considered, as appropriate. • Enhance the City's transportation system, consistent with City policies and programs. q. ii. The TDM Plan should include the following: <ul style="list-style-type: none"> • Baseline existing conditions of parking and curbside regulations within the surrounding neighborhood that could affect the effectiveness of TDM strategies, including inventory of parking spaces and occupancy if applicable. • Proposed TDM strategies to achieve VTR goals (see below). r. iii. For employers with 100 or more employees at the subject site, the TDM Plan shall also comply with the requirements of Oakland Municipal Code Chapter 10.68 Employer-Based Trip Reduction Program.	a. Prior approval of planning application. b. Prior to building permit final c. Ongoing	a. City of Oakland Bureau of Planning b. City of Oakland Bureau of Building c. City of Oakland Department of Transportation

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
S. iv. The following TDM strategies must be incorporated into a TDM Plan based on a project location or other characteristics. When required, these mandatory strategies should be identified as a credit toward a project's VTR.		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
Transportation and Circulation (cont.)		

t.

u. Improvement	v. Required by code or when...
w. Bus boarding bulbs or islands	<ul style="list-style-type: none"> • A bus boarding bulb or island does not already exist and a bus stop is located along the project frontage; and/or • A bus stop along the project frontage serves a route with 15 minutes or better peak hour service and has a shared bus-bike lane curb
x. Bus shelter	<ul style="list-style-type: none"> • A stop with no shelter is located within the project frontage, or • The project is located within 0.10 miles of a flag stop with 25 or more boardings per day
y. Concrete bus pad	<ul style="list-style-type: none"> • A bus stop is located along the project frontage and a concrete bus pad does not already exist
z. Curb extensions or bulb-outs	<ul style="list-style-type: none"> • Identified as an improvement within site analysis
aa. Implementation of a corridor-level bikeway improvement	<ul style="list-style-type: none"> • A buffered Class II or Class IV bikeway facility is in a local or county adopted plan within 0.10 miles of the project location; and • The project would generate 500 or more daily bicycle trips¹
bb. Implementation of a corridor-level transit capital improvement	<ul style="list-style-type: none"> • A high-quality transit facility is in a local or county adopted plan within 0.25 miles of the project location; and • The project would generate 400 or more peak period transit trips
cc. Installation of amenities such as lighting; pedestrian-oriented green infrastructure, trees, or other greening landscape; and trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.	<ul style="list-style-type: none"> • Always required
dd. Installation of safety improvements identified in the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.)	<ul style="list-style-type: none"> • When improvements are identified in the Pedestrian Master Plan along project frontage or at an adjacent intersection
ee. In-street bicycle corral	<ul style="list-style-type: none"> • A project includes more than 10,000 square feet of ground floor retail, is located along a Tier 1 bikeway, and on-street vehicle parking is provided along the project frontages.
ff. Intersection improvements ²	<ul style="list-style-type: none"> • Identified as an improvement within site analysis
gg. New sidewalk, curb ramps, curb and gutter meeting current City and ADA standards	<ul style="list-style-type: none"> • Always required

Standard Conditions of Approval/Mitigation Measures		Mitigation Implementation/ Monitoring	
		Schedule	Responsibility
hh. No monthly permits and establish minimum price floor for public parking ²	<ul style="list-style-type: none"> If proposed parking ratio exceeds 1:1000 sf. (commercial) 		
ii. Parking garage is designed with retrofit capability	<ul style="list-style-type: none"> Optional if proposed parking ratio exceeds 1:1.25 (residential) or 1:1000 sf. (commercial) 		
ii.			
Transportation and Circulation (cont.)			
kk.			
ll. Improvement	mm. Required by code or when...		
nn. Parking space reserved for car share	<ul style="list-style-type: none"> If a project is providing parking and a project is located within downtown. One car share space reserved for buildings between 50 – 200 units, then one car share space per 200 units. 		
oo. Paving, lane striping or restriping (vehicle and bicycle), and signs to midpoint of street section	<ul style="list-style-type: none"> Typically required 		
pp. Pedestrian crossing improvements	<ul style="list-style-type: none"> Identified as an improvement within site analysis 		
qq. Pedestrian-supportive signal changes ³	<ul style="list-style-type: none"> Identified as an improvement within operations analysis 		
rr. Real-time transit information system	<ul style="list-style-type: none"> A project frontage block includes a bus stop or BART station and is along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better 		
ss. Relocating bus stops to far side	<ul style="list-style-type: none"> A project is located within 0.10 mile of any active bus stop that is currently near-side 		
tt. Signal upgrades ⁴	<ul style="list-style-type: none"> Project size exceeds 100 residential units, 80,000 sf. of retail, or 100,000 sf. of commercial; and Project frontage abuts an intersection with signal infrastructure older than 15 years 		
uu. Transit queue jumps	<ul style="list-style-type: none"> Identified as a needed improvement within operations analysis of a project with frontage along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better 		

¹ Including but not limited to visibility improvements, shortening corner radii, pedestrian safety islands, accounting for pedestrian desire lines.

² May also provide a cash incentive or transit pass alternative to a free parking space in commercial properties.

³ Including but not limited to reducing signal cycle lengths to less than 90 seconds to avoid pedestrian crossings against the signal, providing a leading pedestrian interval, provide a “scramble” signal phase where appropriate.

⁴ Including typical traffic lights, pedestrian signals, bike actuated signals, transit-only signals

Standard Conditions of Approval/Mitigation Measures		Mitigation Implementation/ Monitoring	
		Schedule	Responsibility
<p>VV. Trenching and placement of conduit for providing traffic signal interconnect</p>	<ul style="list-style-type: none"> Project size exceeds 100 units, 80,000 sf. of retail, or 100,000 sf. of commercial; and Project frontage block is identified for signal interconnect improvements as part of a planned ITS improvement; and A major transit improvement is identified within operations analysis requiring traffic signal interconnect 		
<p>WW. Unbundled parking</p>	<ul style="list-style-type: none"> If proposed parking ratio exceeds 1:1.25 (residential) 		
<p>XX. iii. Other TDM strategies to consider include, but are not limited to, the following:</p> <ul style="list-style-type: none"> Inclusion of additional long-term and short-term bicycle parking that meets the design standards set forth in chapter five of the Bicycle Master Plan and the Bicycle Parking Ordinance (chapter 17.117 of the Oakland Planning Code), and shower and locker facilities in commercial developments that exceed the requirement. 			
Transportation and Circulation (cont.)			
	<ul style="list-style-type: none"> Construction of and/or access to bikeways per the Bicycle Master Plan; construction of priority bikeways, on-site signage and bike lane striping. Installation of safety elements per the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient and safe crossing at arterials, in addition to safety elements required to address safety impacts of the project. Installation of amenities such as lighting, street trees, and trash receptacles per the Pedestrian Master Plan, the Master Street Tree List and Tree Planting Guidelines (which can be viewed at http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf and http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf, respectively) and any applicable streetscape plan. Construction and development of transit stops/shelters, pedestrian access, way finding signage, and lighting around transit stops per transit agency plans or negotiated improvements. Direct on-site sales of transit passes purchased and sold at a bulk group rate (through programs such as AC Transit Easy Pass or a similar program through another transit agency). Provision of a transit subsidy to employees or residents, determined by the project applicant and subject to review by the City, if employees or residents use transit or commute by other alternative modes. Provision of an ongoing contribution to transit service to the area between the project and nearest mass transit station prioritized as follows: 1) Contribution to AC Transit bus service; 2) Contribution to an existing area shuttle service; and 3) Establishment of new shuttle service. The amount of contribution (for any of the above scenarios) would be based upon the cost of establishing new shuttle service (Scenario 3). Guaranteed ride home program for employees, either through 511.org or through separate program. Pre-tax commuter benefits (commuter checks) for employees. Free designated parking spaces for on-site car-sharing program (such as City Car Share, Zip Car, etc.) and/or car-share membership for employees or tenants. On-site carpooling and/or vanpool program that includes preferential (discounted or free) parking for carpools and vanpools. 		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<ul style="list-style-type: none"> • Distribution of information concerning alternative transportation options. • Parking spaces sold/leased separately for residential units. Charge employees for parking, or provide a cash incentive or transit pass alternative to a free parking space in commercial properties. • Parking management strategies including attendant/valet parking and shared parking spaces. • Requiring tenants to provide opportunities and the ability to work off-site. • Allow employees or residents to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite (e.g., working four, ten-hour days; allowing employees to work from home two days per week). • Provide or require tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours. 		
Transportation and Circulation (cont.)		
<p>yy. The TDM Plan shall indicate the estimated VTR for each strategy, based on published research or guidelines where feasible. For TDM Plans containing ongoing operational VTR strategies, the Plan shall include an ongoing monitoring and enforcement program to ensure the Plan is implemented on an ongoing basis during project operation. If an annual compliance report is required, as explained below, the TDM Plan shall also specify the topics to be addressed in the annual report.</p> <p>zz. <u>When Required:</u> Prior to approval of construction-related permit</p> <p>aaa. <u>Initial Approval:</u> Bureau of Planning</p> <p>bbb. <u>Monitoring/Inspection:</u> N/A</p> <p>b. <i>TDM Implementation – Physical Improvements</i></p> <p><u>Requirement:</u> For VTR strategies involving physical improvements, the project applicant shall obtain the necessary permits/approvals from the City and install the improvements prior to the completion of the project.</p> <p>ccc. <u>When Required:</u> Prior to building permit final</p> <p>ddd. <u>Initial Approval:</u> Bureau of Building</p> <p>eee. <u>Monitoring/Inspection:</u> Bureau of Building</p> <p>c. <i>TDM Implementation – Operational Strategies</i></p> <p><u>Requirement:</u> For projects that generate 100 or more net new a.m. or p.m. peak hour vehicle trips and contain ongoing operational VTR strategies, the project applicant shall submit an annual compliance report for the first five years following completion of the project (or completion of each phase for phased projects) for review and approval by the City. The annual report shall document the status and effectiveness of the TDM program, including the actual VTR achieved by the project during operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the project applicant, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the project applicant has failed to implement the TDM Plan, the project will be considered in violation of the Conditions of Approval and the City may initiate enforcement action as provided for in these Conditions of Approval. The project shall not be considered in violation of this Condition if the TDM Plan is implemented but the VTR goal is not achieved.</p>		

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p>fff. NOTE: This measure has been implemented by the project applicant and no further action is required. The TDM Plan is included as Appendix A to the 1750 Broadway Project CEQA Checklist/Exemption Report.</p>		
<p>SCA TRA-4 (Standard Condition of Approval 80) <i>Transportation Impact Fee</i> <u>Requirement:</u> The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (chapter 15.74 of the Oakland Municipal Code).</p>	Prior to issuance of building permit.	City of Oakland Bureau of Building
<p>SCA TRA-5 (Standard Condition of Approval 83) <i>Plug-In Electric Vehicle (PEV) Charging Infrastructure</i> a. <i>PEV-Ready Parking Spaces</i> <u>Requirement:</u> The applicant shall submit, for review and approval of the Building Official and the Zoning Manager, plans that show the location of parking spaces equipped with full electrical circuits designated for future PEV charging (i.e. "PEV-Ready") per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-Ready parking spaces.</p>	Prior to Issuance of Building Permit	City of Oakland Bureau of Building
Transportation and Circulation (cont.)		
<p>b. <i>PEV-Capable Parking Spaces</i> <u>Requirement:</u> The applicant shall submit, for review and approval of the Building Official, plans that show the location of inaccessible conduit to supply PEV-capable parking spaces per the requirements of Chapter 15.04 of the Oakland Municipal Code. Building electrical plans shall indicate sufficient electrical capacity to supply the required PEV-capable parking spaces.</p> <p>c. <i>ADA-Accessible Spaces</i> <u>Requirement:</u> The applicant shall submit, for review and approval of the Building Official, plans that show the location of future accessible EV parking spaces as required under Title 24 Chapter 11B Table 11B-228.3.2.1, and specify plans to construct all future accessible EV parking spaces with appropriate grade, vertical clearance, and accessible path of travel to allow installation of accessible EV charging station(s).</p>		
Utilities and Service Systems		
<p>SCA UTIL-1 (Standard Condition of Approval 84) <i>Construction and Demolition Waste Reduction and Recycling</i> <u>Requirement:</u> The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.</p>	Prior to approval of construction-related permit	City of Oakland Public Works Department, Environmental Services Division
<p>SCA UTIL-2 (Standard Condition of Approval 85) <i>Underground Utilities</i> <u>Requirement:</u> The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of</p>	During construction.	City of Oakland Bureau of Building

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.		
<p>SCA UTIL-3 (Standard Condition of Approval 86) <i>Recycling Collection and Storage Space</i> <u>Requirement:</u> The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Planning and Bureau of Building
<p>SCA UTIL-4 (Standard Condition of Approval 87) <i>Green Building Requirements</i> a. <i>Compliance with Green Building Requirements During Plan-Check</i> <u>Requirement:</u> The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).</p>	<p>a. Prior to approval of construction-related permit. b. During construction. c. Prior to final approval.</p>	<p>a. City of Oakland Bureau of Building Inspections b. City of Oakland Bureau of Building</p>
Utilities and Service Systems (cont.)		
<p>i. The following information shall be submitted to the City for review and approval with the application for a building permit:</p> <ul style="list-style-type: none"> • Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards. • Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit. • Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit. • Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below. • Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance. • Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit. • Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance. <p>ii. The set of plans in subsection (i) shall demonstrate compliance with the following:</p> <ul style="list-style-type: none"> • CALGreen mandatory measures. • All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit. 		<p>c. City of Oakland Bureau of Planning and Bureau of Building</p>

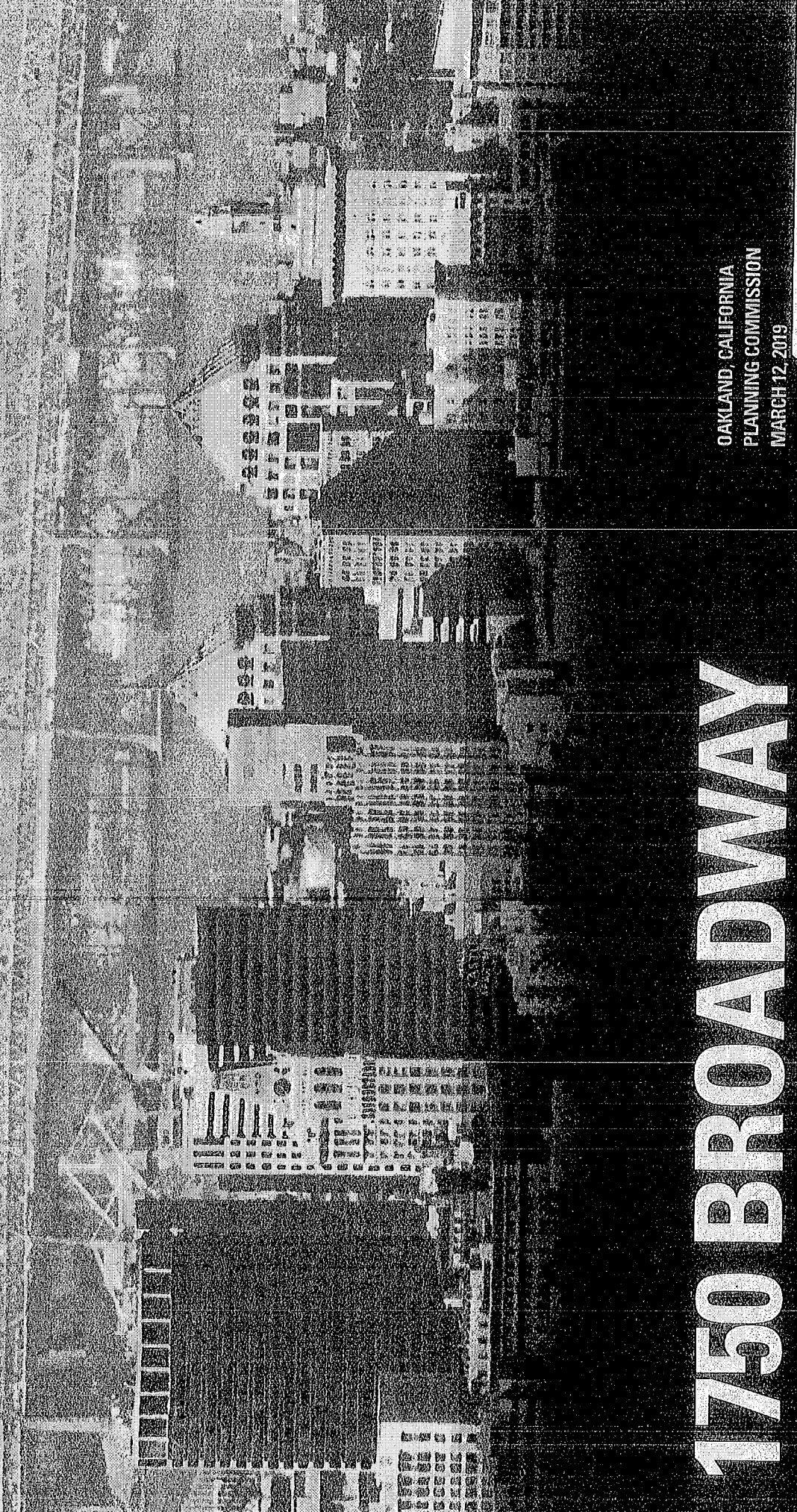
Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<ul style="list-style-type: none"> Compliance with the appropriate and applicable checklist approved during the Planning entitlement process. All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted. The required green building point minimums in the appropriate credit categories. <p>b. Compliance with Green Building Requirements During Construction <u>Requirement:</u> The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project. The following information shall be submitted to the City for review and approval:</p> <ol style="list-style-type: none"> Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance. 		
Utilities and Service Systems (cont.)		
<p>c. Compliance with Green Building Requirements After Construction <u>Requirement:</u> Prior to the finalizing the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.</p>		
<p>SCA UTIL-5 (Standard Condition of Approval 89) Sanitary Sewer System <u>Requirement:</u> The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City's Master Fee Schedule for funding improvements to the sanitary sewer system.</p>	Prior to approval of construction-related permit.	City of Oakland Public Works Department, Department of Engineering and Construction
<p>SCA UTIL-6 (Standard Condition of Approval 90) Storm Drain System <u>Requirement:</u> The project storm drainage system shall be designed in accordance with the City of Oakland's Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Building
<p>SCA UTIL-7 (Standard Condition of Approval 92) Water Efficient Landscape Ordinance (WELO) <u>Requirement:</u> The project applicant shall comply with California's Water Efficient Landscape Ordinance (WELO) in order to reduce landscape water usage. For any landscape project with an aggregate (total noncontiguous) landscape area equal to 2,500 sq. ft. or less. The project applicant may implement either the Prescriptive Measures or the Performance Measures, of, and in accordance with the California's Model Water Efficient Landscape Ordinance. For any landscape project with an aggregate (total noncontiguous) landscape area over 2,500 sq. ft., the project applicant shall implement the Performance Measures in accordance with the WELO.</p>	Prior to approval of construction-related permit.	City of Oakland Bureau of Planning

Standard Conditions of Approval/Mitigation Measures	Mitigation Implementation/ Monitoring	
	Schedule	Responsibility
<p><i>Prescriptive Measures:</i> Prior to construction, the project applicant shall submit documentation showing compliance with Appendix D of California's Model Water Efficient Landscape Ordinance (see website below starting on page 23): http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%2023%20extract%20-%20Official%20CCR%20pages.pdf</p> <p><i>Performance Measures:</i> Prior to construction, the project applicant shall prepare and submit a Landscape Documentation Package for review and approval, which includes the following:</p> <p>a. Project Information:</p> <ul style="list-style-type: none"> i. Date, ii. Applicant and property owner name, iii. Project address, iv. Total landscape area, v. Project type (new, rehabilitated, cemetery, or home owner installed), vi. Water supply type and water purveyor, vii. Checklist of documents in the package, and viii. Applicant signature and date with the statement: "I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package." 		
Utilities and Service Systems (cont.)		
<p>b. Water Efficient Landscape Worksheet</p> <ul style="list-style-type: none"> i. Hydrozone Information Table ii. Water Budget Calculations with Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use <p>c. Soil Management Report</p> <p>d. Landscape Design Plan</p> <p>e. Irrigation Design Plan, and</p> <p>f. Grading Plan</p> <p>Upon installation of the landscaping and irrigation systems, the Project applicant shall submit a Certificate of Completion and landscape and irrigation maintenance schedule for review and approval by the City. The Certificate of Compliance shall also be submitted to the local water purveyor and property owner or his or her designee.</p> <p>For the specific requirements within the Water Efficient Landscape Worksheet, Soil Management Report, Landscape Design Plan, Irrigation Design Plan and Grading Plan, see the link below. Effective May 1, 2018 Page 77 http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%2023%20extract%20-%20Official%20CCR%20pages.pdf</p>		
<p>Also SCAs HYD-1, Erosion and Sedimentation Control Plan for Construction, and HYD-2, NPDES C.3 Stormwater Requirements for Regulated Projects. See <i>Hydrology and Water Quality</i>, above.</p>		

RECEIVED

MAR 13 2019

City of Oakland
Planning & Zoning Division



1750 BROADWAY

OAKLAND, CALIFORNIA
PLANNING COMMISSION
MARCH 12, 2019

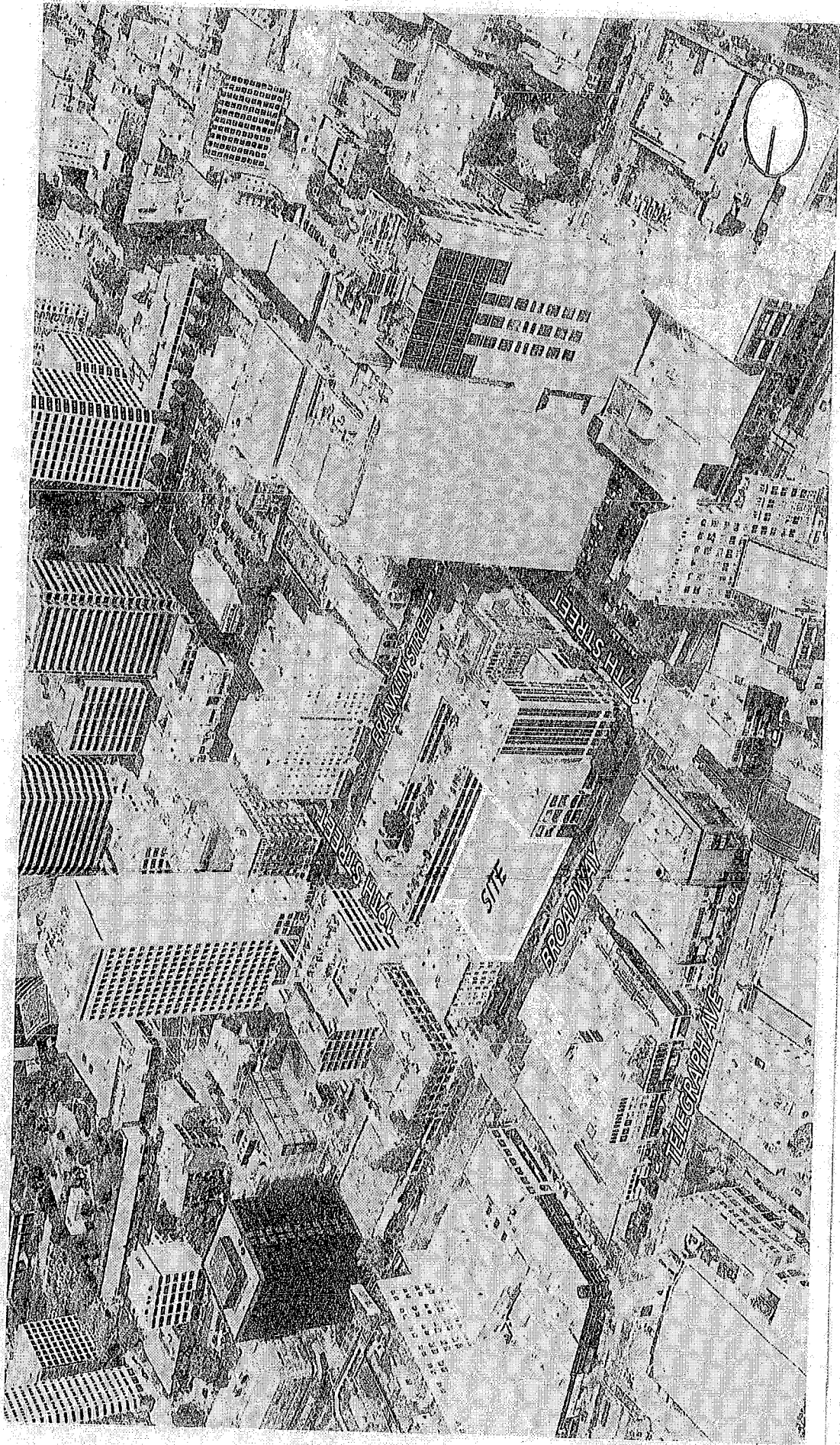
PROJECT INFORMATION

Development Team :	Rubicon Point Partners
Architectural Team :	Handel Architects
Location :	1750 Broadway
Project Type:	Mix-use Residential Apartments / Retail
Site:	27,600 SF
Number of units:	307
Residential:	341,880 GSF (273,270 NSF)
Number of parking stalls:	170
Garage:	114,240 GSF
Mechanical:	19,980 GSF
Retail:	5,000 GSF
Project Total:	approximately 499,676 SF
Bicycle Parking :	Short Term - 24 (22 Residential / 2 Retail)
	Long Term - 200 (198 Residential / 2 Retail)
Off Street Loading :	2 Spaces @ 12' x 30'
Recycling :	425 SF Room @ Ground Level. Bi-Sorter chute serving all Residential Levels

INDEX

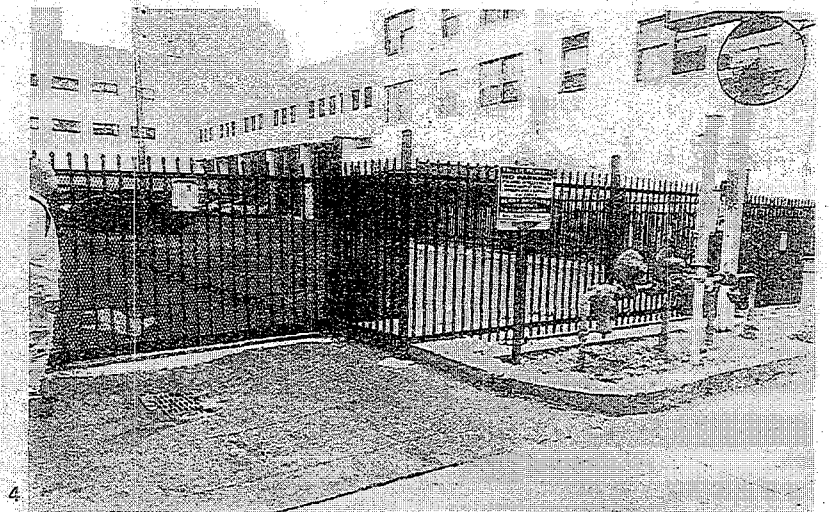
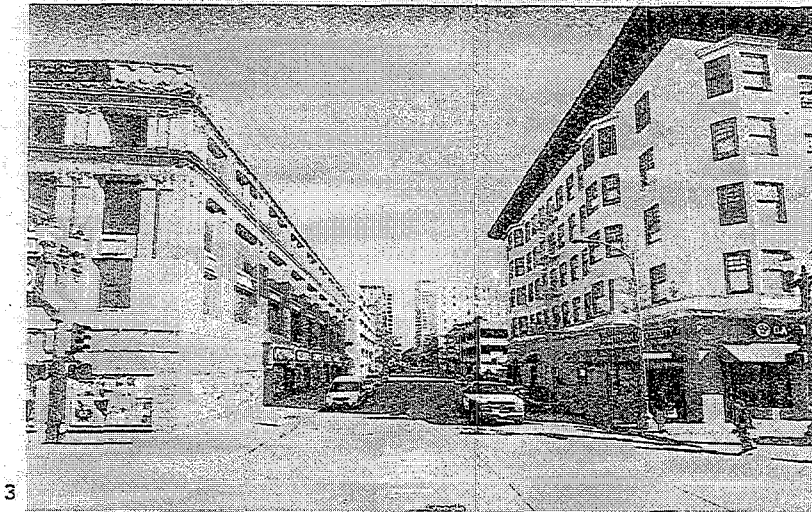
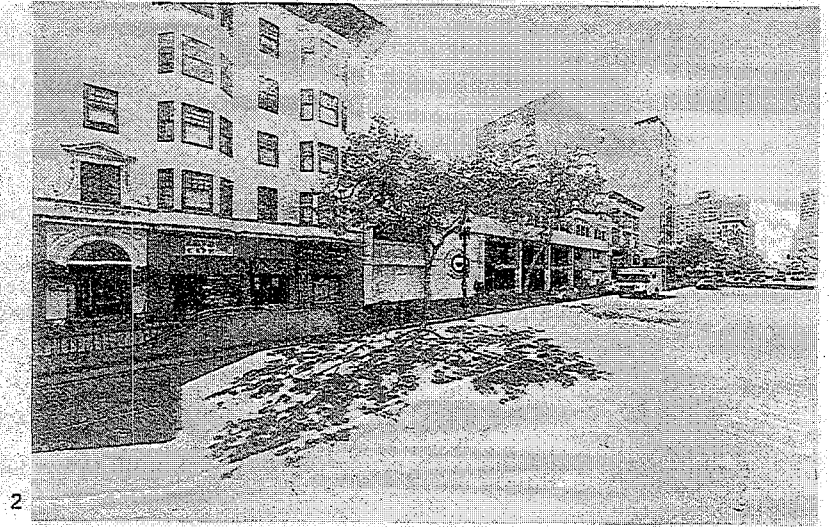
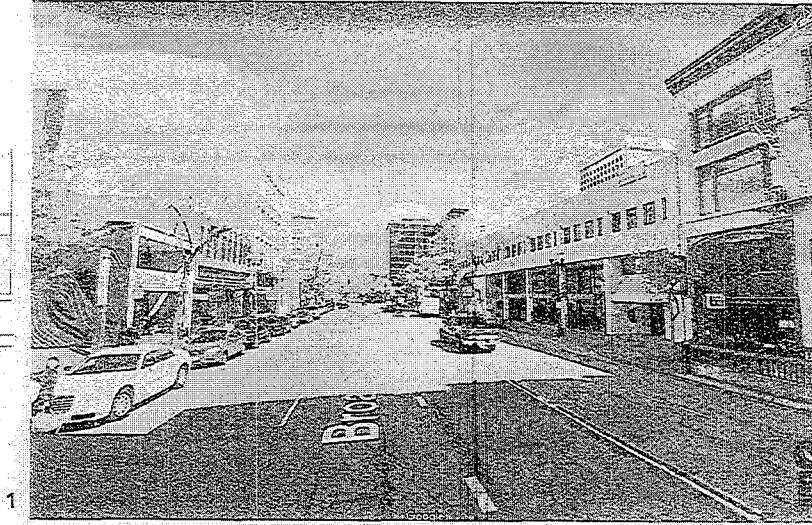
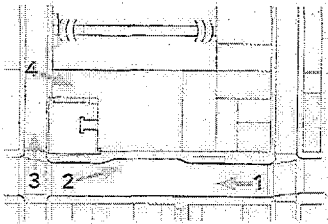
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SITE



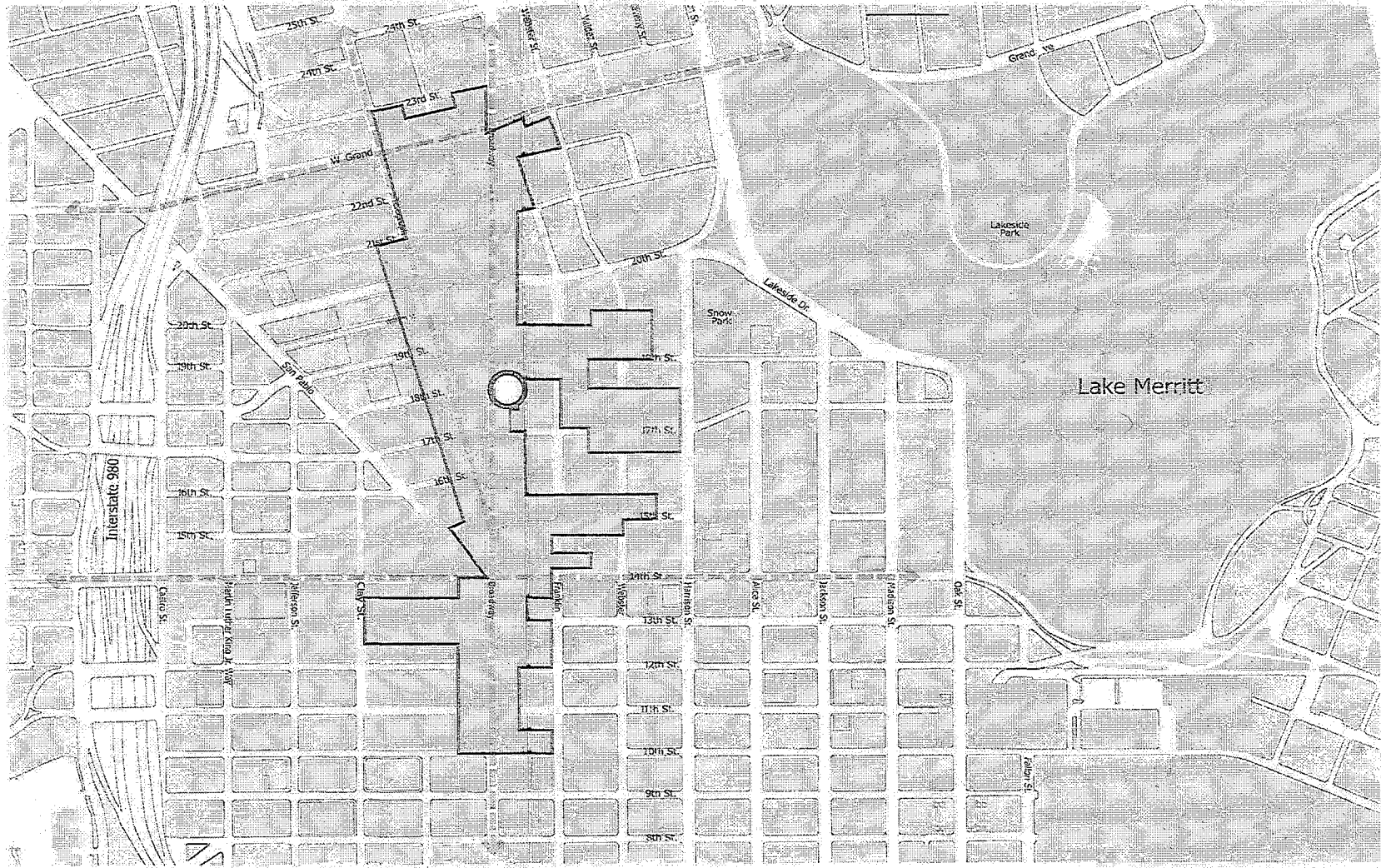
PLANNING COMMISSION 1750 BROADWAY, OAKLAND, CA

SITE PHOTOS

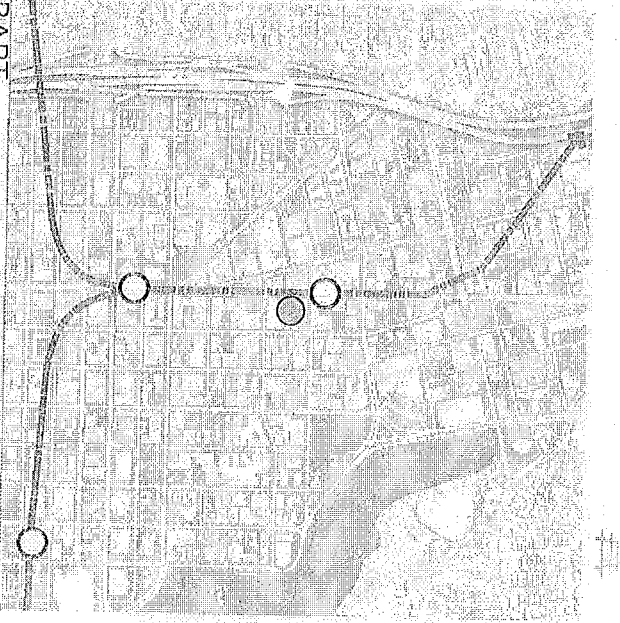
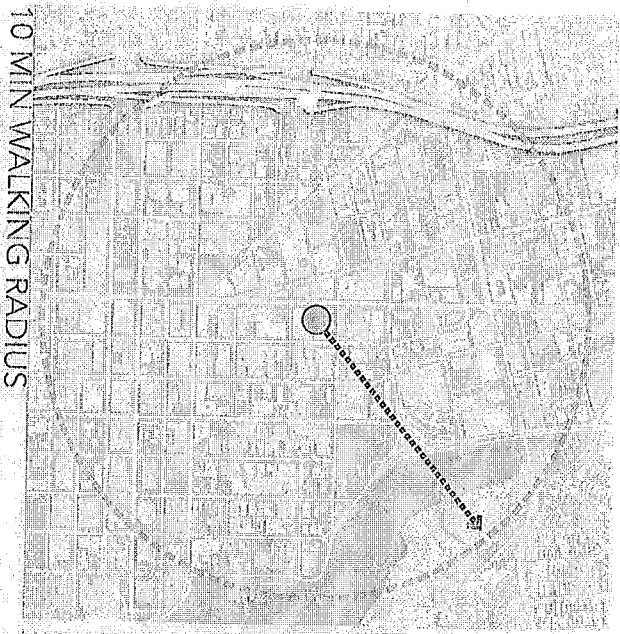


UPTOWN HUB

CENTRAL BUSINESS DISTRICT - PEDESTRIAN RETAIL COMMERCIAL ZONE



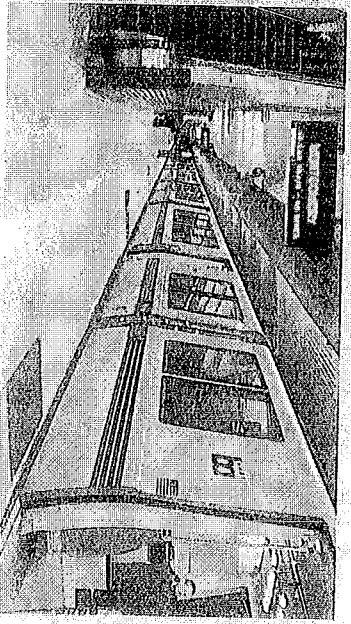
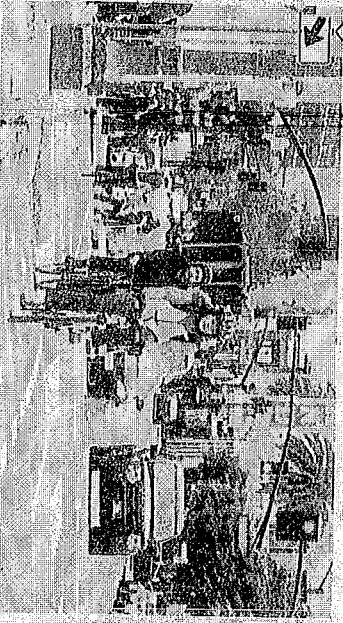
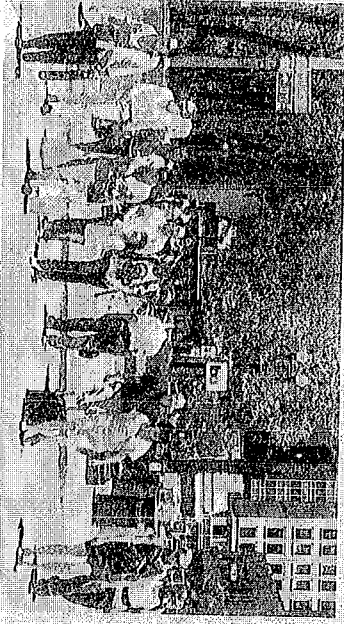
MOVEMENT

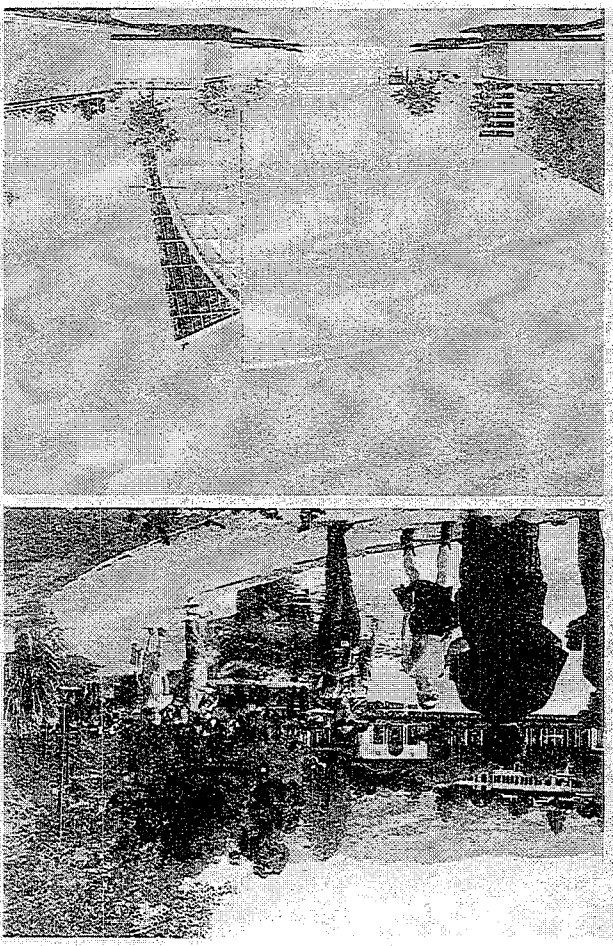
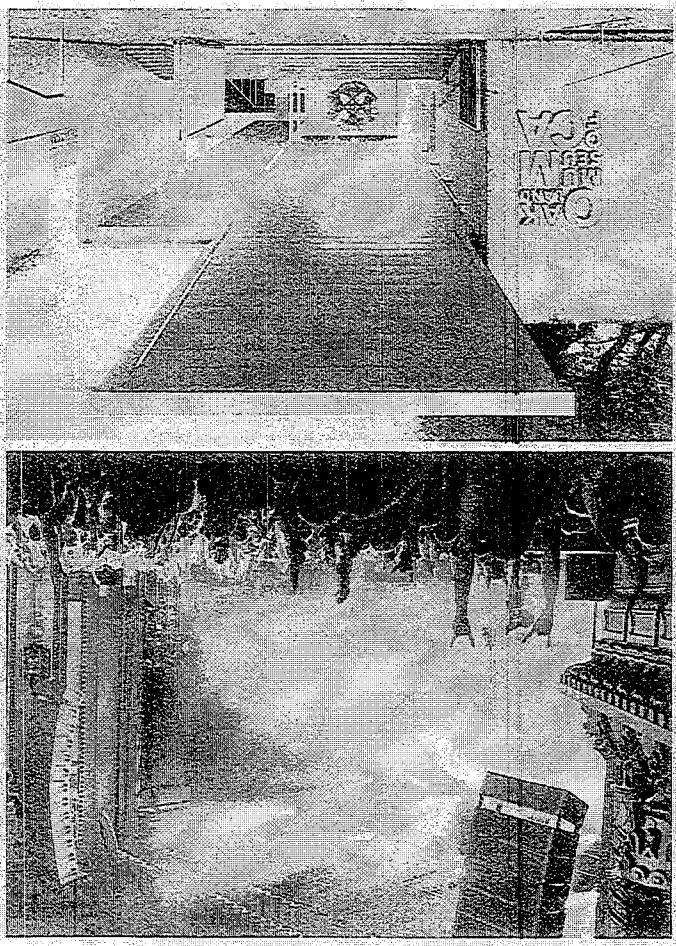
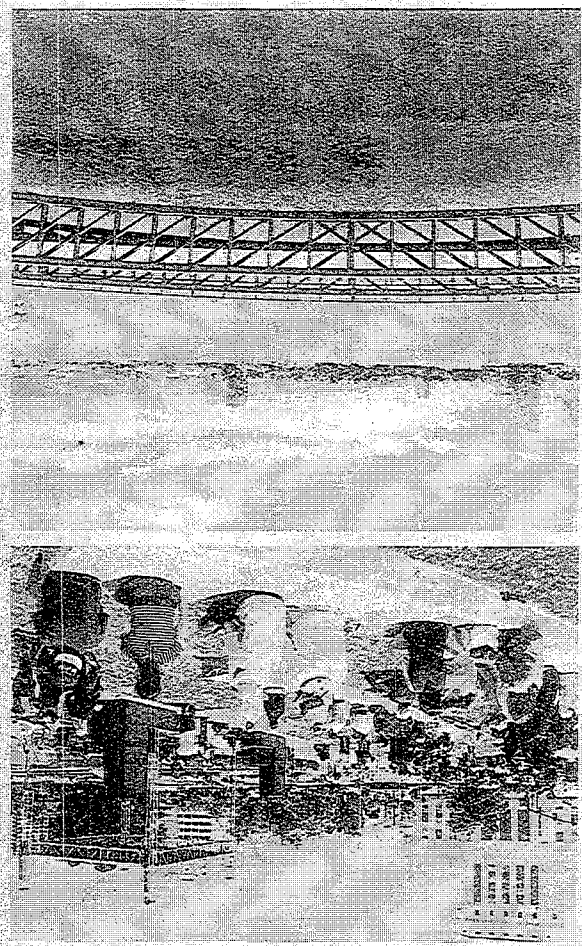


10 MIN WALKING RADIUS

BIKE PATH

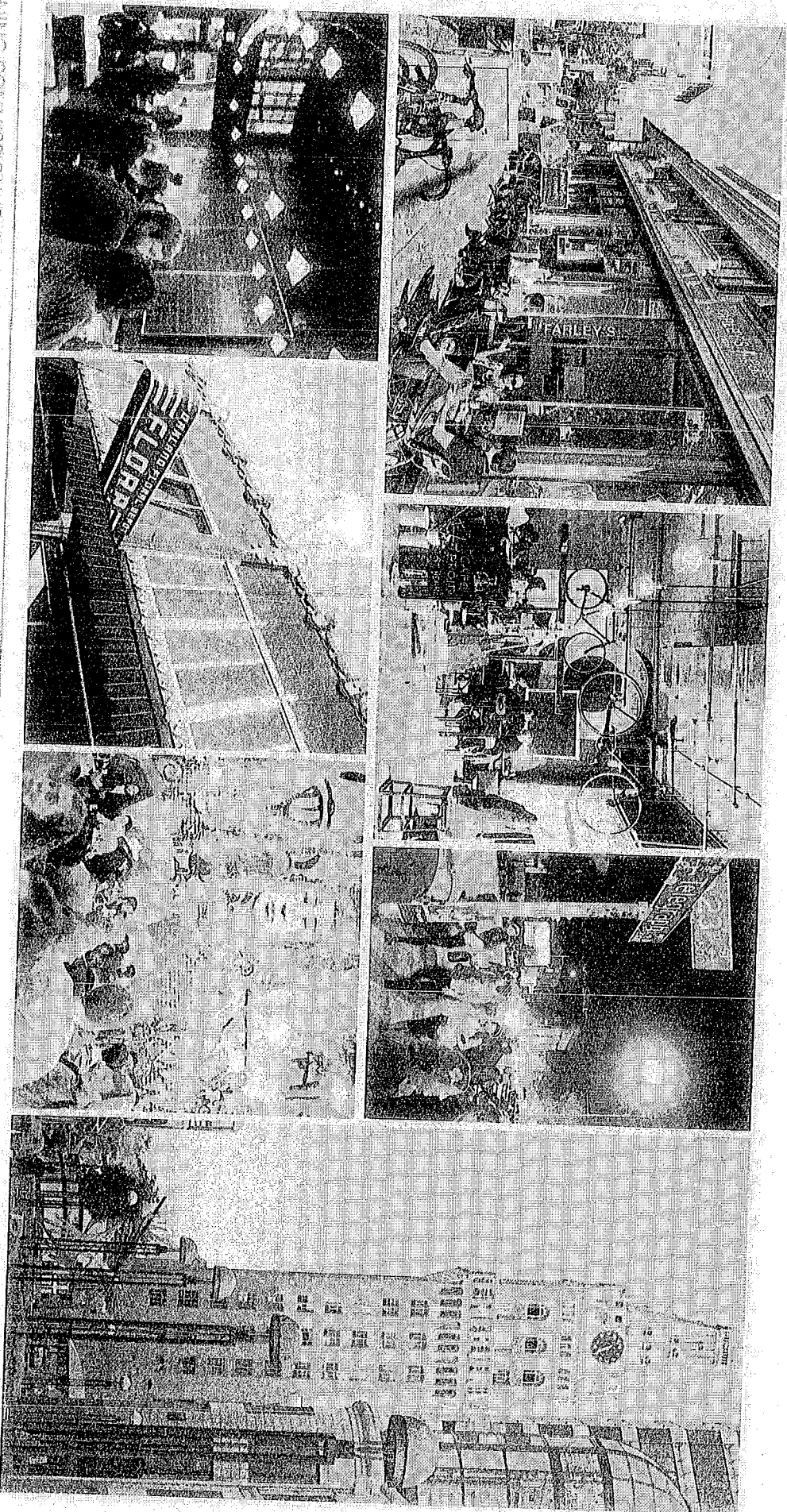
BART





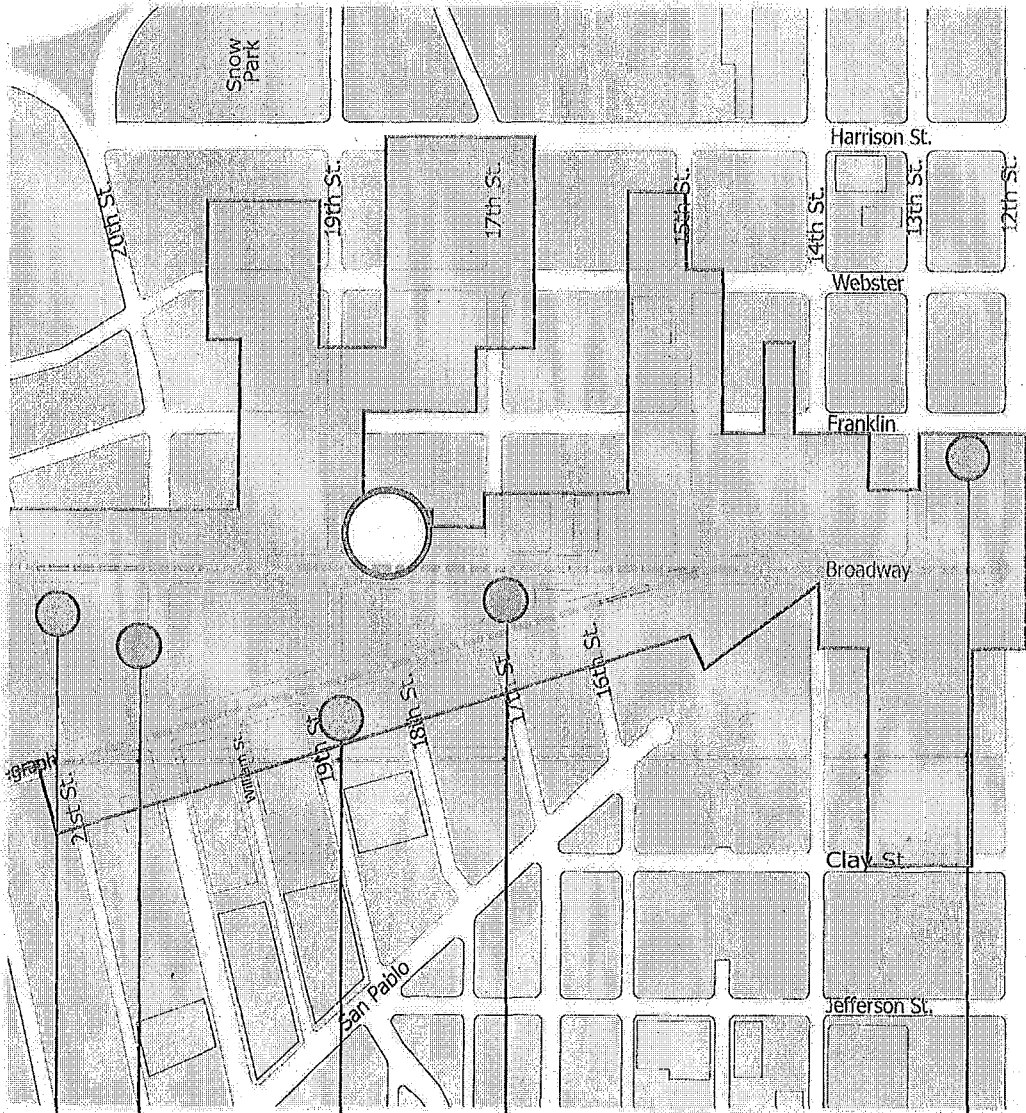
SURROUNDING AMENITIES

UPTOWN VIBE



PLANNING COMMISSION 1750 BROADWAY, OAKLAND, CA

UPTOWN LANDMARKS
CENTRAL BUSINESS DISTRICT - PEDESTRIAN RETAIL COMMERCIAL ZONE



PARAMOUNT THEATER

I. MAGNIN BUILDING

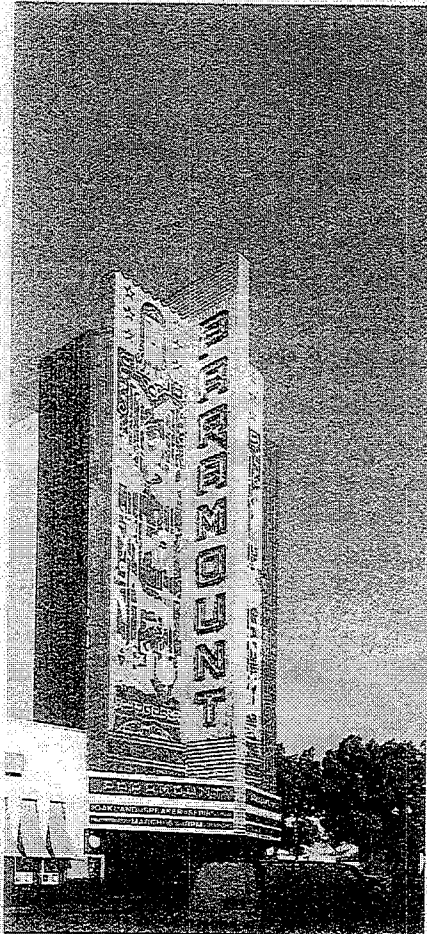
FOX THEATER

CATHEDRAL BUILDING

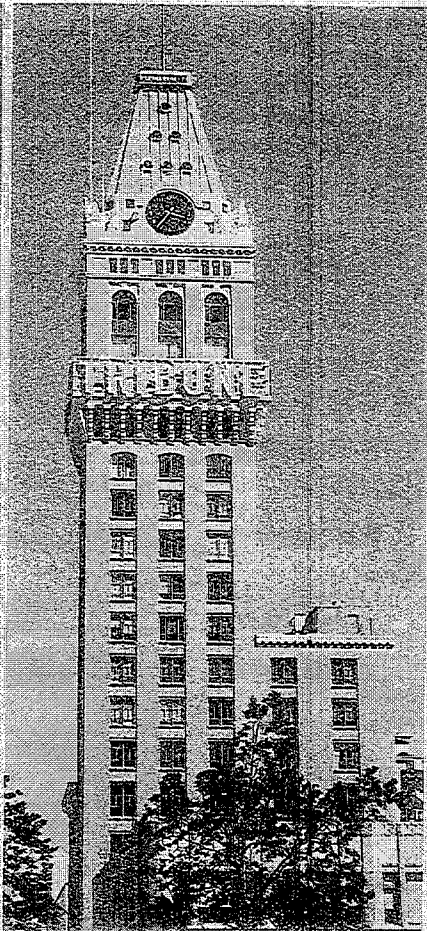
OAKLAND TRIBUNE TOWER

UPTOWN LANDMARKS

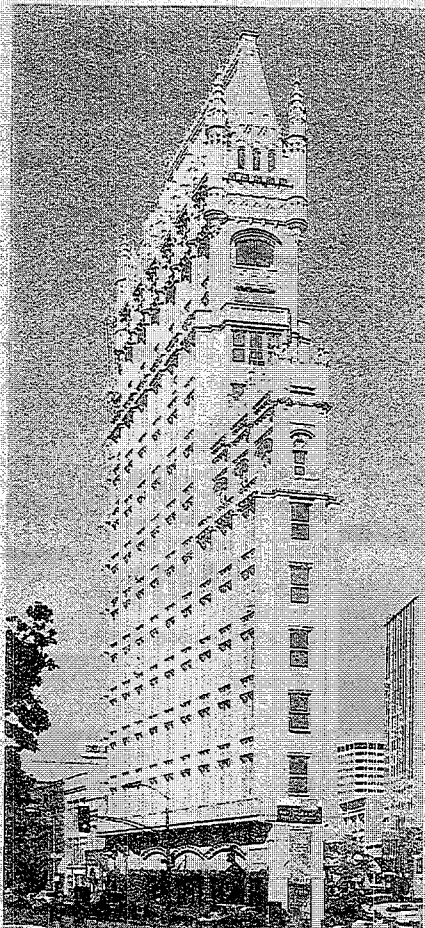
PARAMOUNT THEATER



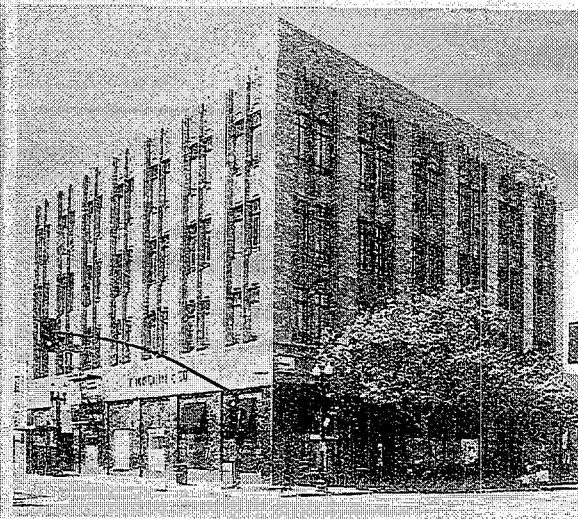
OAKLAND TRIBUNE TOWER



CATHEDRAL BUILDING



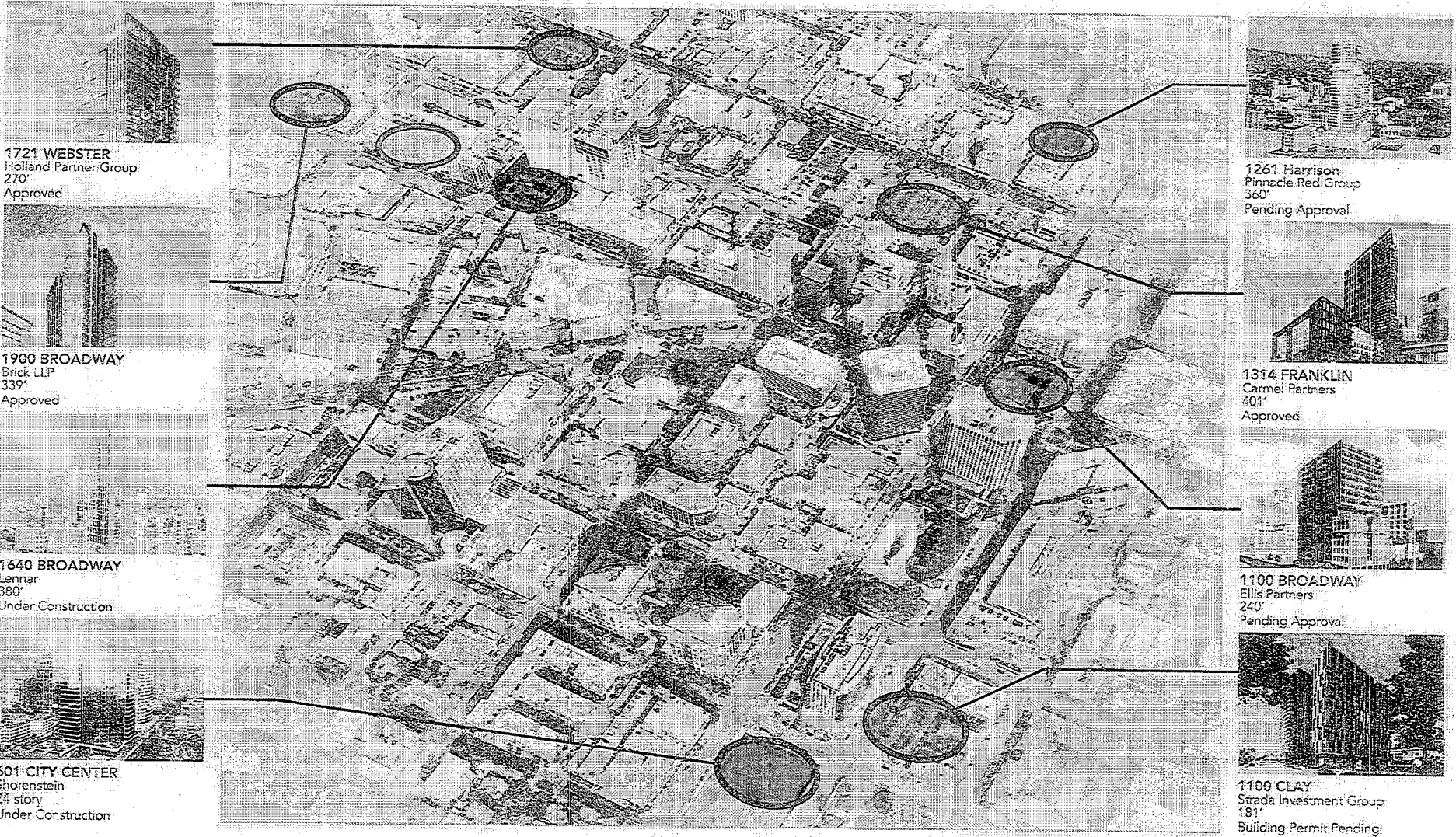
MAGNIN BUILDING



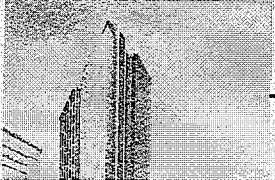
FOX THEATER



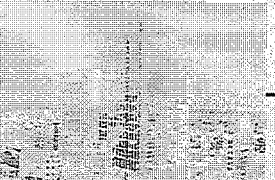
FUTURE DEVELOPMENTS



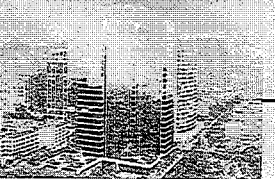
1721 WEBSTER
Holland Partner Group
270'
Approved



1900 BROADWAY
Brick LLP
339'
Approved

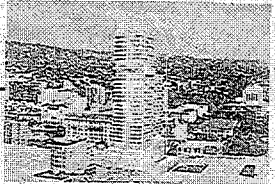


1640 BROADWAY
Lennar
380'
Under Construction

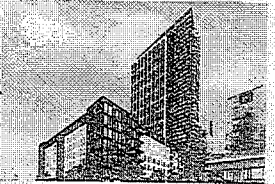


601 CITY CENTER
Shorenstein
24 story
Under Construction

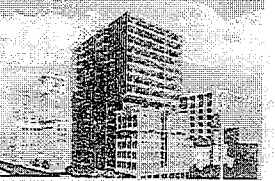
1261 Harrison
Pinnacle Red Group
360'
Pending Approval



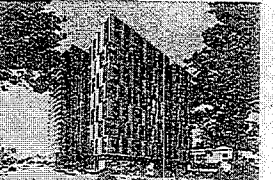
1314 FRANKLIN
Carmel Partners
401'
Approved



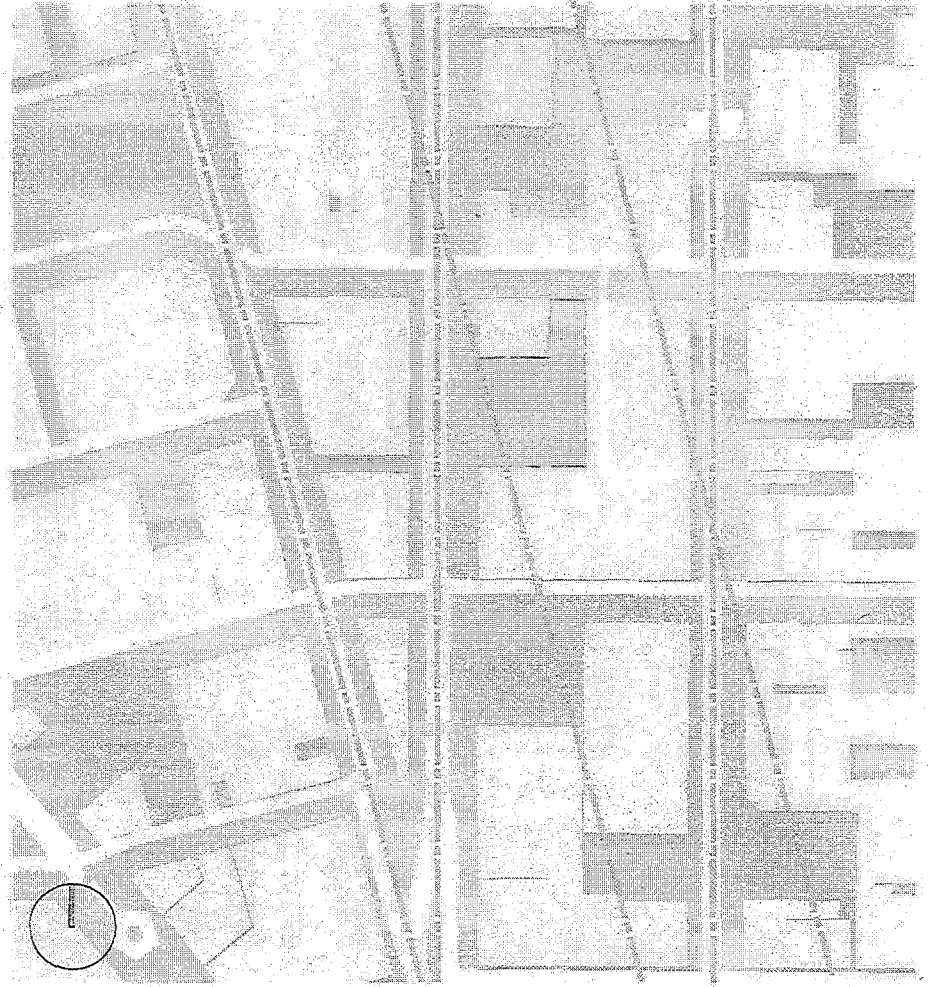
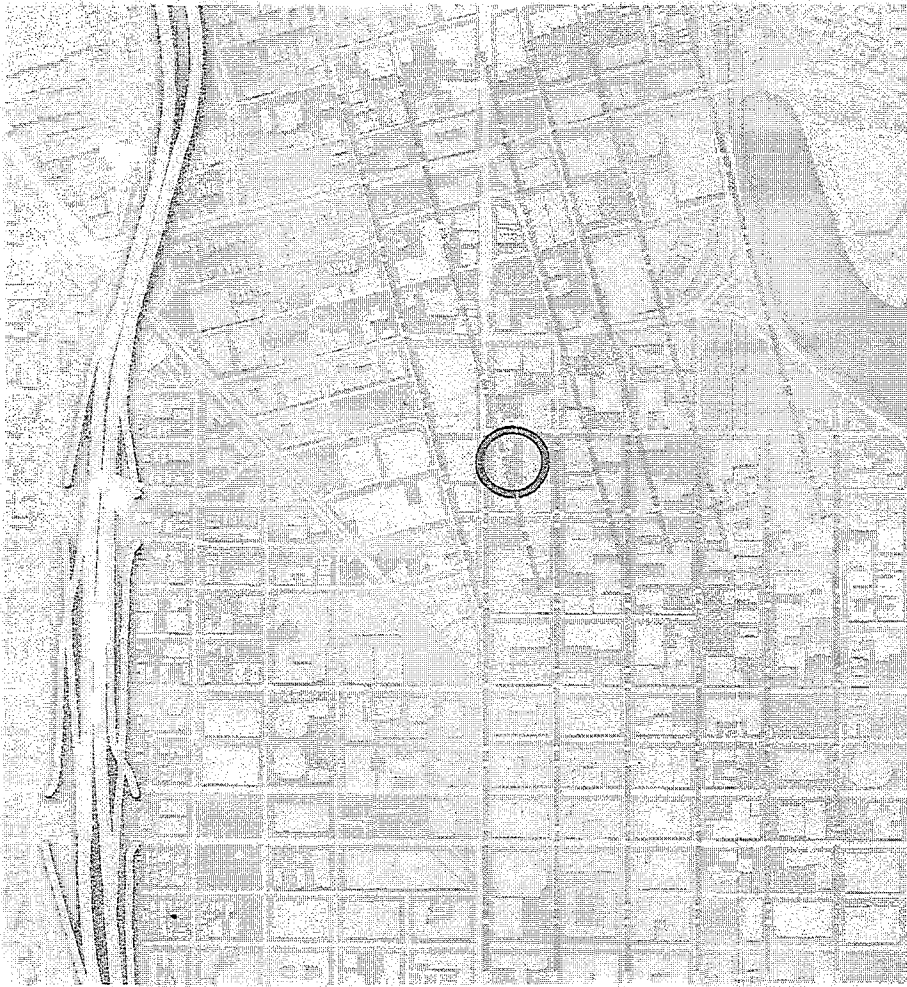
1100 BROADWAY
Ellis Partners
240'
Pending Approval



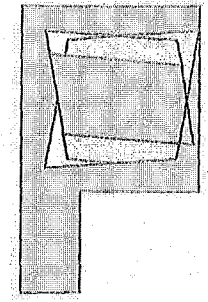
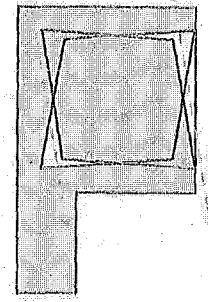
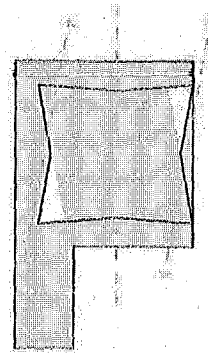
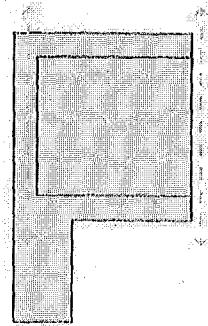
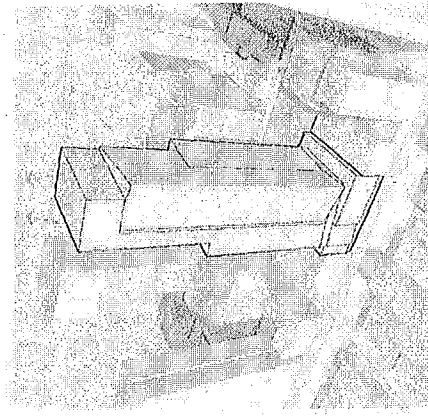
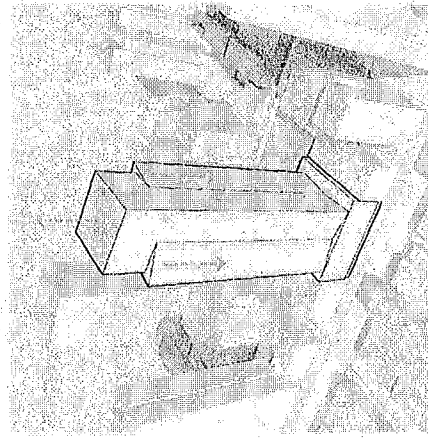
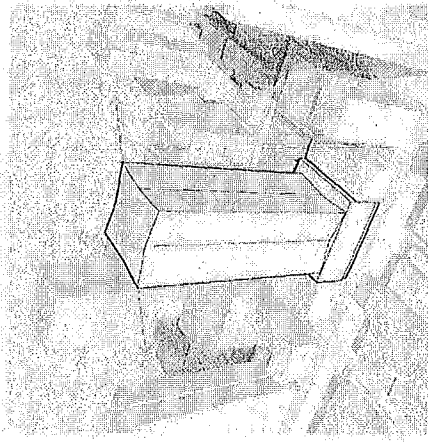
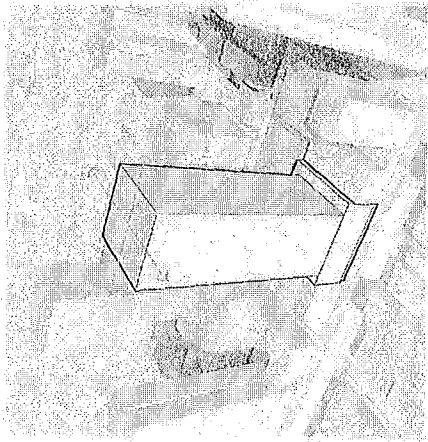
1100 CLAY
Strada Investment Group
181'
Building Permit Pending



BUILDING MASSING TOWER CONCEPT

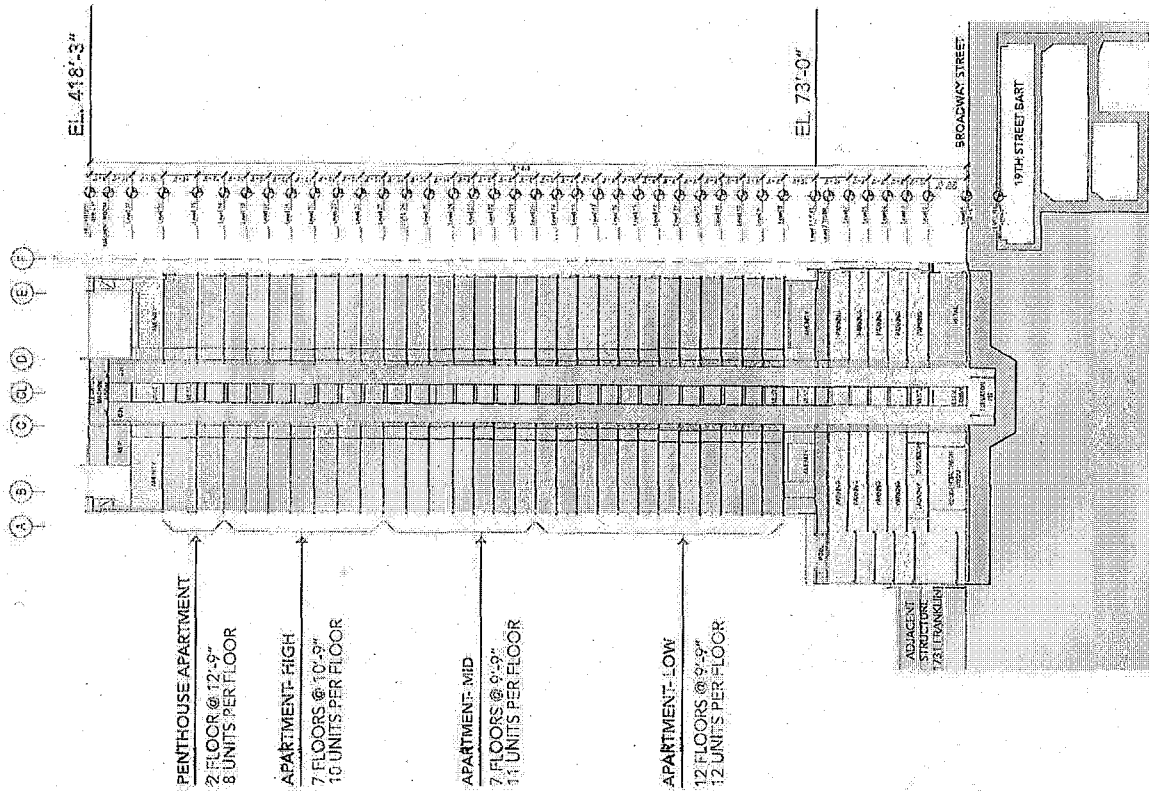


BUILDING MASSING
TRANSFORMATION



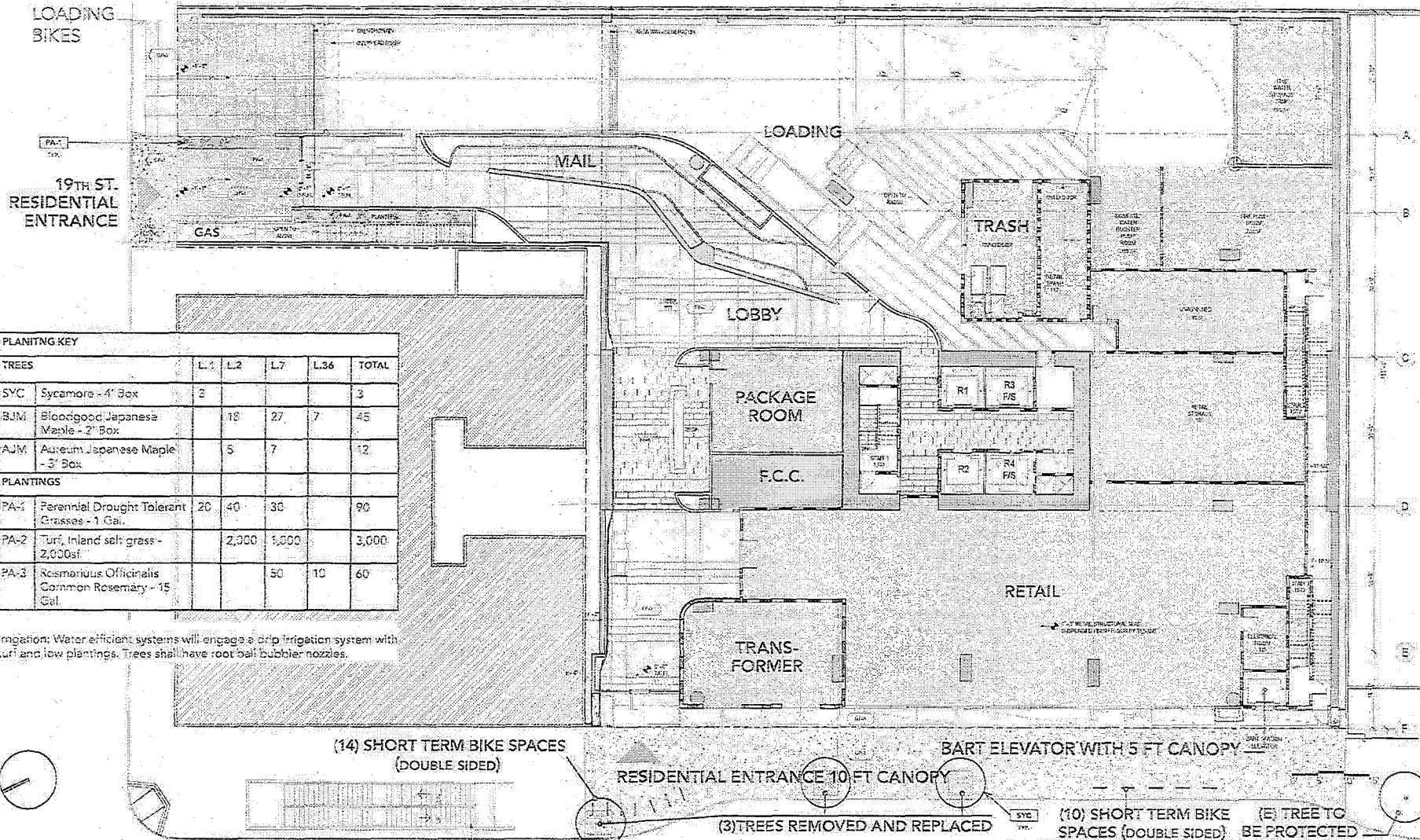
BUILDING SECTION EAST-WEST

PROGRAM STACKING



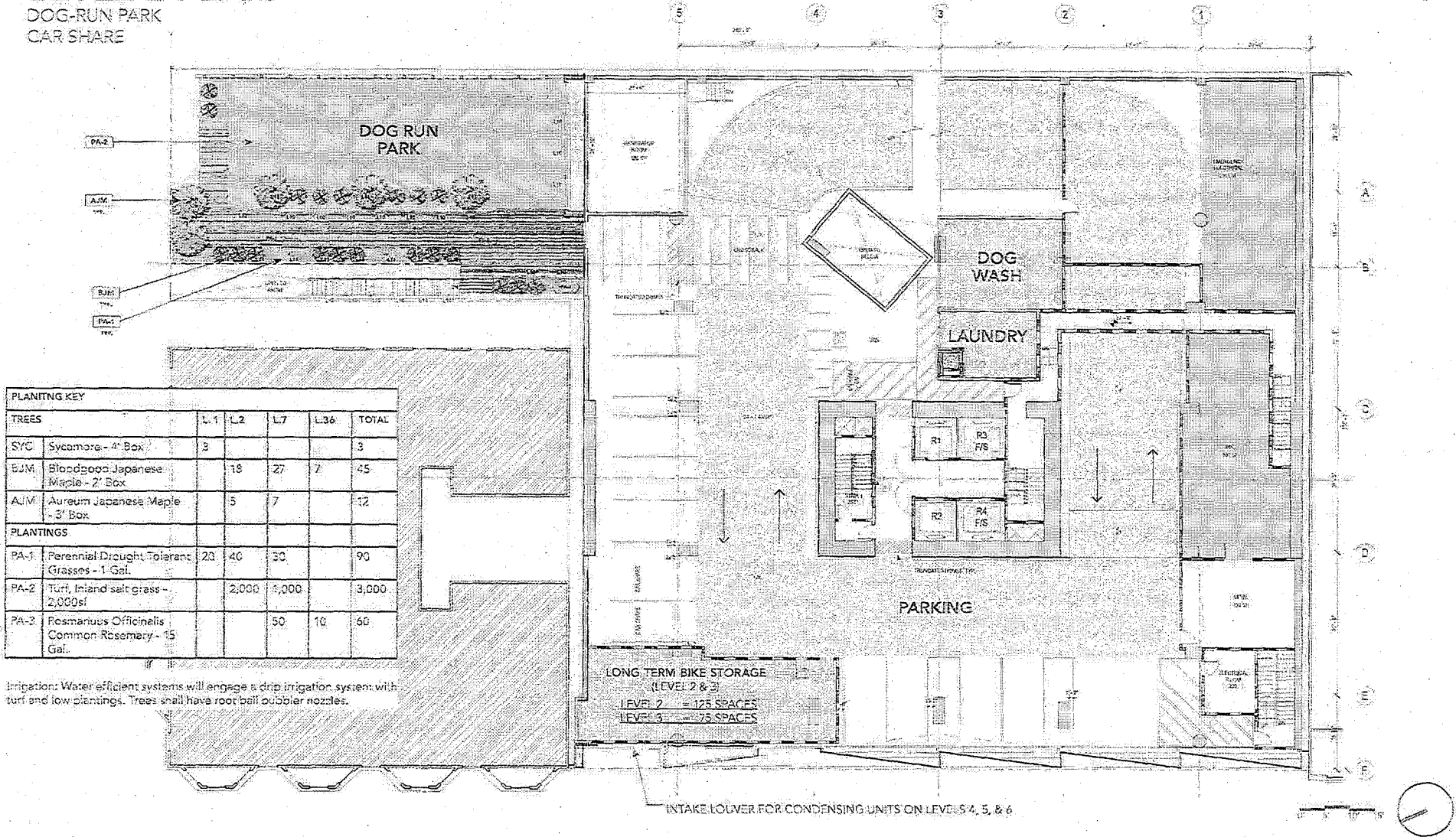
GROUND FLOOR PLAN

APARTMENT LOBBY
RETAIL
LOADING
BIKES



LEVEL 2 PLAN

DOG-RUN PARK
CAR SHARE



PLANTING KEY

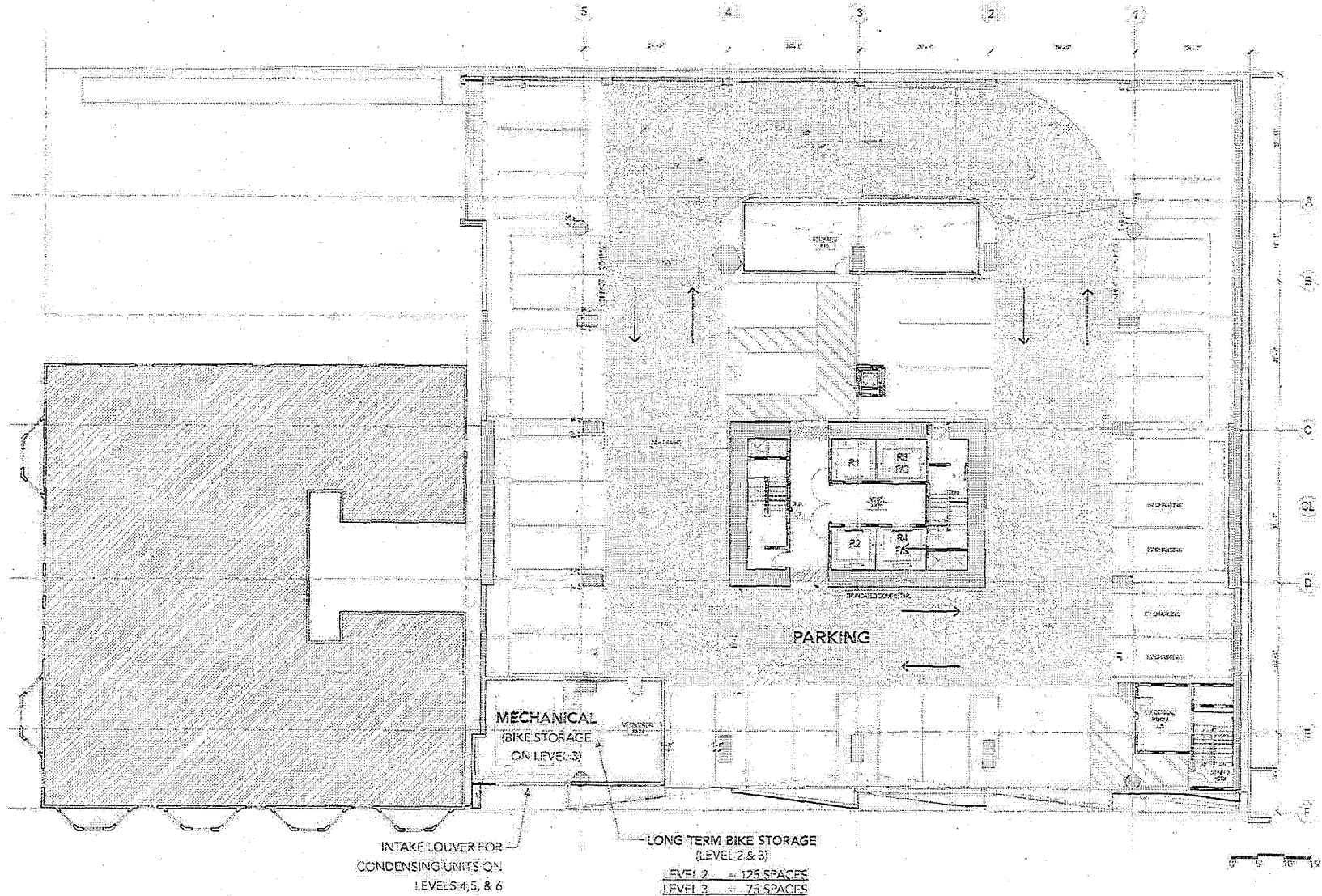
TREES		L.1	L.2	L.7	L.3&6	TOTAL
SYC	Sycamore - 4" Box	3				3
EJM	Bloodgood Japanese Maple - 2" Box	18	27	7		45
ALM	Aureum Japanese Maple - 3" Box	5	7			12
PLANTINGS						
PA-1	Perennial Drought Tolerant Grasses - 1 Gal.	20	40	30		90
PA-2	Turf, Inland salt grass - 2,000sf		2,000	1,000		3,000
PA-3	Rosmarinus Officinalis Common Rosemary - 15 Gal.			50	10	60

Irrigation: Water efficient systems will engage a drip irrigation system with turf and low plantings. Trees shall have root ball bubbler nozzles.

LONG TERM BIKE STORAGE
(LEVEL 2 & 3)
LEVEL 2 = 125 SPACES
LEVEL 3 = 75 SPACES

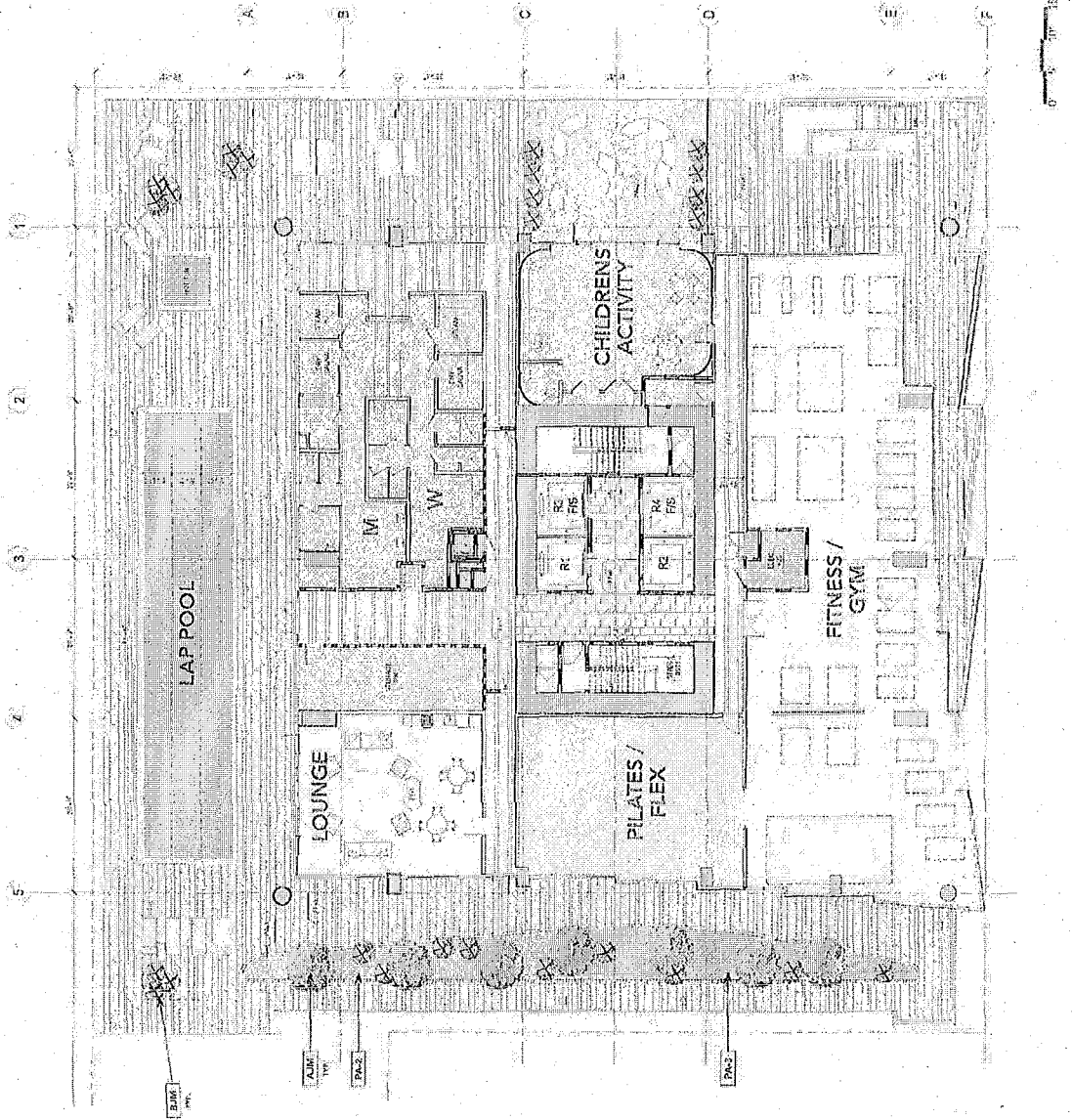
INTAKE LOUVER FOR CONDENSING UNITS ON LEVELS 4, 5, & 6

LEVEL 3-6 PLAN



LEVEL 7 PLAN AMENITY

FITNESS GYM
 PILATES/YOGA/FLEX
 LAP POOL
 LOUNGE AND TERRACE
 GARDENS
 CHILDREN'S ACTIVITY AND PLAY AREA



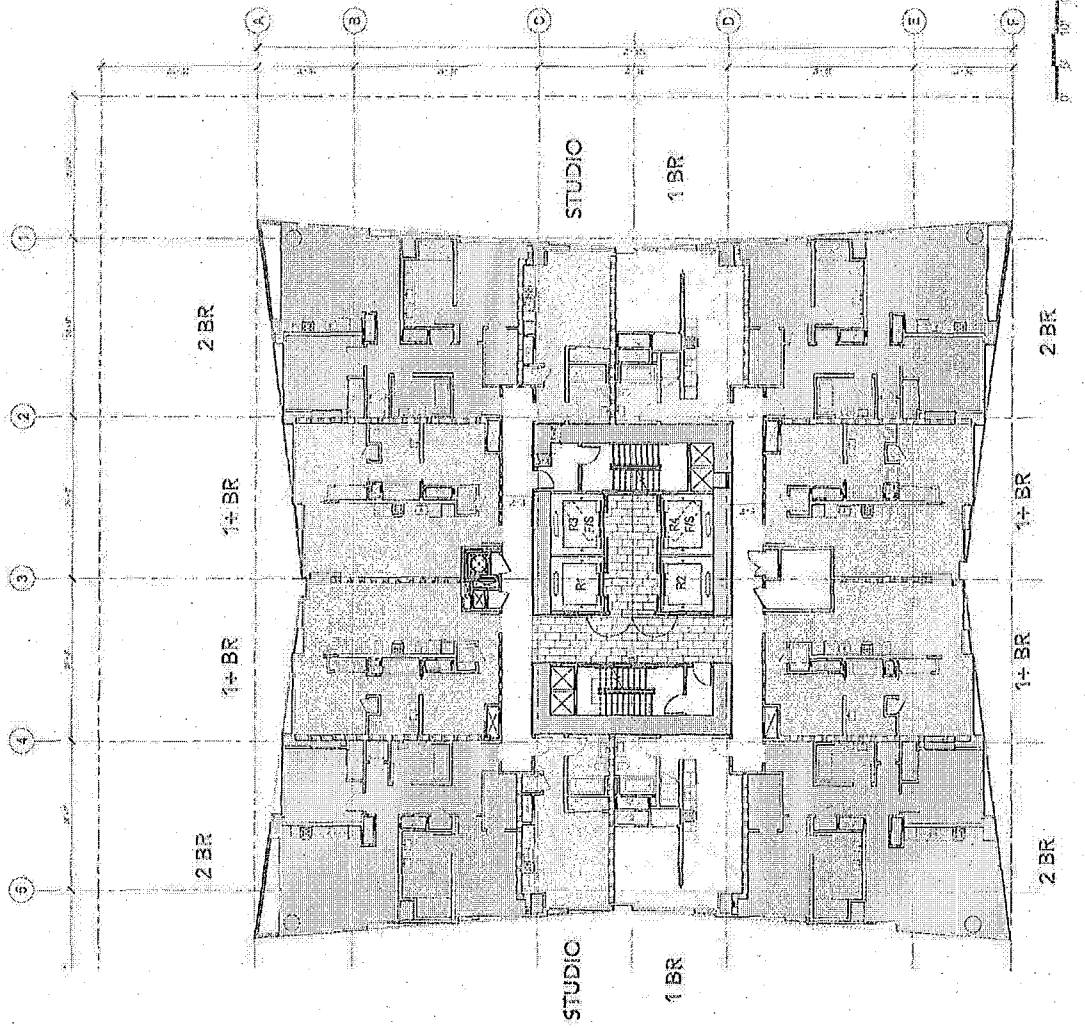
PLANTING KEY						
TREES	L.1	L.2	L.7	L.36	TOTAL	
SYC	Sycamore - 4" Box	8			3	
B.M	Bloodgood Japanese Maple - 2" Box	18	27	7	45	
AJM	Aureum Japanese Maple - 3" Box	5	7		12	
PLANTINGS						
PA-1	Perennial Drought Tolerant Grasses - 1 Gal.	20	40	30	90	
PA-2	Turf, Inland salt grass - 2,000 SF		2,000	1,000	3,000	
PA-3	Rosmarinus Officinalis Common Rosemary - 15 Gal.		50	10	60	

Irrigation: Water efficient systems will engage a drip irrigation system with turf and low plantings. Trees shall have root fast bubbler nozzles.

OPEN SPACE SUMMARY

COMMON OPEN SPACE LEVEL 2	= 3,355 SF
COMMON OPEN SPACE LEVEL 6	= 9,690 SF
COMMON OPEN SPACE LEVEL 38	= 2,985 SF
TOTAL COMMON OPEN SPACE	= 15,200 SF
PRIVATE OPEN SPACE LEVEL 26	= 309 SF
PRIVATE OPEN SPACE LEVEL 36	= 754 SF
PRIVATE OPEN SPACE LEVEL 37	= 115 SF
TOTAL PRIVATE OPEN SPACE	= 1,178 SF
TOTAL OPEN SPACE	= 16,378 SF

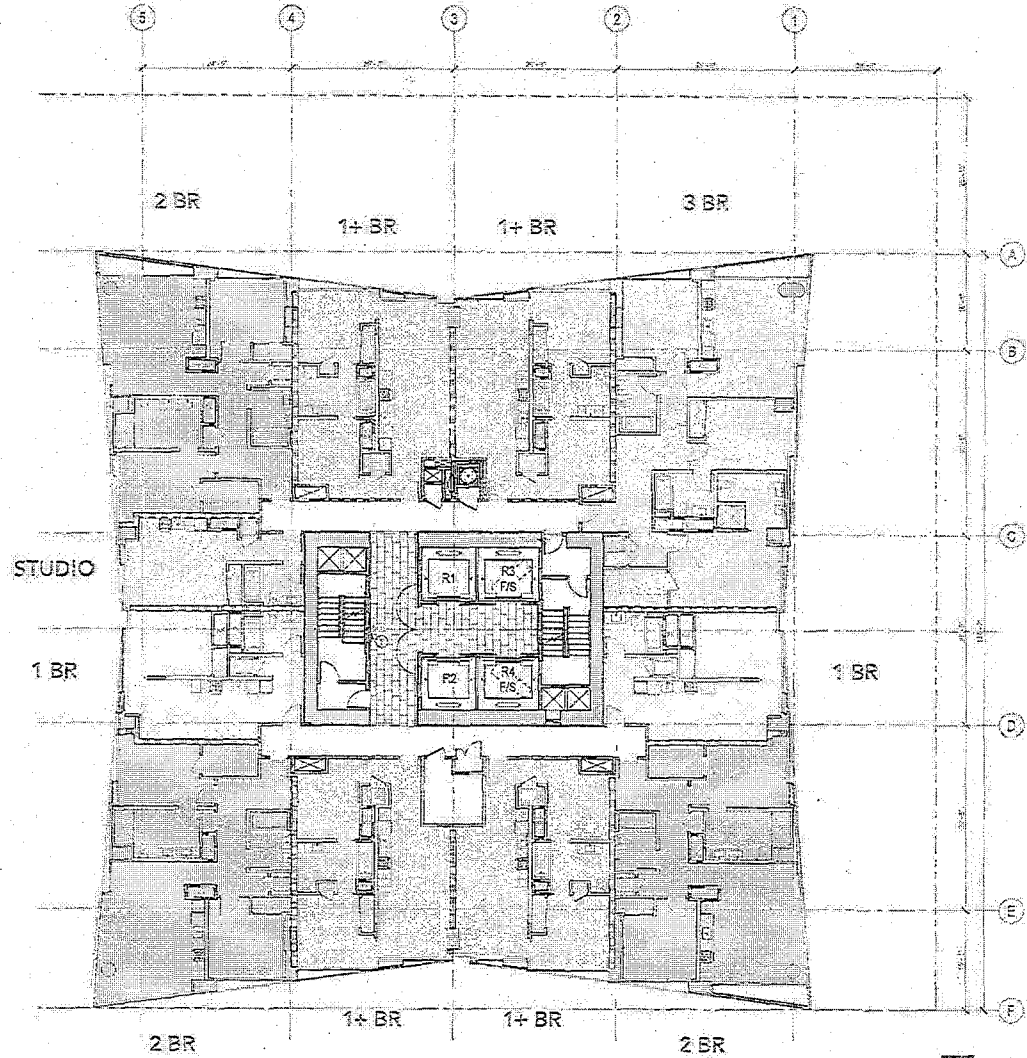
LEVEL 8-19 PLAN APARTMENT-LOW



LEGEND & UNIT MIX

APARTMENT LEVEL	ST.		1 BR		1+ BR		2 BR		3 BR		Totals	
	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)
LOW 8-19	24	406	24	587	48	784	48	1166	0	0	144	816
MID 20-26	7	415	14	602	28	795	21	1161	7	1667	77	904
HIGH 27-33	0	0	14	598	28	807	21	1234	7	1632	70	976
PENTHOUSE 34-35	0	0	7	743	6	801	3	1519	0	0	16	1153
TOTAL	31	408	54	600	110	794	98	1208	14	1650	307	892

LEVEL 20-26 PLAN APARTMENT-MID



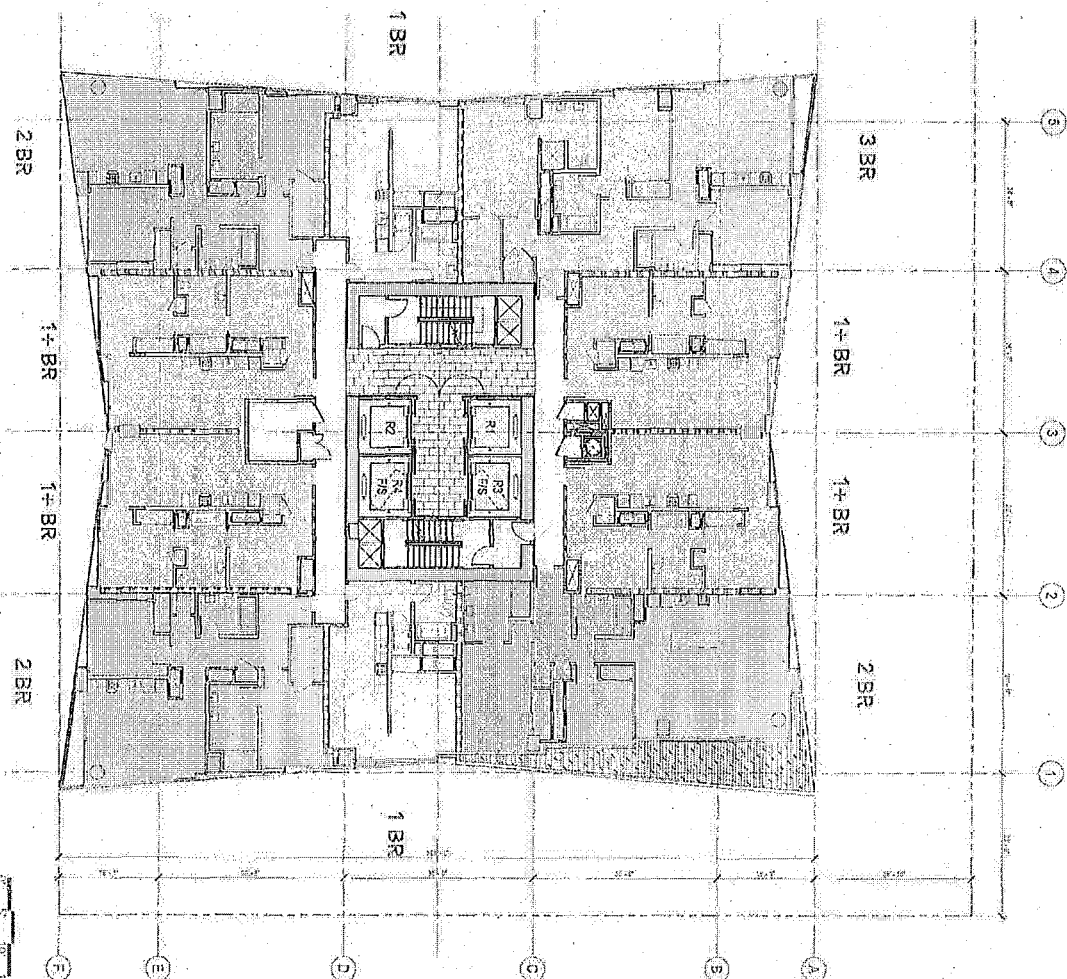
LEGEND & UNIT MIX

APARTMENT LEVEL		ST.	1 BR	1+ BR	2 BR	3BR	Totals	
LOW	S-19	COUNT	24	24	48	48	0	144
		AVG SIZE (SF)	406	587	784	1166	0	816
MID	20-26	COUNT	7	14	28	21	7	77
		AVG SIZE (SF)	415	602	795	1161	1667	904
HIGH	27-33	COUNT	0	14	28	21	7	70
		AVG SIZE (SF)	0	598	807	1234	1632	976
PENTHOUSE	34-35	COUNT	0	2	6	8	0	16
		AVG SIZE (SF)	0	743	801	1519	0	1153
TOTAL		COUNT	31	54	110	98	14	307
		AVG SIZE (SF)	408	600	794	1208	1650	892

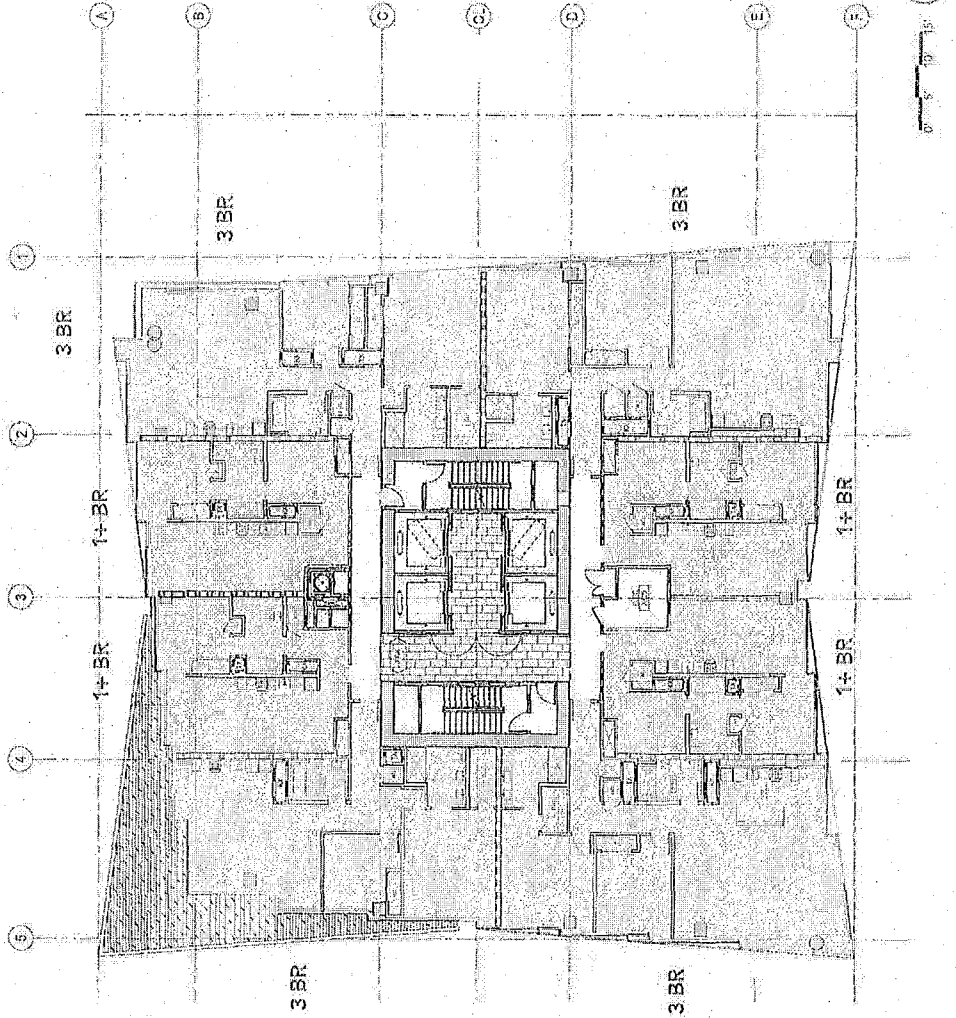
LEVEL 27-33 PLAN APARTMENT-HIGH

LEGEND & UNIT MIX

APARTMENT LEVEL	ST	1 BR	1+ BR	2 BR	3 BR	Totals
LOW 3-19	COUNT 24	24	48	48	0	144
	AVG SIZE (SF) 406	587	784	1166	0	816
MID 20-26	COUNT 7	14	28	21	7	77
	AVG SIZE (SF) 415	602	795	1161	1667	904
HIGH 27-33	COUNT 0	14	28	21	7	70
	AVG SIZE (SF) 0	598	807	1234	1632	976
PENTHOUSE 34-35	COUNT 0	2	6	8	0	16
	AVG SIZE (SF) 0	743	801	1519	0	1153
TOTAL	COUNT 31	54	110	98	14	307
	AVG SIZE (SF) 408	600	794	1208	1650	892



LEVEL 34-35 PLAN APARTMENT-PENTHOUSE



LEGEND & UNIT MIX

APARTMENT LEVEL	ST.					1 BR		1+ BR		2 BR		3 BR		Totals	
	8-19	20-26	27-33	PENTHOUSE 34-35	TOTAL	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)	COUNT	AVG SIZE (SF)
LOW						24	406	24	587	48	784	48	1166	0	816
MID						7	415	14	602	28	795	21	1161	7	904
HIGH						0	0	14	588	28	807	21	1234	7	976
PENTHOUSE 34-35						0	0	2	743	6	801	8	1519	0	1153
TOTAL						31	408	54	600	110	794	98	1208	14	892

LEVEL 36 PLAN AMENITY

- RESIDENT'S LOUNGE
- DINING
- GAME ROOM
- LIBRARY
- SCREENING ROOM
- POOL TERRACE

PLANTING KEY						
TREES		L.1	L.2	L.7	L.36	TOTAL
SYC	Sycamore - 4' Box	3				3
BJM	Bloodgood Japanese Maple - 2' Box		18	27	7	45
AJM	Aureum Japanese Maple - 3' Box		5	7		12
PLANTINGS						
PA-1	Perennial Drought Tolerant Grasses - 1 Gal.	20	40	30		90
PA-2	Turf, Inland salt grass - 2,000sf		2,000	1,000		3,000
PA-3	Rosmarinus Officinalis Common Rosemary - 75 Gal.			50	10	60

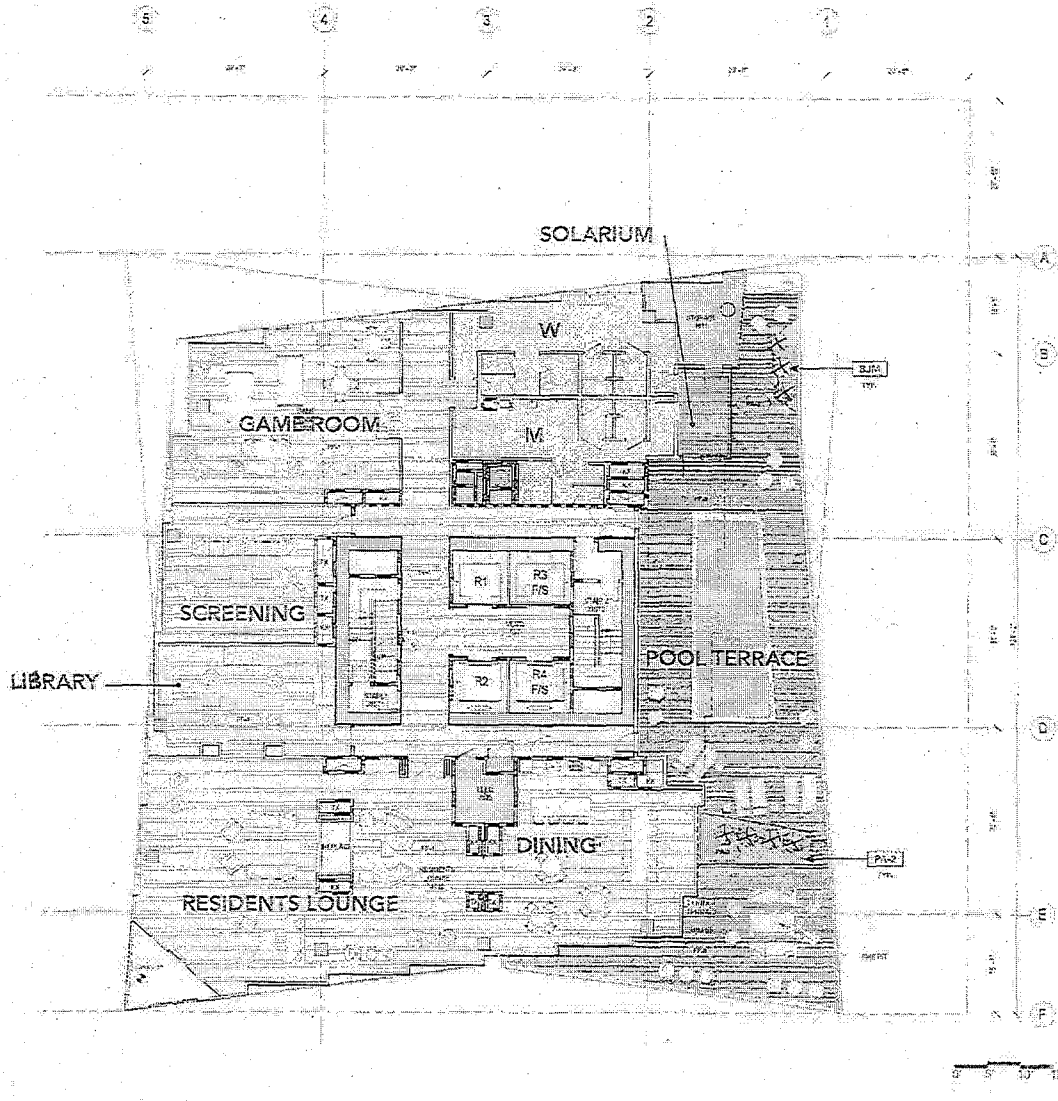
Irrigation: Water efficient systems will engage a drip irrigation system with turf and low plantings. Trees shall have root ball bubbler nozzles.

OPEN SPACE SUMMARY

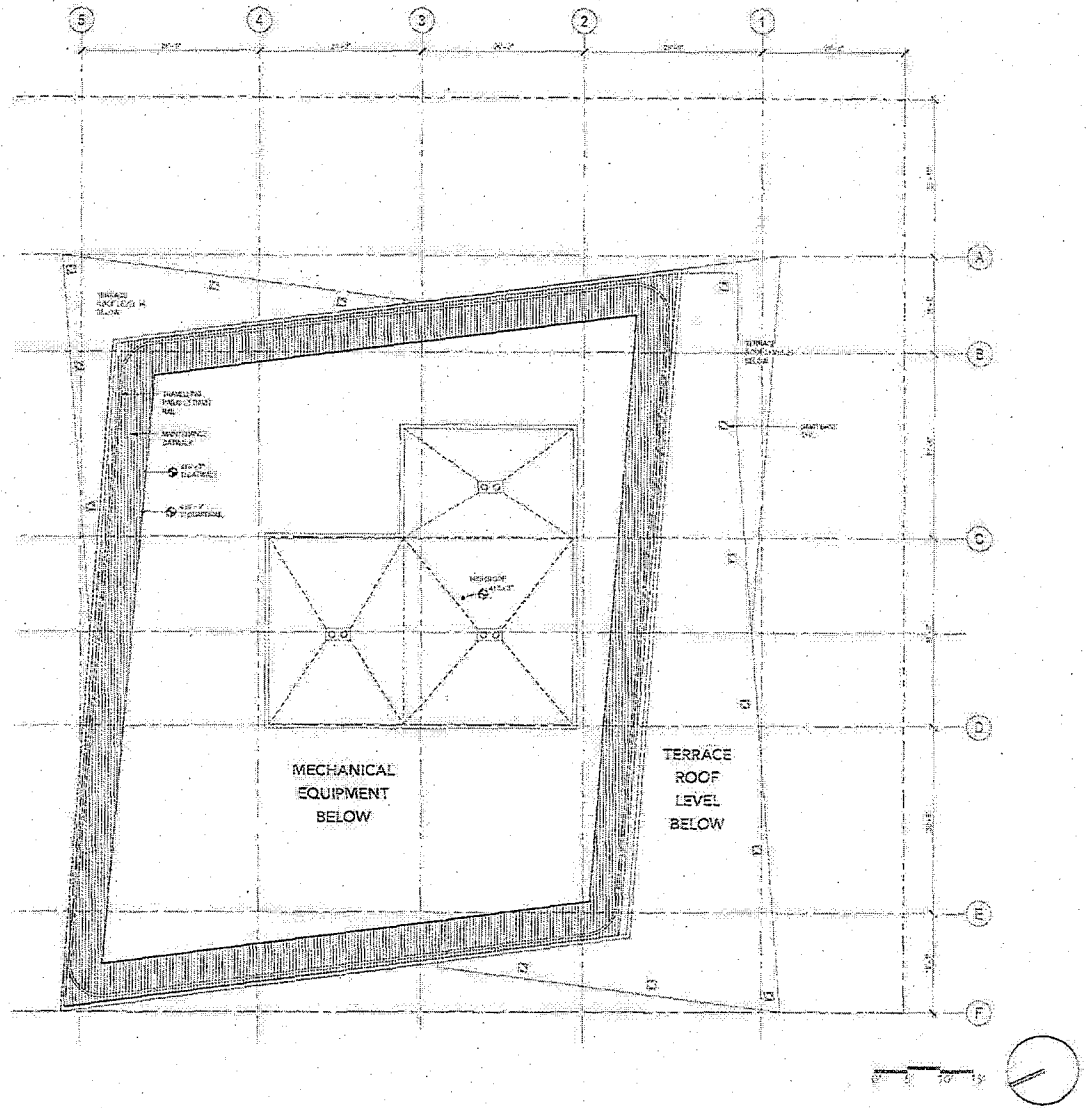
COMMON OPEN SPACE LEVEL 2 = 3,155 SF
 COMMON OPEN SPACE LEVEL 8 = 9,080 SF
 COMMON OPEN SPACE LEVEL 38 = 2,685 SF
 TOTAL COMMON OPEN SPACE = 15,200 SF

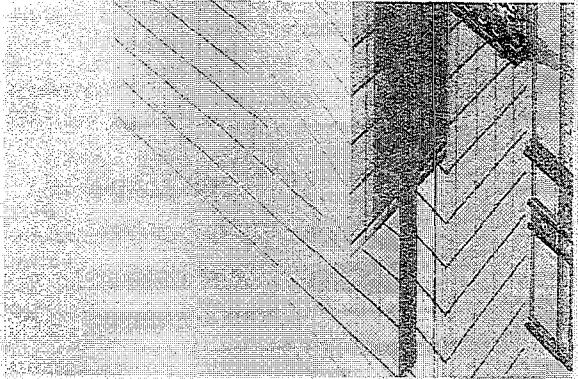
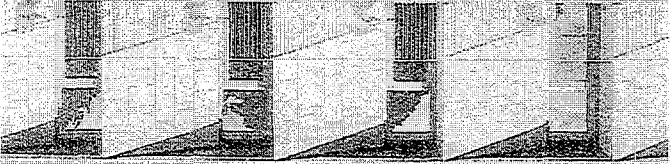
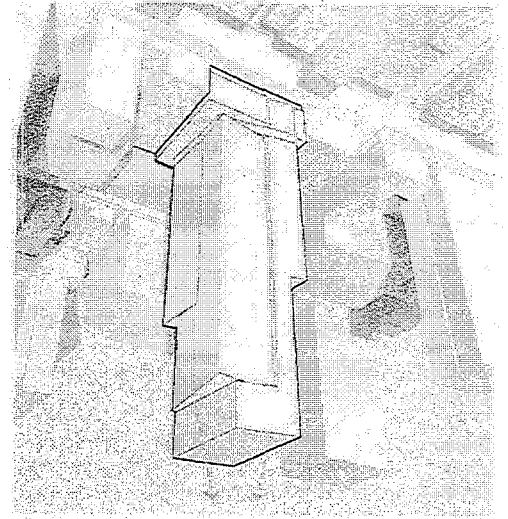
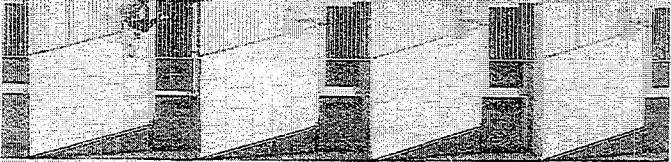
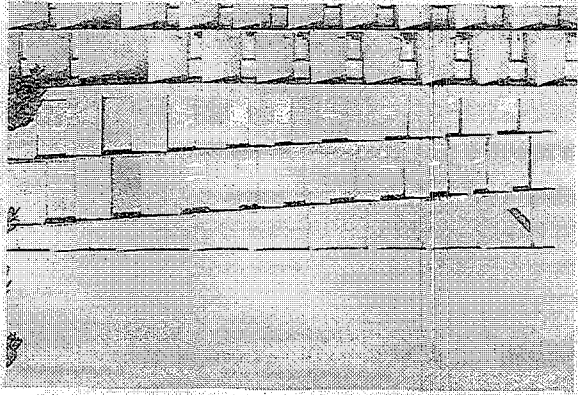
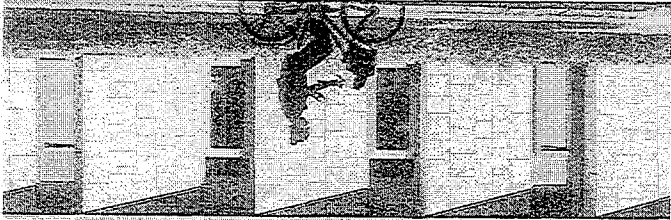
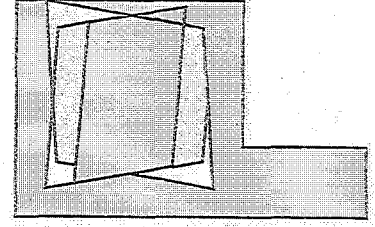
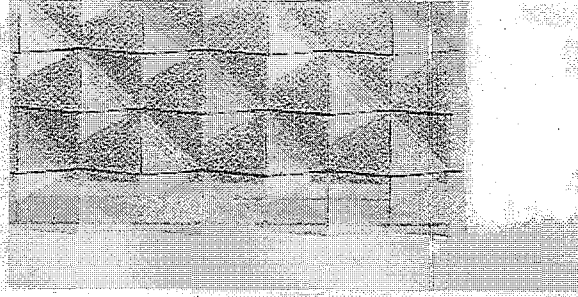
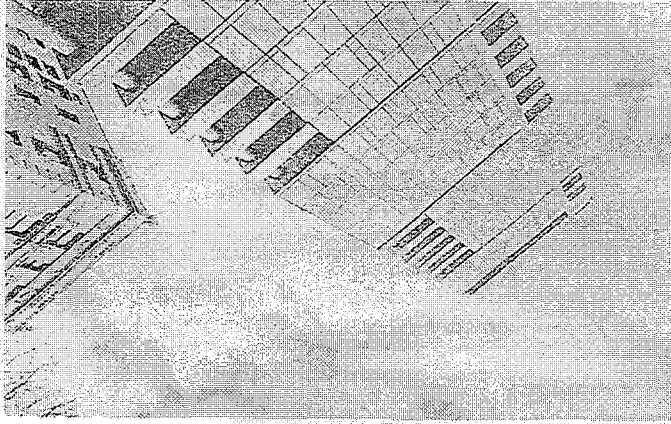
PRIVATE OPEN SPACE LEVEL 26 = 309 SF
 PRIVATE OPEN SPACE LEVEL 36 = 754 SF
 PRIVATE OPEN SPACE LEVEL 37 = 115 SF
 TOTAL PRIVATE OPEN SPACE = 1,178 SF

TOTAL OPEN SPACE = 16,378 SF



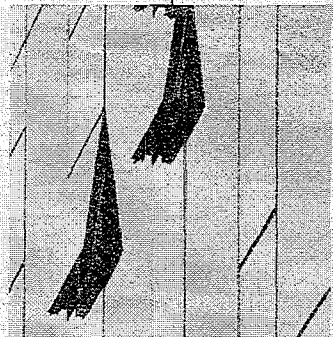
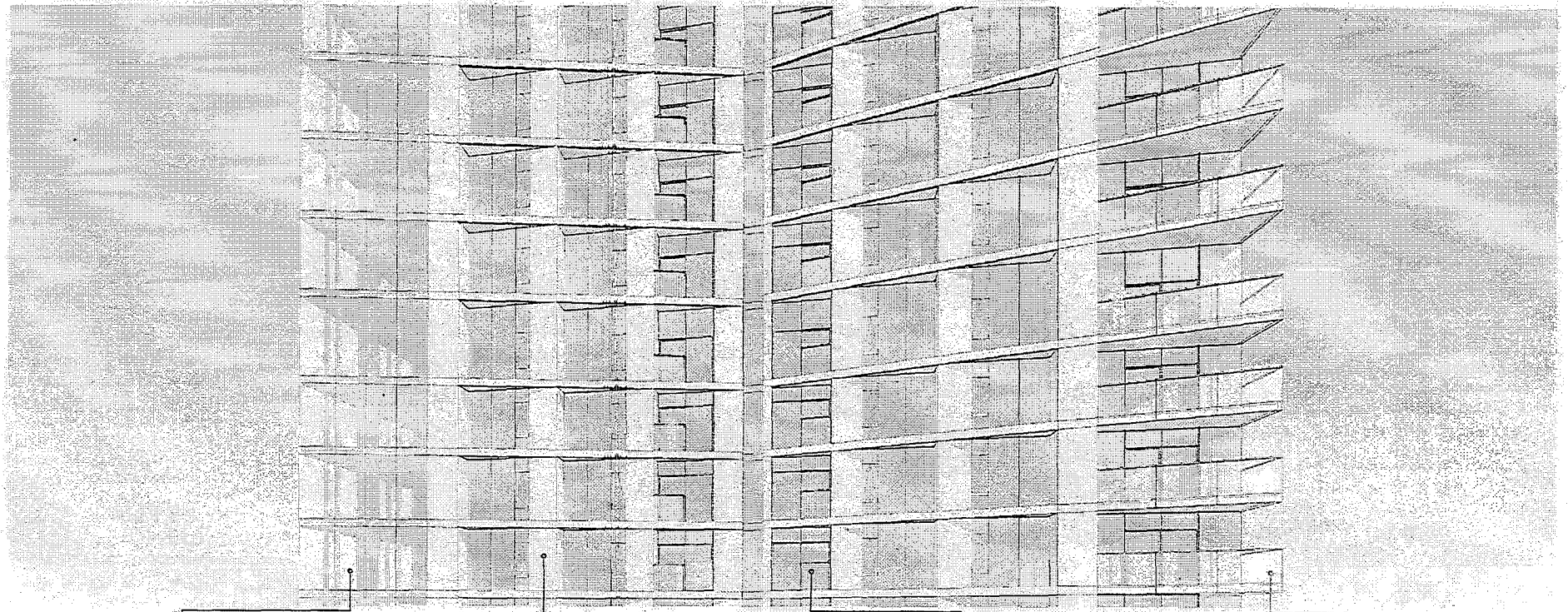
LEVEL ROOF PLAN



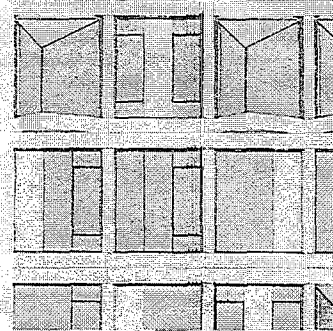


FACADE CONCEPT

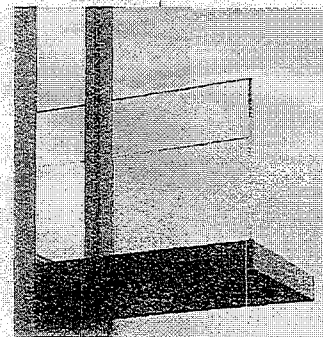
TOWER FACADE



UNITIZED WINDOW WALL



METAL PANEL

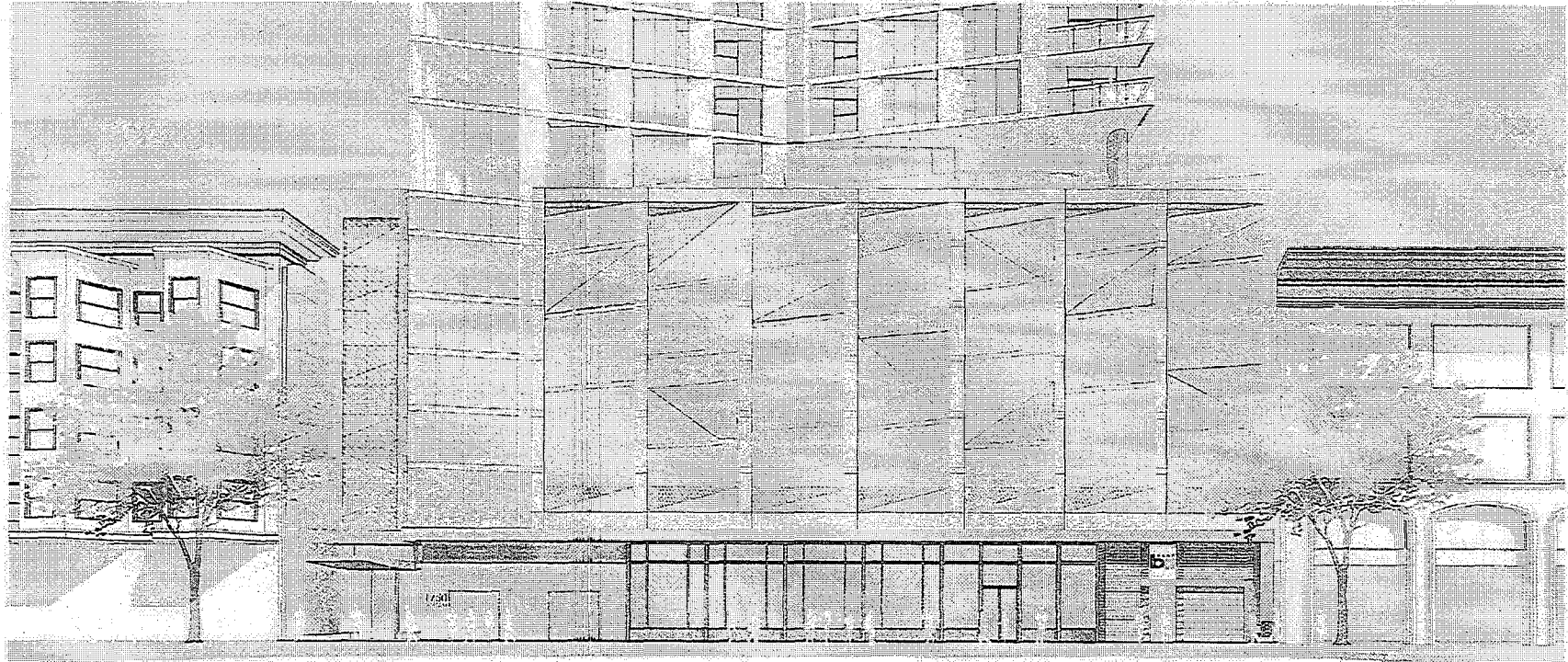


JULIET BALCONY



CORNER BALCONY

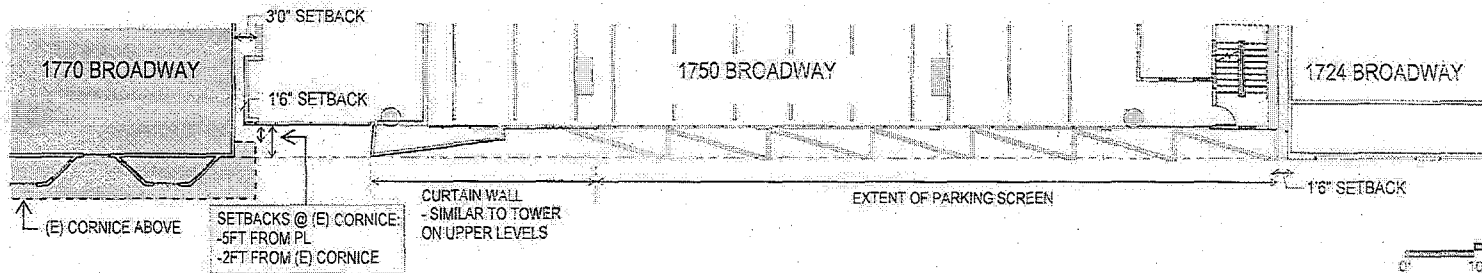
PODIUM FACADE



RESIDENTIAL ENTRANCE ▲

RETAIL ENTRANCE ▲

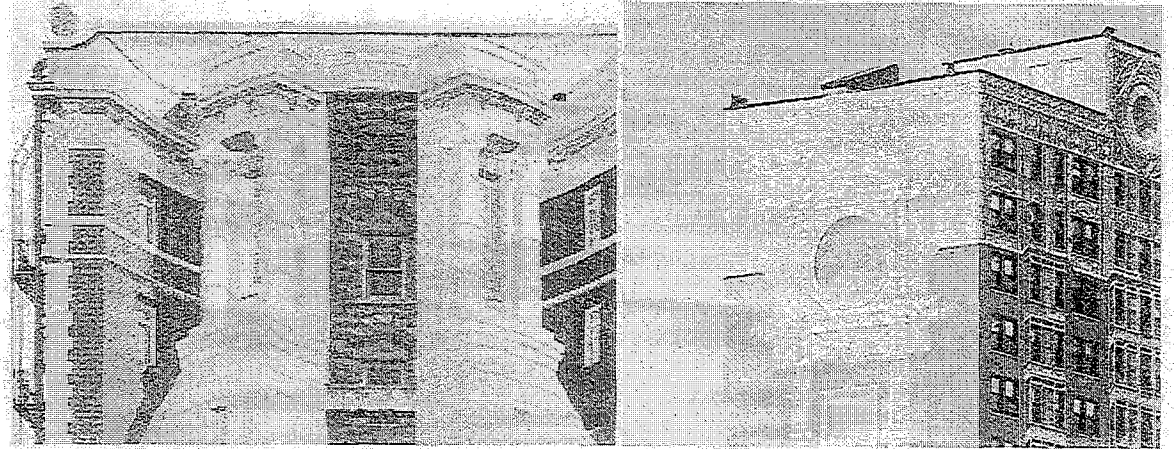
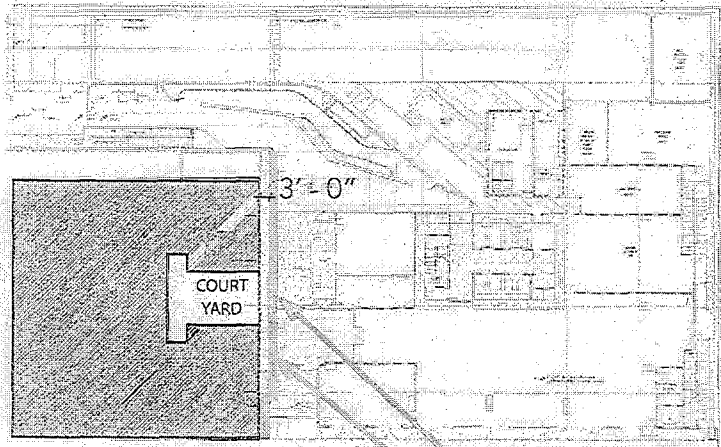
▲ BART ENTRANCE



RESIDENTIAL NEIGHBOR

ADJACENT COURTYARD

IMAGES BELOW ARE EXAMPLES ONLY OF TROMPE L'OEIL MURALS:
PROPOSAL TO BE DEVELOPED THROUGH PUBLIC ART OUTREACH



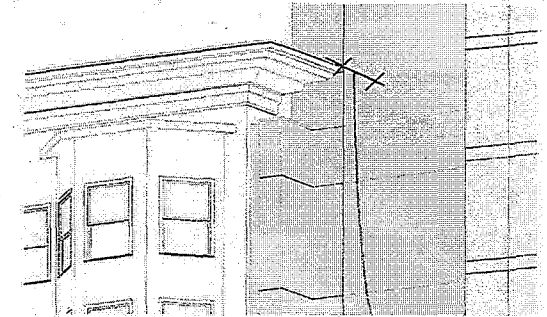
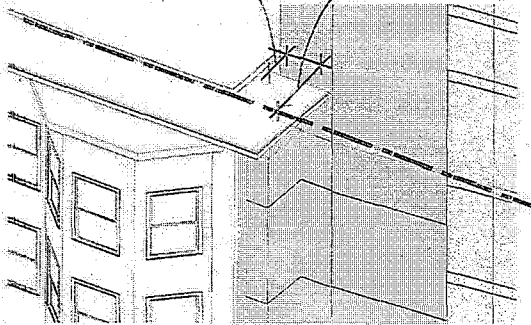
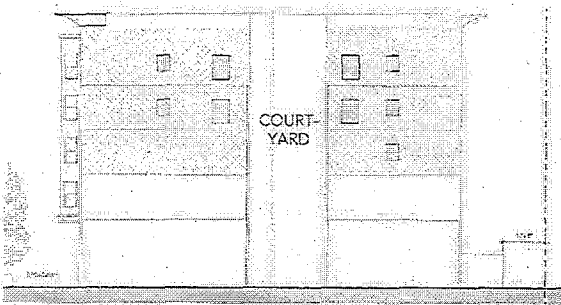
1770 BROADWAY PLAN

POTENTIAL TROMPE L'OEIL MURAL TO VISUALLY COMPLETE THE COURTYARD
PODIUM WALL TO BE SET BACK 3FT FROM PROPERTY LINE FOR AIR AND LIGHT

ADJACENT ELEVATION

2FT CLEARANCE FROM BACK OF ADJACENT
(E) CORNICE TO FACE OF (N) BUILDING*

FACE OF (N) BUILDING SET BACK 5FT FROM
PROPERTY LINE AT ADJACENT (E) CORNICE*



1770 LOT LINE ELEVATION

*ENCROACHMENT AREA HAS BEEN RECORDED IN EASEMENT

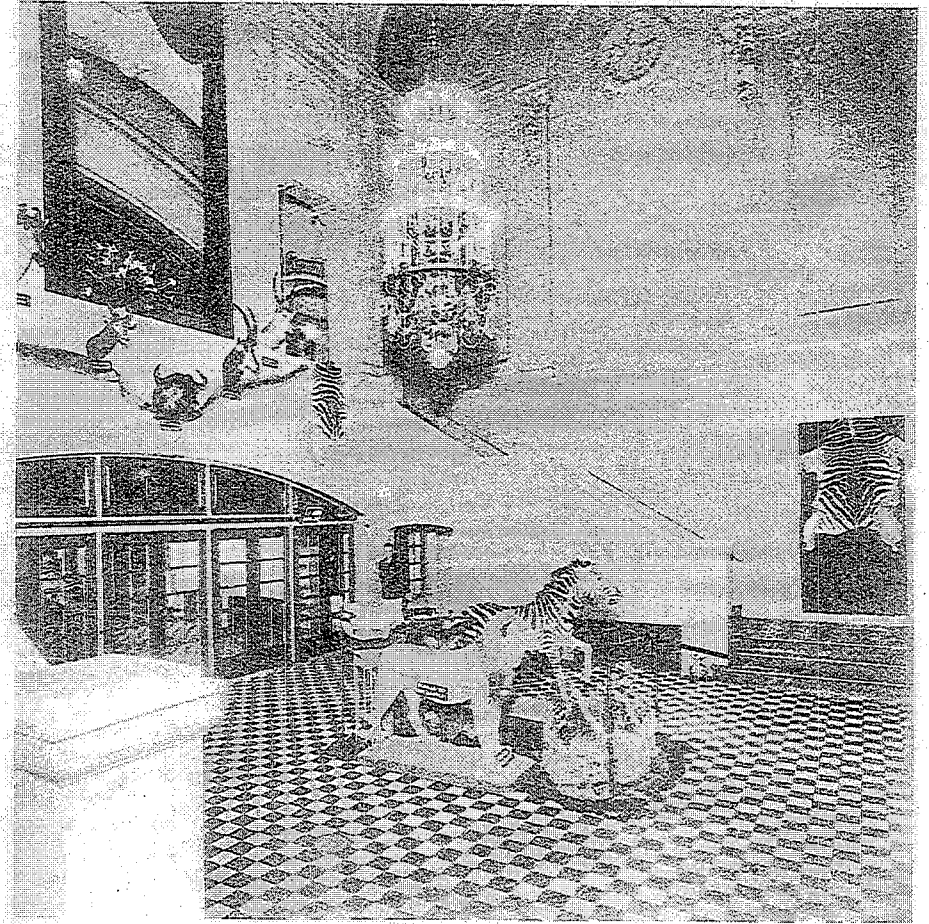
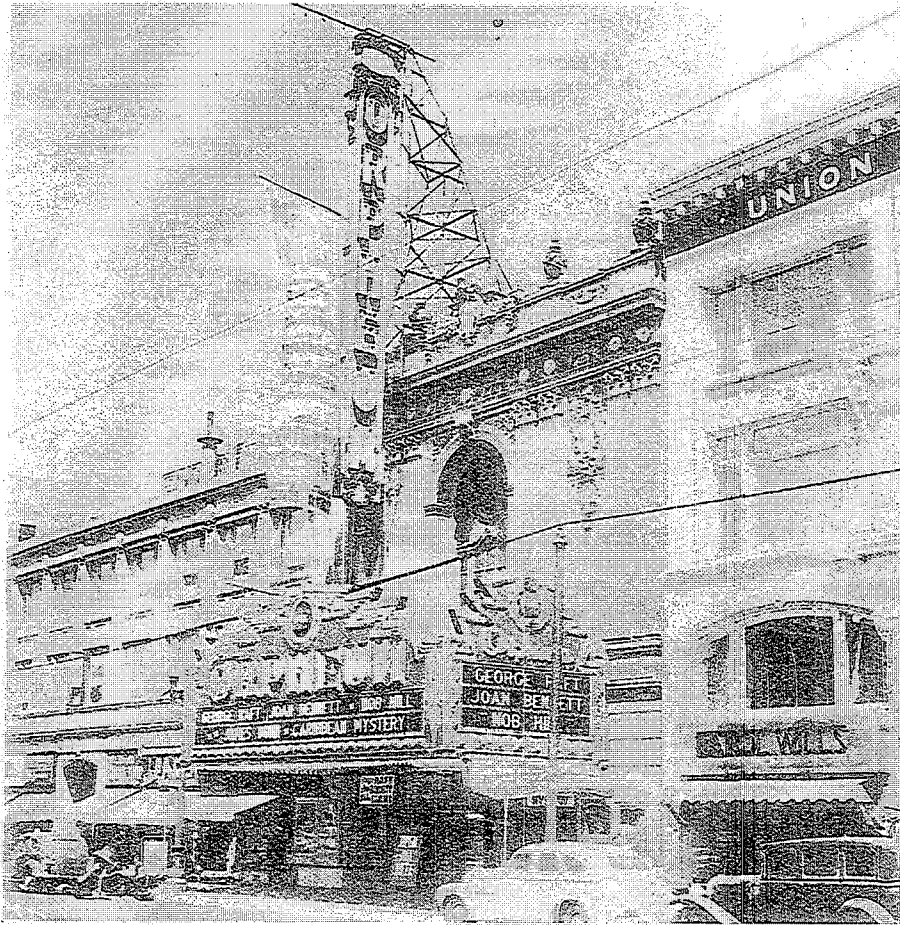
2FT CLEARANCE FROM BACK
OF ADJACENT (E) CORNICE
TO FACE OF (N) BUILDING

TOWER ELEVATIONS / PROFILES



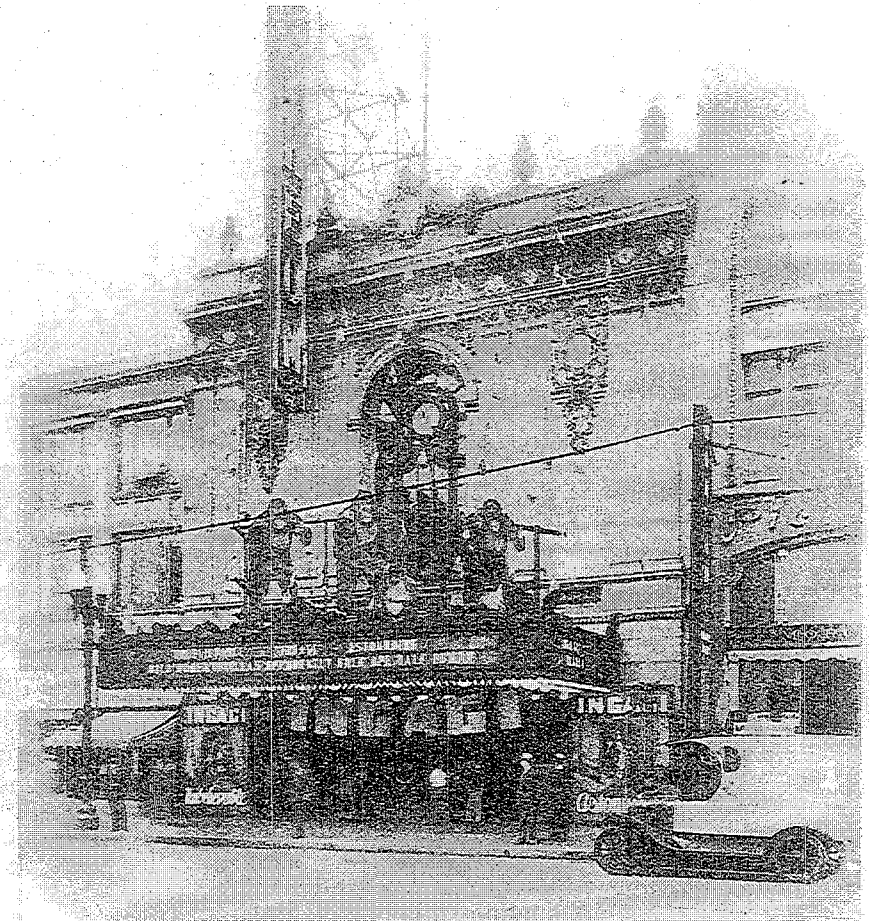
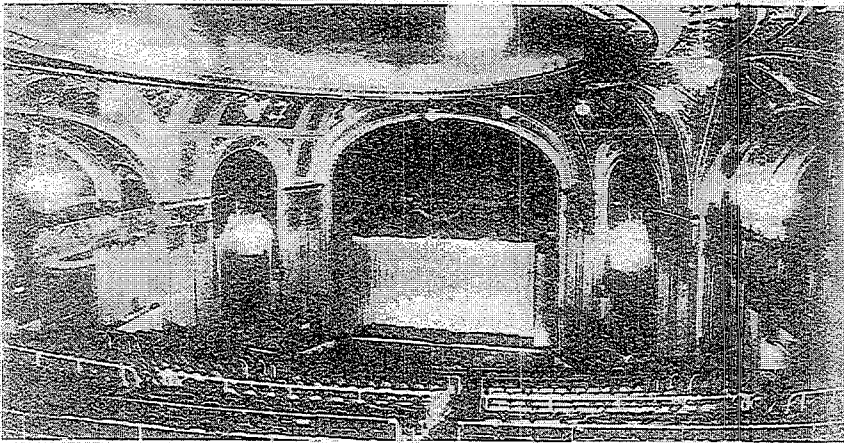
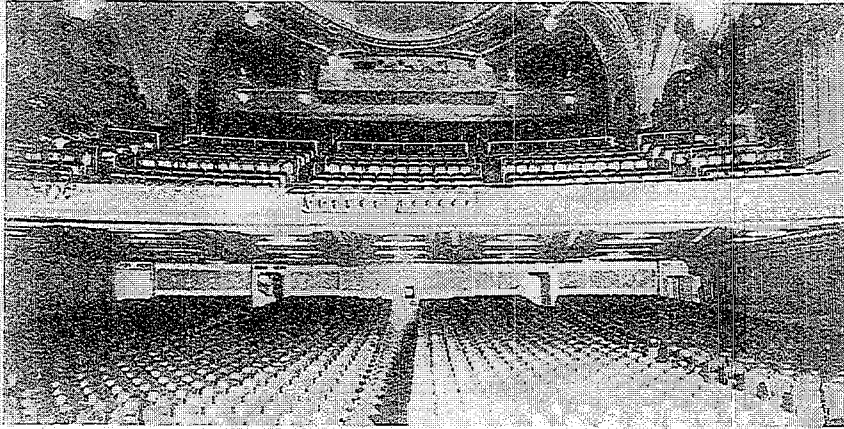
HISTORICAL CONTEXT

The original Fox-Orpheum Theater at 1730 Broadway



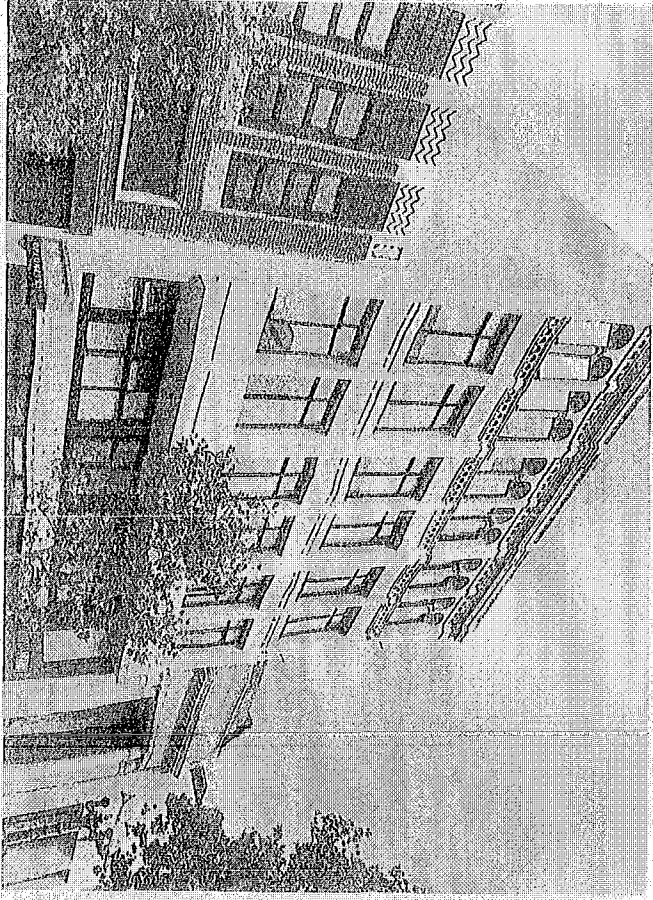
HISTORICAL CONTEXT

The original Fox-Orpheum Theater at 1730 Broadway



ADDITIONAL CONTEXT

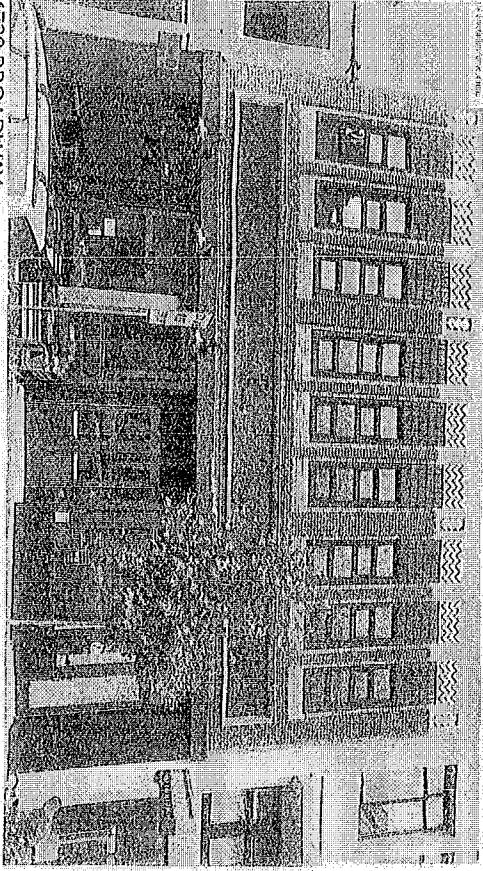
Facades along Broadway between 17th and 19th Streets



1749 BROADWAY



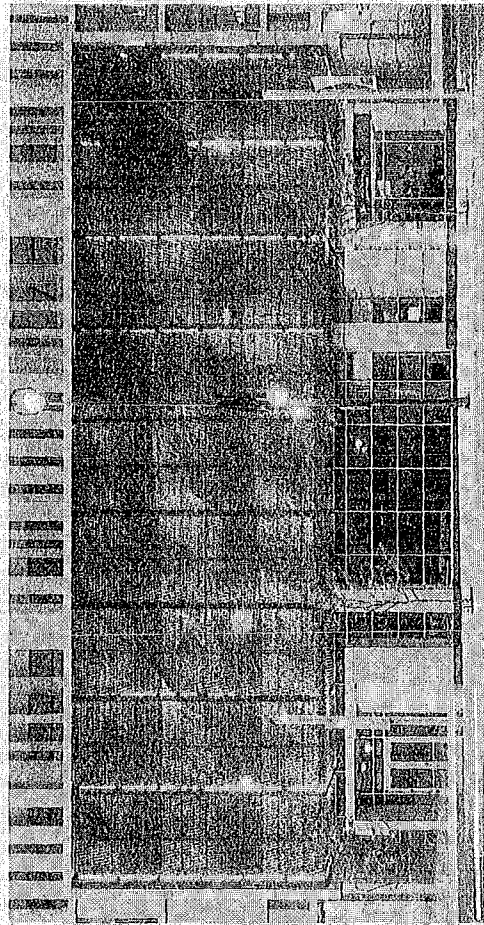
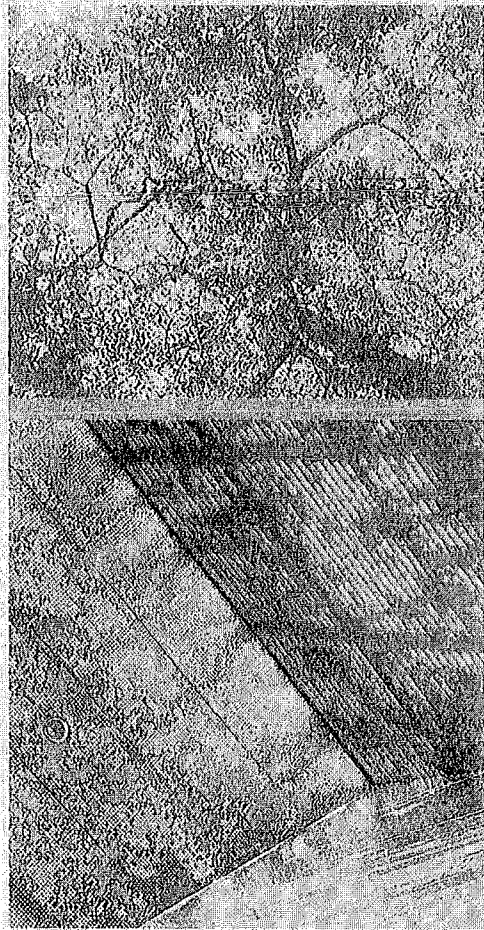
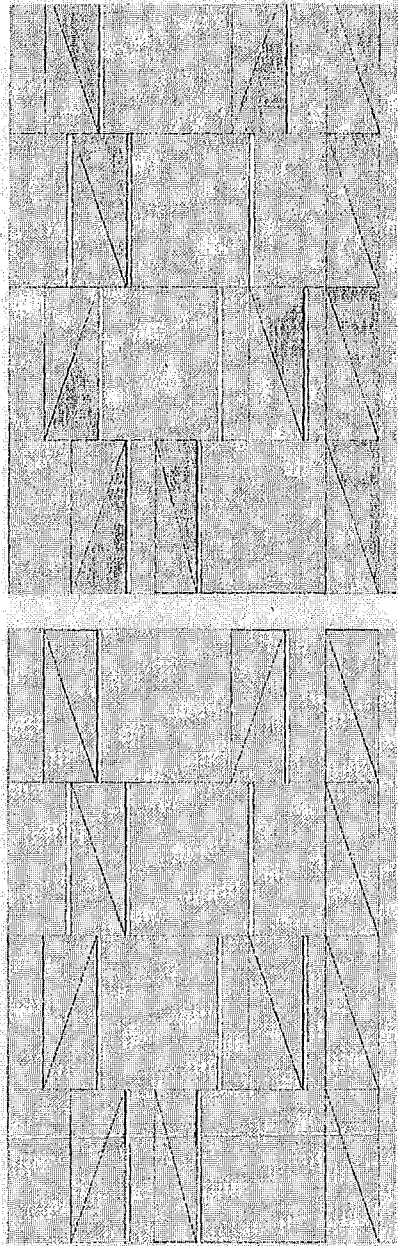
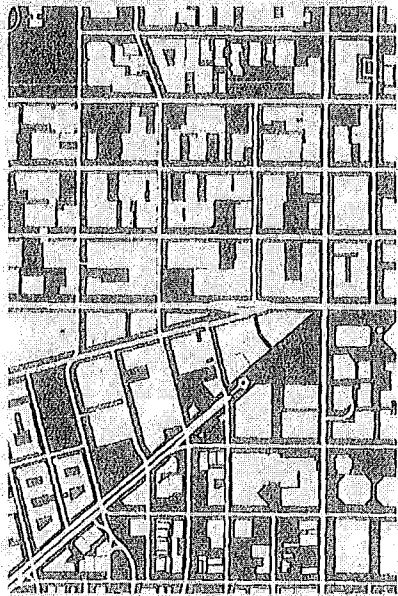
1721 BROADWAY



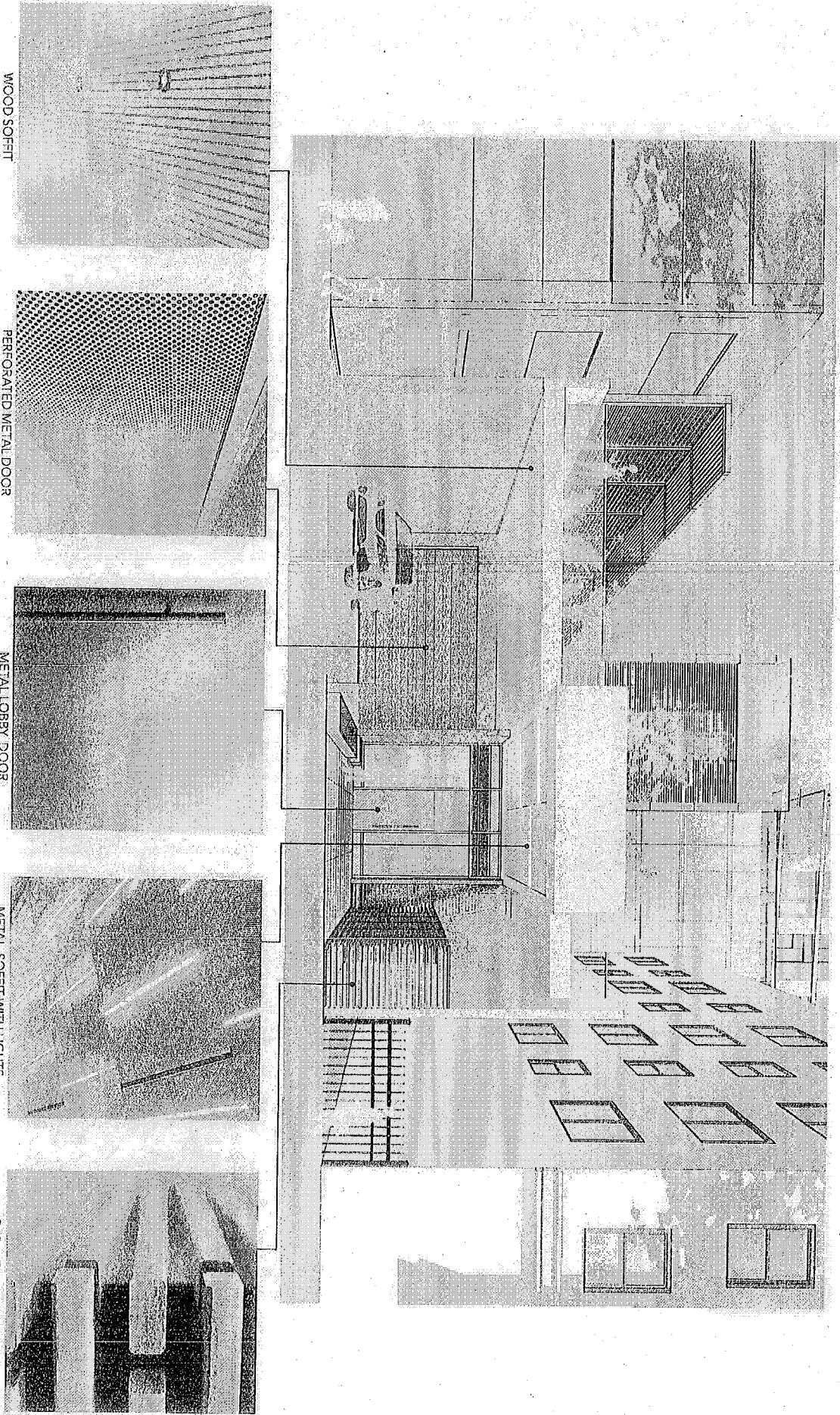
1739 BROADWAY

PERFORATED METAL SCREENS

ALLOW FOR VENTILATION - LIGHT - ANIMATION
CONCEPT OF MAPPING



19TH STREET VIEW - MATERIALS



WOOD SOFFIT

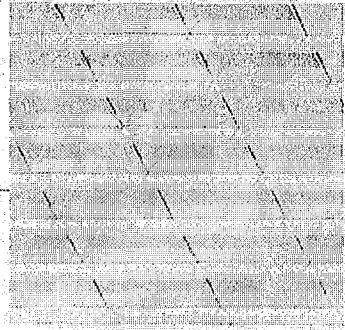
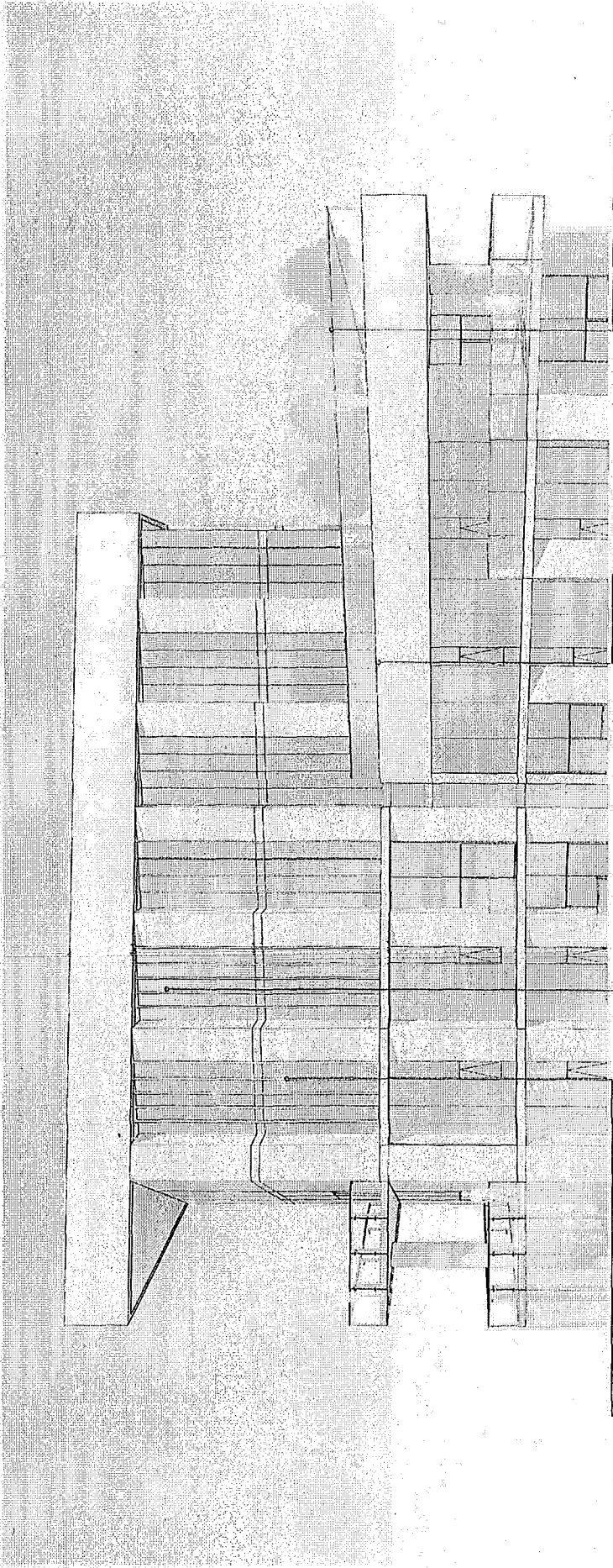
PERFORATED METAL DOOR

METAL LOBBY DOOR

METAL SOFFIT WITH LIGHTS

GAS METER ROOM SCREEN

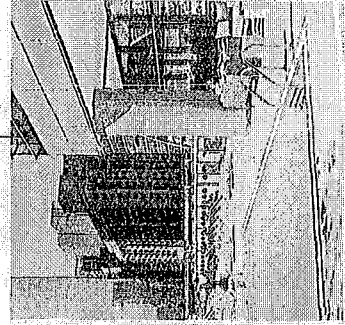
CROWN FACADE



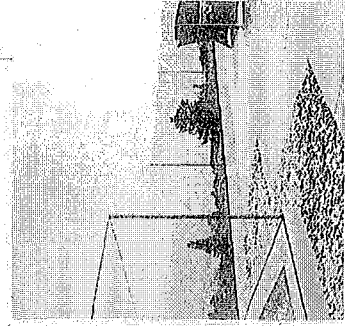
TEXTURED FACADE



CROWN

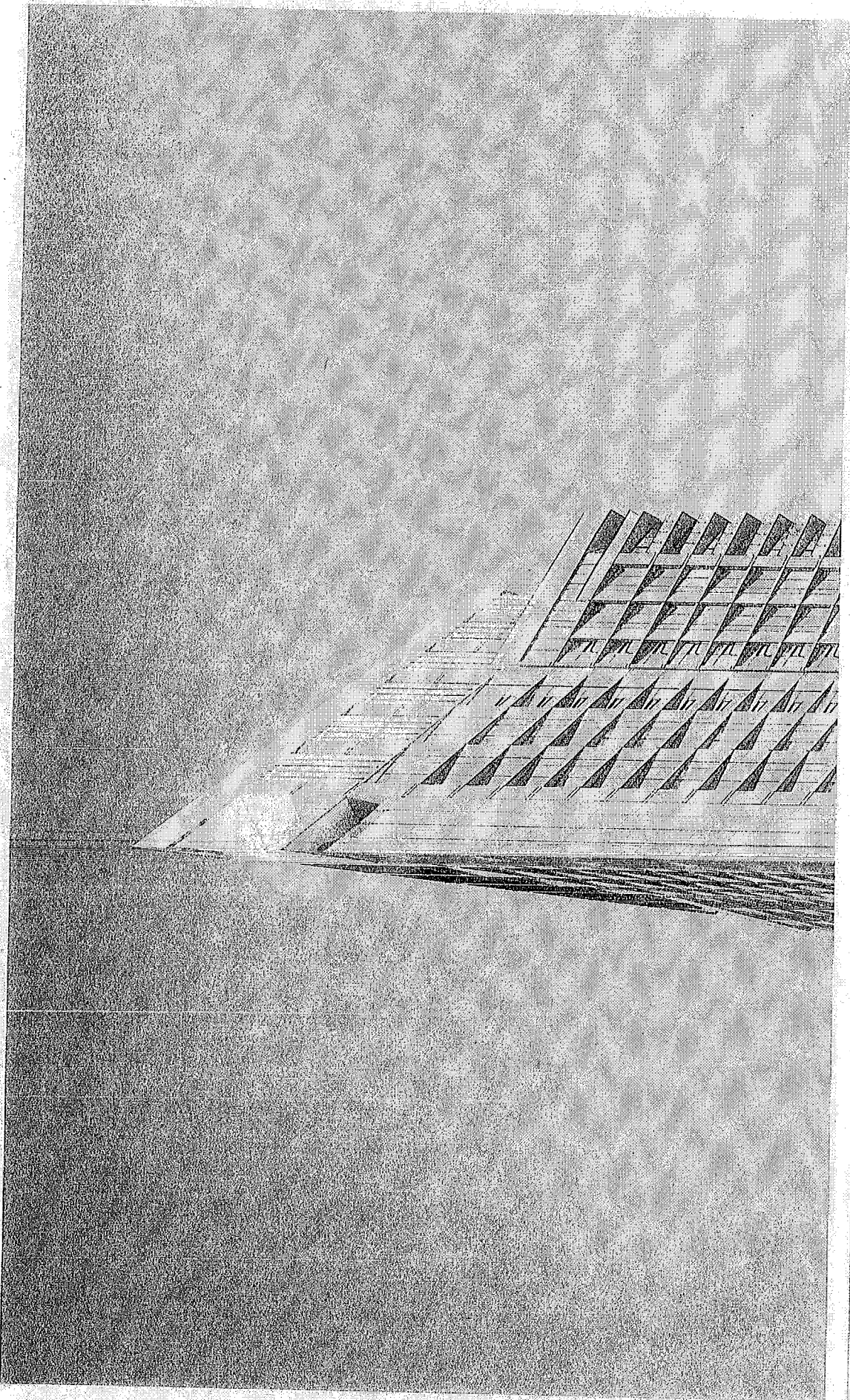


ROOF DECK



ROOF DECK GLASS RAILING

CROWN FACADE

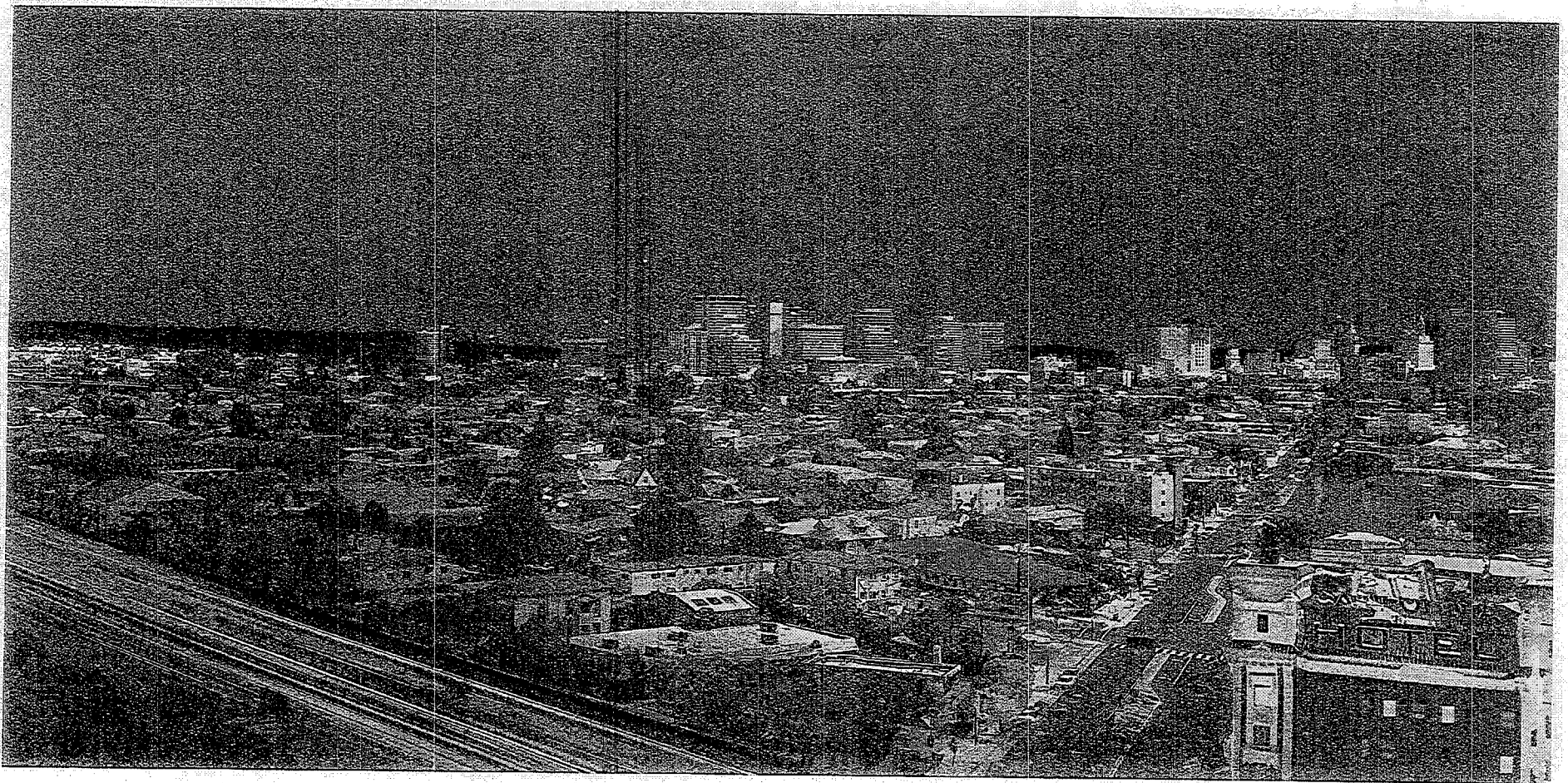


PLANNING COMMISSION 1750 BROADWAY, OAKLAND, CA

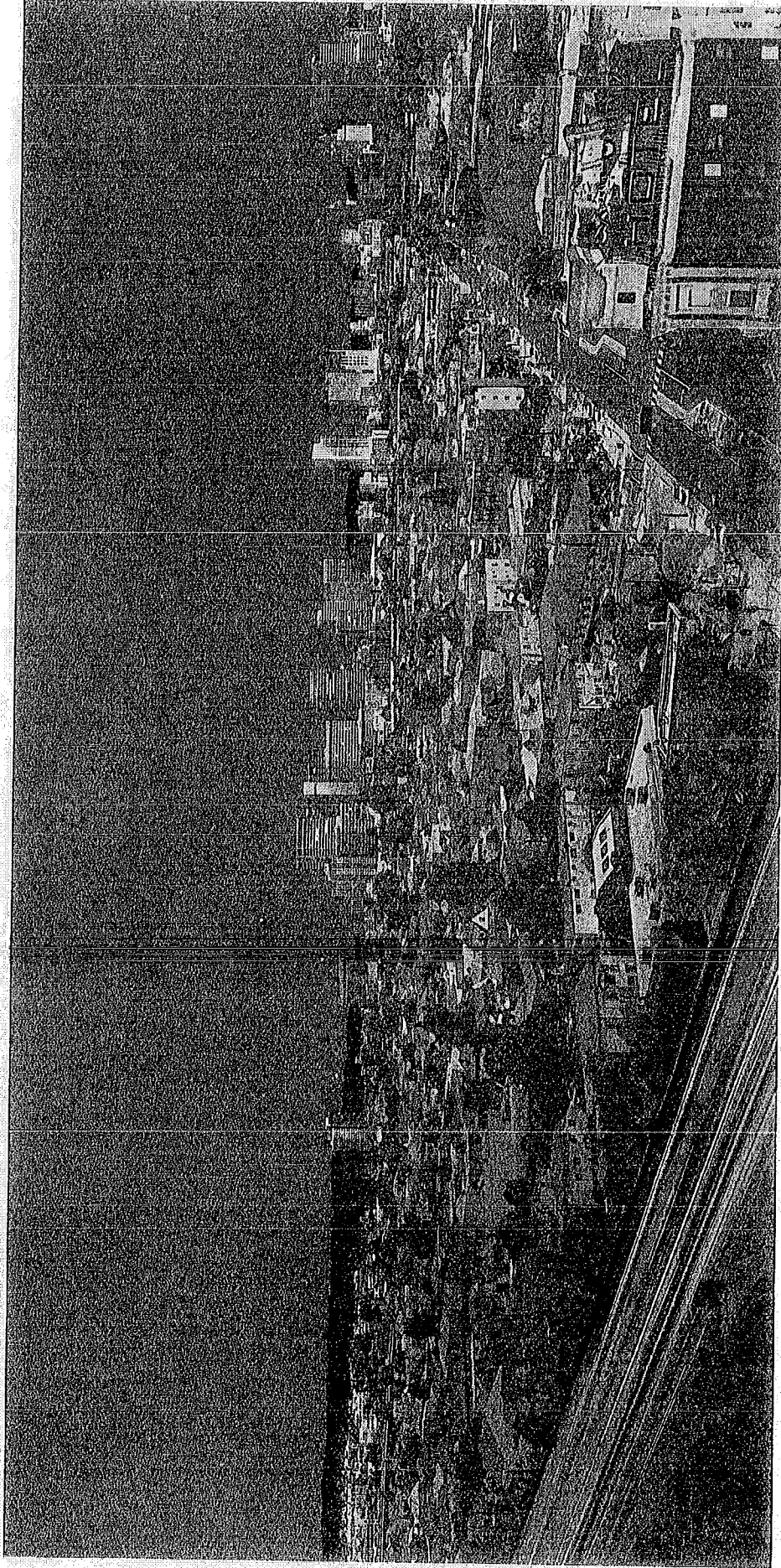
AERIAL VIEW



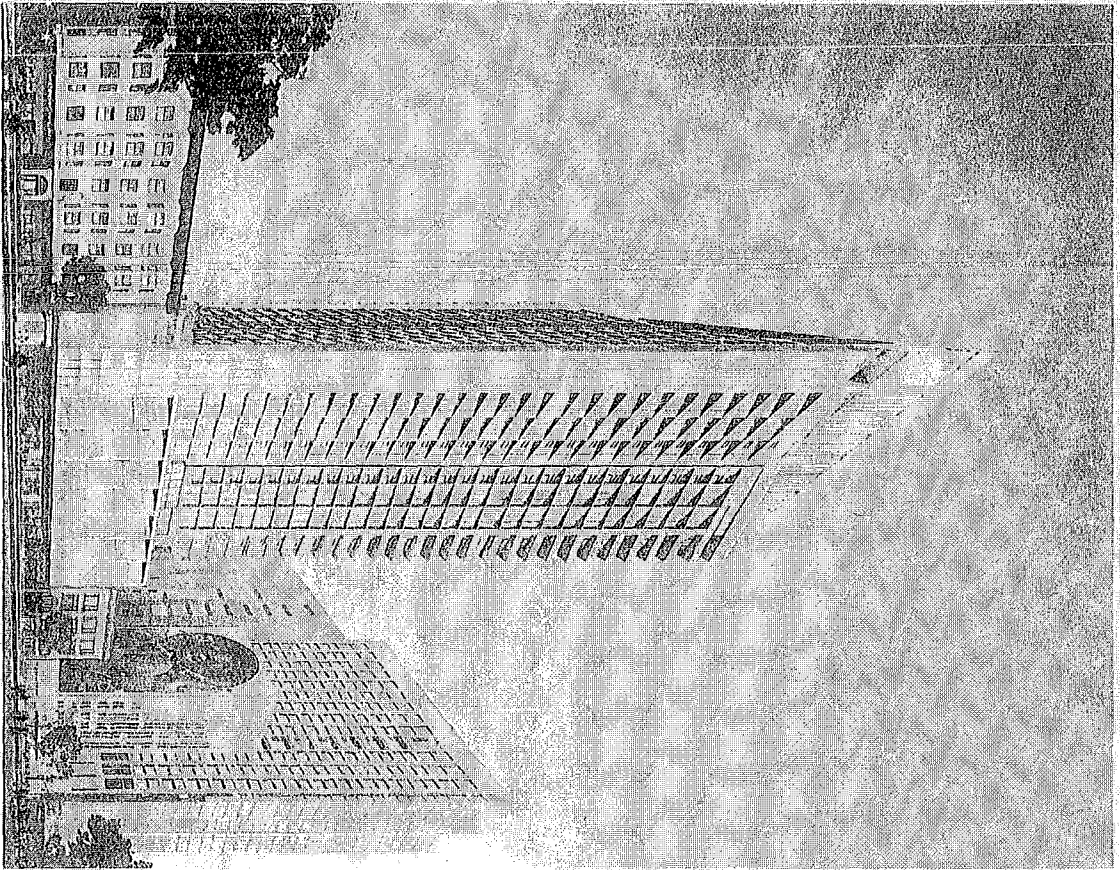
OAKLAND SKYLINE - BEFORE



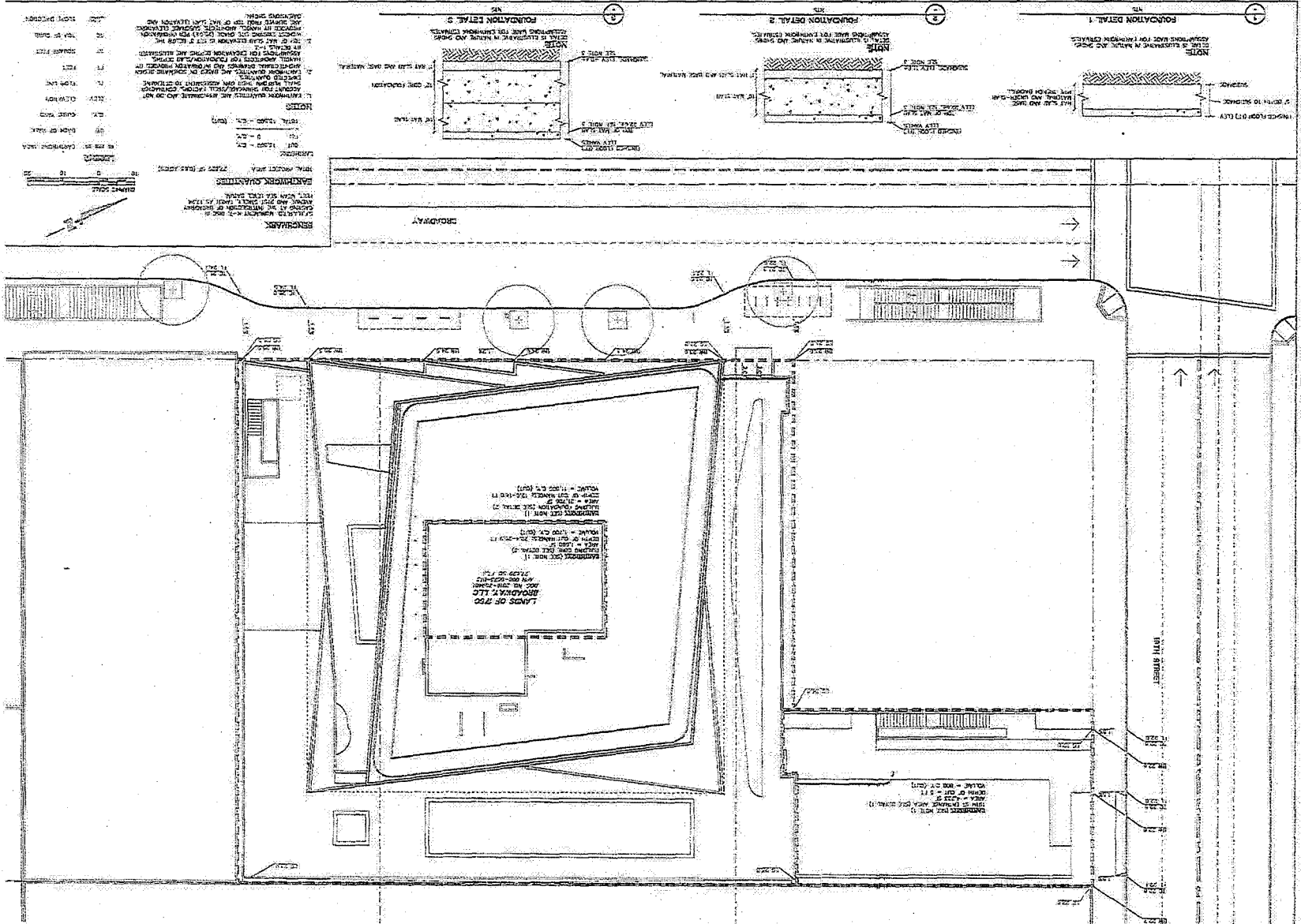
OAKLAND SKYLINE - AFTER



BROADWAY VIEW



PLANNING COMMISSION 1750 BROADWAY, OAKLAND, CA



APPENDIX C - TOPOGRAPHIC SURVEY

Rivera, Mike

From: Rivera, Mike
Sent: Friday, March 8, 2019 3:38 PM
To: 'Chris Relf'
Subject: 1750 Broadway. Public Comments Received

Hi Chris,

FYI:

-----Original Message-----

From: Joseph Hornof [mailto:hornof@earcom.com]
Sent: Wednesday, March 6, 2019 12:40 PM
To: Ranelletti, Darin <DRanelletti@oaklandca.gov>
Subject: Please help us save our affordable housing

Dear Mr Ranelletti,

Greetings from down the street. I live at 1770 Broadway, on the corner of 19th St. Our building is historic, dating back to 1912.

We have 48 apartments at affordable rent. Some of my neighbors have been here for many years. Some of us provide vital services to our community.

For over a year, we've been tracking the development proposed next door at 1750 Broadway through the Planning Commission. We've spoken at meetings and submitted our concerns but it feels as if we are being ignored.

The process has not been transparent. Contrary to previous reports they published, the developers finally had their first discussions with us last week. They sprang the meeting with 30 hours notice, which limited the number of us who could attend.

The next Planning Commission meeting was postponed to Wednesday March 20. The developer is presenting their CEQA report. 1770 Broadway is referenced a scant half-dozen times in their 400 pages of reports. Some of our significant concerns are not addressed. Once again, it feels like we hardly exist.

One area which omits us is the shadow study. A shadow study is required for our building as it is an historic resource. The function of this resource should be considered. It's more than a facade; it contains apartments. I believe this study will show that we will lose all of our natural sunlight, permanently putting us in an unhealthy environment.

There's a larger problem which will arise before that. At the community meeting, we learned that construction is scheduled to last

28-36 months. Three years is significantly longer than other projects. The noise from this construction will render our apartments unlivable during that period. We're speaking from experience. We've been impacted by the construction at 17th St for over a year; construction across 19th St. is just starting up. 1750 Broadway will be right against our walls and wrap around our building.

Safety is another issue. Will their crane haul material over our heads? The size of this building is frightening. If anything should slip, it could come crashing into our light well and into our apartments. This puts us in a position of tremendous risk.

Those are some of our many concerns. We'd appreciate if we could talk to you about this.

Thanks for your time and attention,

-Joe

Joseph Hornof
1770 Broadway #112
Oakland, CA 94612
510.763.1488
hornof@earcom.com

Re: Case Files PLN18369/ZP170064; 1750 Broadway
December 5, 2018

Dear Members of the Design Review Committee,

Please forgive me - I'm having a hard time trying to learn how this process works. This is a follow-up to my public comment from 11/28/18, prior to the meeting scheduled last week.

It was only by chance that I learned this meeting was rescheduled. A public notice was not posted on the premises of 1750 Broadway. That sign still reads 11/28. Why does the City of Oakland website post only the agendas for these meetings, but no minutes or reports?

Yesterday I received a phone message from Christopher Relf of Rubicon Partners, the developers of this proposed project. I didn't list my phone number on the comment I submitted last week, but I would like to thank him for reaching out. I didn't get home in time to return his call and I'm not sure how to respond. I don't have the authority, expertise or resources to negotiate and enforce the mitigating measures that should be required for a project of this scale.

That's why I'm writing the Planning Commission, right? Isn't that your job? I'm sorry, I'm still trying to figure out how this works.

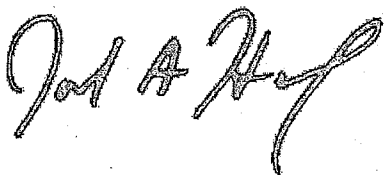
Tonight a neighbor with better eyes than me pointed out #7 in the background summary: Demonstrate communication with the affected tenant of existing facility. Once again, I appreciate Mr. Relf's phone call, but I am not the only affected tenant of a singular existing facility. There are 48 apartments in our building, along with retail on the ground floor, with neighbors up and down and across our street.

At a minimum, this communication should include:

- An informational packet including details of demolition and construction plans, timelines, how the ~~completed building will affect our quality of life. Is this tantamount to eviction? Should we plan on moving out? What mitigation measures will be offered? Some of the residents in my building do not have access to the Internet. One is worried about living under such a big building in an area prone to earthquakes. If someone drops a coffee cup off this tower, it's plunging straight into our lightwell. The residents of my building will be literally, physically impacted.~~

- A community meeting to speak directly with Rubicon Partners and representation from the City of Oakland Planning Commission who can guide us and provide necessary oversight. Our neighbors at East Bay Paratransit could provide a conference room to host this. This is a humongous project. It deserves more than a kangaroo court - public safety is at stake. If the Planning Commission wishes to place due diligence upon my sole shoulders, I would consider that negligent.

Thank you for your consideration,



Joseph Hornof
1770 Broadway Apt 112
Oakland, CA 94612

Attachment E

East Bay Paratransit

1750 Broadway
Oakland, CA 94612

December 3, 2018
Mike Rivera, City Planner
City of Oakland Department of Planning and Building Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

RE: Comments on 1750 Broadway Project:

Dear Mr. Rivera:

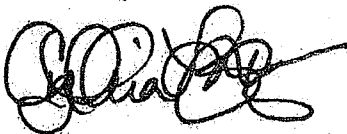
We would like to provide comments on the proposed project at 1750 Broadway, Case File Number AP170064.

First, we would like to acknowledge that Rubicon is correct that there have been a number of discussions/emails and a few meetings between the landlord and the tenant, as noted in Rubicon's November 8th, 2018 letter. However, the truth of the matter is that a majority of those communications were regarding tenant/landlord concerns and were not addressing the project currently under review by the DRC nor how it would impact the terms of the lease.

We are glad that Rubicon recognizes the terms of the lease which provide for the tenant and the agencies to hold, at our option, until 2030. We believe it is important, however, to make clear to the committee where the negotiations stand currently – no meetings have occurred, nor has correspondence been exchanged regarding a potential resolution of the relevant issue, since April 2018. There is no pending offer on the table, no ongoing negotiations, and we are not close to reaching a settlement with Rubicon to relocate. Any action to move on this project or the proposed development is premature. At this point, East Bay Paratransit (EBP) plans to remain at the site until 2030.

The agencies have invested in improvements to customize the property so that it would serve the unique needs of our EBP disabled riders. The location is ideal for meeting the needs of many riders and families that come to our office each day. Over 85 workers are employed at the office, many of which are in starting level jobs and rely on BART and AC Transit to commute to work. We invite you to visit our office and meet the workers and riders that are part of the East Bay Paratransit family.

Sincerely,



Cynthia Lopez
Acting General Manager, Transdev, on behalf of the East Bay Paratransit Consortium.
1780 Broadway
Oakland, CA 94612 Office: 510 446-2008.

Re: Case Files PLN18369/ZP170064; 1750 Broadway

November 28, 2018

Dear Members of the Design Review Committee,

I supplied written comments regarding this project on January 31 and February 28, 2018. Several residents of my building attended your meeting on February 28 and voiced their concerns. We addressed many real-world questions regarding how his project will impact our quality of life and the well-being of our neighborhood.

It appears your Committee has chosen to ignore us. There is no mention of our concerns listed or considered in your report.

Moreover, you have printed a false statement not just once, but twice. It can be found in the Applicant's Letter with Responses, dated February 15, 2018, in Part 2, Page 37 of the 2018-11-28-DRC report. This false statement has been provided to the public in print and on the City of Oakland website.

I am listed by name six times in this single paragraph. I have had no discussion with the applicant regarding this project. This claim is entirely false. To the best of my knowledge, the applicant has had no discussion with any of my fellow tenants.

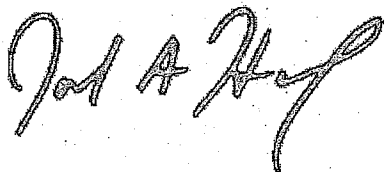
Our correspondence and comments were provided to the Planning Commission, from whom we have received no response.

Before this project is allowed to proceed, all statements attached to my name should be corrected and/or retracted.

Moreover, the applicant's decision to respond with an untruthful statement indicates that our fears are warranted and worthy of acknowledgment.

If the Planning Commission negotiates in the interest of the citizens of Oakland, we should be treated with respect. Our lives will be impacted by this project. We deserve a truthful voice in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe A. Hornof". The signature is written in a cursive, flowing style.

Joseph Hornof
1770 Broadway Apt 112
Oakland, CA 94612

1770 Broadway Apt 112
Oakland, CA 94612
(510) 763-1488
hornof@earcom.com
Re: Case File Number ZP170064; 1750 Broadway
February 28, 2018

Dear members of the Design Review Committee,

I supplied a public comment on this project prior to your meeting on January 31, 2018. While the committee mentioned in passing they had received my correspondence, none of my concerns were addressed.

I am a resident of 1770 Broadway. This project will dramatically affect the living conditions in our building. Before this project is approved, I think it would be fair and prudent to present the residents of my building full and detailed information, and an opportunity to discuss the impact of this project with representatives from the Planning Commission.

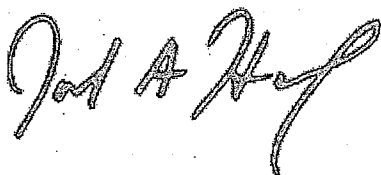
The 1750 Broadway proposal would envelope our building and cast it into the shadows, blocking nearly all direct sunlight. That is one of my many concerns. And that is far down the road: first we will be impacted by the destruction of the current building and the construction of the tower. That may make our units virtually unlivable for the duration.

Many of the residents in our building have been here for years. Decreased conditions will affect them. Relocation may be very difficult for some of them. Moreover, we can tell you first hand the challenges we face living here, the changes we have witnessed from the development which has transpired and that which is under construction. **These are livability issues that will face future residents of downtown Oakland.**

Subsequent to the January 31 meeting, I presented information to the occupants of my building, both residential and retail, and invited them to tonight's meeting so they can see how this process works. I believe this information should be presented to potentially impacted residents by the city itself.

After discussing this with my neighbors, I've received more questions and concerns, too many to list in this letter. Some of these issues may be somewhat private, not suitable to be published in public comment. These issues are real and valid. As citizens of Oakland, we feel we have both a right and a duty to ensure that they are addressed.

Sincerely,



Joseph Hornof



February 21, 2018
Via Email

City of Oakland
Design Review Committee (DRC)

RE: Case File No. - 1750 Broadway

Dear Chair Myres and Commissioners Mamus and Monchamp:

We are writing in regards to the project proposal for 1750 Broadway that houses the agency's East Bay Paratransit (EBP) Broker offices. EBP is a joint venture between AC Transit and BART to provide mandated complementary Americans with Disabilities Act (ADA) paratransit to those individuals that, due to a cognitive or physical impairment, are unable to utilize the fixed-route bus or rail.

The Broker has responsibility for eligibility determinations, reservations, scheduling, dispatch and customer service. The Broker employs 85 employees, on behalf of AC Transit and BART. Additionally, the Broker holds contracts with three private firms for the operations and maintenance of vehicles utilized in EBP service.

We appreciate you allowing staff to address the Design Review Committee (DRC) during your regular meeting on January 31. Due to the limited time (2 minutes) we have attached their talking points to this correspondence for your consideration.

This item was discussed during the AC/BART Inter-agency Liaison Committee (ILC) on February 7. The ILC is comprised of three (3) members of each of the agency's respective publicly elected transit boards. The ILC meets frequently to discuss matters of mutual interest to both agencies including EBP. Staff also provided a verbal update to the full AC Transit Board of Directors during its regularly scheduled meeting on February 14.

Both AC Transit and BART have a mutual interest in the success of EBP and we are concerned about this project moving forward without consideration of or accommodation for EBP. The fact is, we have over 12 years remaining on our lease for this property and have no intention of leaving. Like AC Transit and BART, the EBP Broker's principal offices have always and will continue to be in downtown Oakland.

EBP provides a vital service to the most frail and vulnerable in our community and must be accounted for should this project move forward.

We appreciate your consideration and attention to this matter.

Respectfully,

ALAMEDA-CONTRA COSTA
TRANSIT DISTRICT

Michael A. Hursh
General Manager

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

Grace Crunican
General Manager

Cc: City of Oakland Planning Commissioners
AC Transit Board of Directors
Laura Timothy, BART Customer Service and Access

January 31, 2018

Talking Points for DRC

Jahmese Myres, Design Review Committee (DRC) Chair
Amanda Monchamp
Clark Manus

Re: Case File No. ZP170064- 1750 Broadway

My name is Mallory Brush. I am the Accessible Services Manager for AC Transit. I am joined by my counterpart at BART, Laura Timothy.

- ◉ In 1994, BART and AC Transit entered into an agreement to provide federally mandated paratransit. This program is known as East Bay Paratransit (EBP) and is for individuals who, due to a physical or cognitive disability, are unable to ride the bus or BART.
- ◉ AC/BART contracts with a Broker to operate a large call center and oversee 3 service providers who maintain and operate the 210 EBP vehicle fleet.
- ◉ EBP has over 16,000 registered clients and provides over ¾ million trips per year. Over 40% of those trips are into and out of Oakland.
- ◉ The Broker is the current tenant of 1750 Broadway. However, AC/BART pay 100% of the costs to operate this facility. As such, effectively AC/BART are the tenants.
- ◉ Like AC Transit and BART, EBP's principal offices have always been and will continue to be in downtown Oakland.
- ◉ After 20 years in 1 location we relocated the call center 2 doors down to 1750 in June of 2015.
- ◉ We selected this location due to its proximity to BART and bus lines, additional and upgraded office space, a community room and secure parking in the rear of the building taking our vehicles off Broadway and providing a safe environment for our passengers/guests to visit the Office.
- ◉ The facility houses 85 employees and a community meeting room. The community meeting room hosts 3 senior and disabled advisory groups and the AC/BART Interagency Liaison Committee comprised of three publicly elected officials from each agency, among others.

- The community meeting room also functions as EBP's Emergency Operations Center.
- The Base Lease, effective June 2015, was for a period of 10 years with an option for 5 additional years. We have an additional 12.5 years remaining.
- The building was purchased by Rubicon, with principal offices in San Francisco, in October 2016. The plans subject to DRC review were filed in July, 2017.
- No formal or informal notification was ever provided to us by Rubicon until the DRC notice was posted in the front of our building. Can you image the dismay and now ongoing concern of our 85 employees upon seeing the plans with no prior notification?
- The service provided by EBP is vital to our communities' most frail and vulnerable. As long as AC Transit and BART are running, EBP will continue to exist. The EBP service cannot be disrupted in any way.
- The plans are deficient in that they do not accommodate our office space requirements and community meeting room (approx. 15,000 sq. ft.)
- We understand that no decision to approve or deny the project will be made at this meeting. However, we needed to express our deep concern that the accommodation of EBP's vital service was/has not been considered.
- This project simply cannot move forward without that accommodation and consideration.

Questions:

A question to the DRC is if permits are issued for this project, how long are these permits valid? It should be noted that the 2 permits identified in the staff report do not include permits that may need to be obtained from BART.

Can you explain the process moving forward?

1770 Broadway Apt 112
Oakland, CA 94612
(510) 763-1488
hornof@earcom.com

January 31, 2018

Dear Mr. Rivera,

Thank you for speaking with me today. As you suggested, here is a letter you can forward to the Oakland Planning Commission Design Review Committee.

This is in reference to item 1 on today's agenda: Case File Number ZP170064; 1750 Broadway; APN 008

I am a resident of 1770 Broadway, and am typing a dozen feet away from where these new walls would rise. I have a number of concerns about how this project will affect the living conditions in our building. Before this project is approved, I think it would be fair and prudent for the residents of my building to have an opportunity to address our concerns.

Our five-story building has been a fixture in Oakland for over 100 years. A former mayor of Oakland, John L. Davie, once lived here. Our building is comprised of 4 retail shops on the ground floor and 48 apartments above, on 4 floors with 12 apartments per floor. Half of the apartments have windows facing outwards, half face inwards towards a light well.

This new proposal would envelope our building on two sides. It will throw our building into the shadows, blocking nearly all direct sunlight. That is one of my many concerns. And that is far down the road: first we will be impacted by the destruction of the current building and the construction of the tower. That may make our units virtually unlivable for the duration.

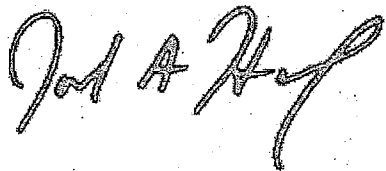
Some of the residents in our building have been here for years. Decreased conditions will affect them. Relocation may be hard for many of them. Moreover, we can tell you first hand the challenges we have faced living here, the changes we have witnessed from the development which has transpired and that which is under construction. These are livability issues that will face future residents of downtown Oakland.

I will attend this meeting tonight, but somewhat in a state of fear. I doubt many of my fellow tenants will appear. For a start, I doubt any of them noticed the public notice that was posted and subsequently has been removed. Nobody has provided our residents any notice of these plans.

I don't think we can have a proper discussion by filling out speaking cards; many of our tenants would be intimidated, including myself. I'm also somewhat afraid of possible reprisal. I have a very good relationship with my landlord, Ted Dang of Commonwealth Companies. Additionally, I recently began paying rent to 1750 Broadway LLC for a parking space in the back of our building. I don't want to imperil either of these landlord/tenant relationships.

Before this plan is approved, could you provide a time and space where we could discuss some of these concerns? We represent a good batch of proud downtown Oakland residents - we should work together. I would greatly appreciate that opportunity, myself.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe A. Hornof". The signature is written in dark ink and is positioned above the printed name.

Joseph Hornof

Rivera, Mike

From: Geeky Girl <geekygirl@gmail.com>
Sent: Wednesday, March 20, 2019 12:03 PM
To: Rivera, Mike
Subject: Public comment for 1750 Broadway - Case File Number: PLN18369

Greetings Oakland Planning Commission and Mike Rivera,

I am a resident of Oakland and work in the city of San Francisco. I heard about the proposed building at 1750 Broadway and am concerned about several aspects of the project.

Oakland is vibrant because of the people who live here. It's refreshing to walk down the street and see people you recognize on a daily basis. It's made up of all types of people and I want to see that maintained.

I live at 1770 Broadway has 48 units of affordable, market rate housing. Tenant have lived here from 1 year to over 20 years. Many of us are working class people. There are also several residents who have limited mobility or are on fixed incomes. We all get along very well and often host seasonal neighbor gatherings.

The intersection of 19th and Broadway is a very busy intersection for pedestrians and vehicles throughout the day, especially during commuting hours. I find it difficult to understand how a large scale construction project can take place here.

Concern - Project Communication

For this specific project, I've been very surprised how little notice the tenants have received for both City Planning meetings and communication from the developer, Rubicon. For the Community meeting Rubicon hosted at Oakstop on February 26th, 2019, they posted flyers in our lobby the day before in the afternoon. This gave most tenants less than 24 hours notice but 8 of us were able to attend. Neighbors across the street at 1755 Broadway who are condo owners reported similar short notice as well. I did ask Chris from Rubicon why they had not mailed notices to us about the community meeting but he didn't have an answer. At City Planning Commission meetings in 2018 that I attended it sounds like a nearby organization, AC Paratransit, also had very little communication as well.

Ask #1 -- Have the developer provide ample notice and require they incorporate residents living within 2,000 feet into their planning

Concern - Health and Accessibility

There has been construction at 1640 Broadway (PLN15281) for the last two years. Construction is just starting at 1900 Broadway (PLN15179) and these are the concerns I'd like addressed:

- The shadow study for 1750 Broadway didn't take our building into account
- Has the existing building been evaluated for harmful elements like asbestos?
- What will happen to the BART elevator for people who need it?
- Rubicon's expected 18 months - 36 months of construction is disruptive and harmful

Ask #2 -- Have the developer incorporate our building into the CEQA shadow study with current buildings like 1640 Broadway; analyze existing building at 1750 for harmful elements and provide estimated decibel levels during demo/construction and post build for HVAC systems.

Concern - Building Stability

Our apartment building was built at the turn of the last century. Has the developer explored and validated that the demolition and construction will not structurally damage our building?

Ask #3 -- Have developer work with building owner, Commonwealth Properties, to do what is necessary to evaluate structural stability

Concern - Affordable Housing

Oakland has risen to be on the top 5 most expensive cities to live in for the United States. Despite this, housing availability is scarce. For a similar studio or 1 bedrooms rents are well above \$2,000. This is causing people to share sleeping areas or move further into the East Bay and commute farther to work, leading to more congestion on BART and the highways. Rubicon indicated there will be no affordable units in the new construction.

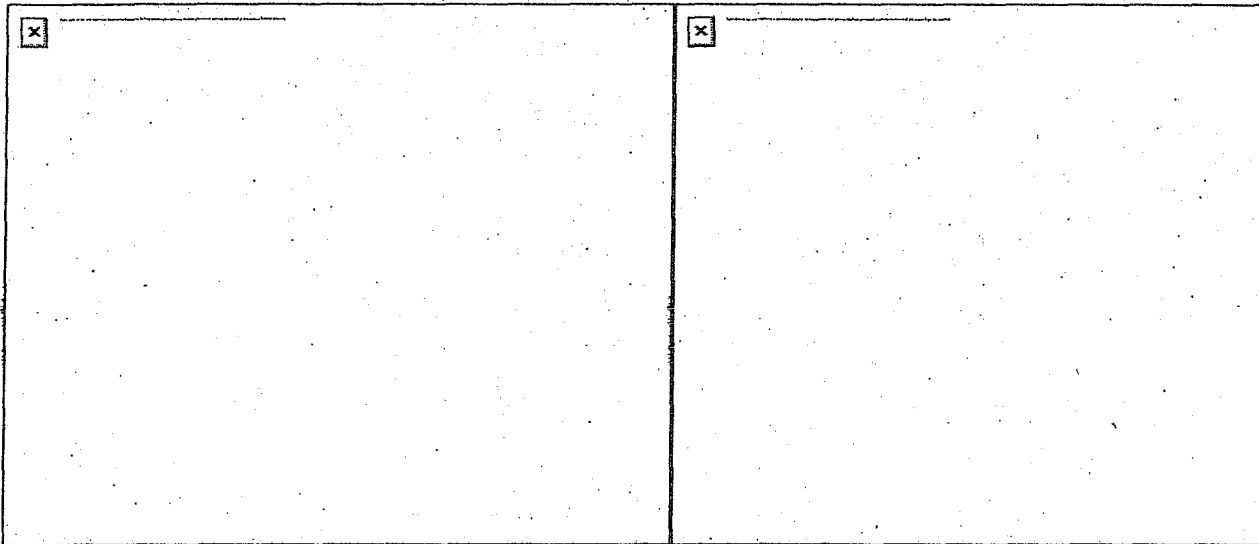
If our building was damaged during construction of 1750 Broadway and deemed unlivable, it would be very difficult to find similar housing in Oakland and I would consider moving out of the Bay Area which I've called home for almost 10 years.

Ask #4 -- Ask the developer to incorporate affordable units into the plan.

Concern - Oakland Art Vibe

Lastly, the concern of ongoing art that is being covered up by these high rise buildings. This was the one Oakland lost when 1900 Broadway went up <https://sf.curbed.com/2017/11/10/16634372/vintage-believe-in-people-oakland-high-rise-mural>

Ask #5 -- Ask the develop to consider other designs that will not cover up the existing artwork



Sincerely,

Adria Anderson
1770 Broadway, Oakland, CA 94612

Rivera, Mike

From: Rosewood1942 <rosewood1942@gmail.com>
Sent: Wednesday, March 20, 2019 10:57 AM
To: Rivera, Mike
Subject: 1750 Broadway proposed project, Case File Number: PLN18369

Good Day City of Oakland Planning Committee,

I am submitting my comments and concerns regarding the proposed construction of a large building adjacent the the apartment complex I've lived in for 20 years and rented since 1999.

1770 Broadway is the first and only Oakland building I've lived in. Previously I was a resident in San Francisco for 17 years.

I was an artist for many years, a traveler and and very active in the community. In my former years, I hosted gatherings, attended festivals and performed with my deepest passion being the design of period costumes. Oakland has been a wonderful place for me to connect with other artists, promote my art and find people with similar interests.

The proposed building at 1750 Broadway as with any large scale construction project, will bring noise, dust and vibrations.

My primary concern is the potential adverse health impact of this project. I am housebound and spend a majority of time in bed, prone position, due to chronic illness. I live in constant pain. There are many studies, including an in-depth CDC study, that chronic pain and sensory disturbances from excessive light and noise.

The accessibility in Oakland is very bad. Particularity in locations where there is construction. I have fallen where there isn't a ramp. Where there are big, bulky things in the street. Partially due to the construction and partly because they are not putting money into the city.

I require an electric scooter as I cannot walk unassisted. In the past I have used Paratransit's services to get to these appointments so having their scheduling office nearby has been a blessing. I utilize the Center for Independent Living as well.

Here are my questions:

What has the developer done to assure the tenants of our building that we will not be breathing in harmful dust when the building is taken down?

What are the construction hours and how long will the construction last for?

In terms of accessibility, will the sidewalk be blocked or will there be a wooden ramp? If so, have they done research on how it will affect those of us with mobility problems?

The history of the neighborhood is really much more important than a putting up a luxury building. The thought of attempting to move out of the apartment I've called home for so long is literally impossible without significant help. I'd rather stay in my apartment, with my neighbors and in the city of Oakland.

Sincerely,

Jwihyer de Winter
Resident of 1770 Broadway, Oakland California

Rivera, Mike

From: Joseph Hornof <hornof@earcom.com>
Sent: Tuesday, March 19, 2019 4:41 PM
To: Rivera, Mike
Subject: Public comment: Case File Number: PLN18369, 1750 Broadway
Attachments: PLN18369response031919hornof.pdf

Hi Mr Rivera -

I'm attaching my public comment for tomorrow's Planning Commission meeting as a PDF. It includes a few charts, so hopefully this will be easy to print:

PLN18369response031919hornof.pdf

I apologize for its length, but there are a number of issues I had to specifically address. I did my best not to wait until the last minute.

Also I want to thank you for your help. It hasn't been easy for me to learn the Planning Commission's policies and practices. You have been patiently helping me through that, while juggling a lot of other important cases. I have many complaints about this project, but your level of service has been first-rate.

I'd appreciate if you can confirm you received this. Tomorrow, I'll check to make sure you received the responses from other residents that were sent.

Thanks again,

-Joe

Joseph Hornof
1770 Broadway #112
Oakland, CA 94612
510.763.1488
hornof@earcom.com

Re: Case File Number: PLN18369, 1750 Broadway
March 19, 2019

Dear Planning Commission Members,

We live at 1770 Broadway, directly adjacent to 1750 Broadway. Our walls physically touch. The new project will encircle our rear exit, and rise 423 feet above our heads. Before you approve this project, we have a number of concerns we hope you will address. We also believe the project may violate numerous regulatory schemes.

This project would dramatically impact our quality of life. Its construction could risk our personal safety and displace the current 48 tenants at historic 1770 Broadway. Some are elderly or disabled and will require assistance. Our displacement would cause even greater loss to our city: it will impact our employers, their clients and the citizens who we serve.

Here are some of the problems we need to address.

1) Planning Process

The planning process has not been transparent. It is difficult to find Planning Commission information on the City websites. Agendas are posted, but the decisions are not. Meetings have been scheduled and postponed at little notice, which decreases a citizen's ability to participate. Citizens have presented concerns that have not been addressed and questions which have not been answered.

We were informed of the first community meeting held for this project with only 30 hours notice. *This meeting was held on Tuesday, February 26, 2019, shortly before the Planning Commission meeting originally scheduled for March 6, postponed until today.* Only seven of our 48+ residents were able to attend this community meeting, due to such short notice. There we learned details that had not been presented at previous Planning Commission meetings, such as the duration of construction: 28-36 months. Our jaws dropped.

The developers of this project presented false information in prior reports to the Design Review Committee. They reported discussions with myself and residents of our building that never took place. This has been reported to the Planning Commission, as evidenced by the public comments in the March 20, 2019 Staff Report:

<https://cao-94612.s3.amazonaws.com/documents/2019-03-20-PC-Item-01-for-Publication.pdf>

In the Staff Report, February 28, 2018, page 8, the developers wrote:

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak069364.pdf>

Finally, we received the letter from Joseph Hornof, our neighbor at 1770 Broadway, the day of the DRC hearing. Following the DRC hearing we reached out to Mr. Hornof to discuss his concerns in more detail. We discussed with him, as we mentioned during the DRC hearing, that the project will be incorporating a mural along the garage walls and will be setting back the building from the property line by three (3) feet. We are discussing the concerns regarding light with Mr. Hornof's landlord as well as with Mr. Hornof and his fellow tenants and are also discussing their concerns regarding demolition and construction. The project will be required to comply with the City's standard conditions of approval regarding demolition and construction and we believe compliance with these measures should help mitigate Mr. Hornof's concerns. We also will provide Mr. Hornof with notice of key construction milestones and commit to provide him with the contact information for the construction manager to ensure that any concerns he may have regarding demolition or construction are responded to in a timely fashion.

The developers may have received the letter I submitted to the Design Review Committee, but we never discussed this project. To the best of my knowledge, no discussion with any of my fellow tenants was held until our first community meeting, one year later, prior to the Planning Commission scheduled for March 6. Representatives of East Bay Paratransit reported similar false statements presented during their negotiation with the developers.

2) CEQA report

Today this project will present its CEQA report.

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak072045.pdf>
<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak072046.pdf>

We are not CEQA experts and it is beyond our means to challenge this report in a court of law. Nonetheless, the City of Oakland has a responsibility to preserve public health, safety, and welfare, and to advance the housing policies of the city with regard to low- and fixed-income persons, people of color, students, and those needing special protections, such as long-term elderly and disabled tenants. The deficiency of this CEQA report is contained within the single sentence that references our building, with only one word acknowledging our human existence:

A five-story mixed-use residential building with ground floor retail is located adjacent to the existing building to the north (1770 Broadway), and is occupied by multiple restaurant and commercial tenants including Oaksterdam University, a cannabis educational facility; Zaya Café; and Sweet Belly Desserts.

This description and the remainder of the CEQA report entirely disregards the adverse impacts this project will affect upon the residents of our 48 apartments. If this report is intended to be accurate, transparent and reflect real-life, we have some questions:

a) Shadow Study

The CEQA report is deficient in that it fails to adequately consider the shadow the new project would cast on our building.

In Appendix G. PreVision Design states:

Under City of Oakland thresholds of significance, a project would have a significant shadow impact if it would:

D. cast shadow on an historic resource such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its designation as an historic resource.

Our 5-story building, 1770 Broadway, is a historic resource and listed as such in 1750 Broadway's CEQA report under Project Setting. The Bauer Apartments were constructed circa 1912 by Righetti and Headman, renowned Bay Area architects. There are two retail stores and two cafes on our ground floor. Above that are 4 floors of apartments. Our apartments are both affordable and market-rate. The Bauer Apartments are historic not just for their facade, but their purpose, which includes the former residence of Mayor John L. Davie. Yet the impacts upon 1770 Broadway are entirely absent in this CEQA report, including this Shadow Study.

Our building has already sacrificed significant sunlight to our city's new luxury towers. The shadow study for 1750 Broadway is out of date - it was prepared January 25, 2018 and does not include 1640 Broadway. The shadow study diagrams do not accurately portray the additional sunlight our residents would lose to the 1750 Broadway tower. We demand to see more accurate data. Once 1750 Broadway is complete, we may live in a perpetual cave. Sunlight is important for physical and emotional health. Any new building proposed between us and 1640 Broadway should be staggered in height, to preserve our remaining natural sunlight.

b) Pollution:

The CEQA report fails to adequately consider the additional pollution the tenants would suffer. Our entire building is the size of 1750's parking garage, which will stretch from levels 2 through 6. The ventilation of exhaust from this garage will flow directly to our windows. We request a more thorough report of this impact.

We also have significant concerns regarding the pollution that will be generated during construction, which could span three years, addressed below.

c) Traffic: Broadway at 19th St was designated as a high-injury corridor in Oakland's 2017 Pedestrian Plan. The 2017 traffic studies are outdated and need to be recalculated with new traffic patterns, including electric scooters and rideshare, projects recently completed, under construction, or approved. This block of 19th St. currently features two busy parking lots; this number will double, with additional sets of entrance/exits on each side of the street.

The CEQA report characterizes the current structure at 1750 Broadway as an "underutilized site with outmoded facilities and/or marginal existing use." That would be disputed by the current occupants of this building, East Bay Paratransit, and the citizens who benefit from their services. East Bay Paratransit has been on our block for over two decades and have characterized this

building an ideal location. They have a long-term lease on their facilities. This site provides their clients access to a BART elevator directly from their building. Their small, gated surface parking lot allows for safe ingress and egress from their busses. This reference to their building as underutilized and/or marginal insults their service, their ridership, and the Americans with Disabilities Act (ADA).

3) Construction

Construction of the new project will endanger our safety and likely lead to lawsuits.

A land use impact due to construction activity is a function of the intensity and duration of construction work, the sensitivity of land uses adjacent to the construction areas, and distance of these land uses to the construction site. Construction-related effects that can result in land-use conflicts include increase in noise, increase in dust levels and other pollutants, traffic and circulation issues, and decrease in safety. A significant socioeconomic construction impact would occur if construction activity diminishes the use of our apartments.

The Implied Covenant of Quiet Enjoyment is a foundational concept built into every rental agreement. It affords a tenant rights including the freedom from unreasonable and recurring disturbances from the landlord and/or other neighbors, and a premise that is free of bodily hazards. The construction of this project may force us out of our apartments due to noise, disruption of the foundation of our building, material which may fall upon us, or any other external impact which results in a red tag hazard. Our building will not be a safe place to live while 1750 Broadway is constructed. Breach of the covenant can result in an injunction and monetary damages.

In their CEQA report, the developers claim:

There is nothing unique or peculiar about the Project or its construction that would suggest that the Proposed Project would have greater noise impacts than other typical high-rise construction projects within Downtown Oakland

Contrary to this plan's claims, it is not comparable to other projects. At 423 feet high, it would be the tallest building in Oakland, with the deepest foundation, another 150 feet below the surface. It has the longest construction timeline, longer than other tower projects. Here again, they ignore our existence. This project entirely is unique due to its prolonged impact upon existing residents and their proximity to this impact. We have 12 apartments in our building which touch the existing building they intend to demolish, plus another 4 apartments immediately above that. The rear of our building and its 12 apartments will impacted, as they will face the area where heavy equipment and building materials will be staged, within a 50 foot distance from their living spaces.

The developers claim:

The Proposed Project would comply with the City of Oakland Noise Ordinance

Oakland Planning Code section 17.120.050 states the Maximum Allowable Receiving Noise Level Standards.

TABLE 17.120.02

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS

Cumulative Number of Minutes in Either the Daytime or Nighttime One-Hour Time Period	Anytime
20	65
10	70
5	75
1	80
0	85

Sound levels of 80 dB are permitted for one minute per hour; sound levels over 85dB are not permitted. If construction lasts 28-36 months, this construction zone will impact us for a great portion of our lives. Long-term construction or demolition operation is defined as 10 days or more; this construction will take place over a minimum of 850 days, or 1095 days if it stretches over 3 years, which we anticipate. Oakland Planning Code lists the maximum allowable receiving noise levels for construction and demolition:

TABLE 17.120.04

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

	Daily 7 a.m. to 7 p.m.	Weekends 7 a.m. to 8 p.m.
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

In the Health Risk Assessment, Appendix C, the CEQA report states that Concrete/Industrial Saws will be used for 8 hours per day for 59 days during demolition and grading. At their source, concrete saws are deafening, reaching sound levels over 110 dB. They will be used to cut through thick concrete mere inches from our windows. Their sound level is 90dB at a 50 foot distance.

Demolition and grading will entail 3,188 hauling trips; over 300 hauling trips per day during the grading process, removing 24,500 cubic yards of excavated materials. A clam shovel dropping material into a dump truck has a sound level of 93 dB at 50 feet; the dump truck contributes another 84 dB at this distance.

Building Construction is estimated at 494 days. The CEQA report omits the number of the hauling trips required to deliver material to this site. A concrete mixer truck is rated at 85 dB at 50 feet. While concrete is being poured an air compressor adds another 80 dB at that distance.

These are just a few examples of construction activity which will violate noise ordinances. The cumulative sound levels of all construction activities and their duration must be calculated. Construction of this building will take up to three years, and the health risks regarding noise are not theoretical. Exposure to a noise level of 85 dB for even one workday can produce hearing loss. Chronic exposure to noise levels as low as 65 dB can increase adrenaline and stress hormone levels and elevate blood pressure, which increases the risk of heart disease and stroke.

We do not believe the particulate pollution that will be emitted by construction has been accurately calculated. It gets worse - will the demolition of the current building release asbestos?

The Proposed Project would also include demolition of the existing building totaling an area of 27,600 square feet. The existing building may contain Asbestos Containing Materials (ACM) which could pose a health risk to workers and nearby receptors during demolition.

As nearby receptors, before this project is approved, we demand this question is answered.

A building of this size in such close proximity to our living spaces presents another significant safety issue: gravity. Will their crane swing heavy material over our heads, above our airspace, up to 500 feet in the air, over 494 days of operation? Where it will be affixed to their structure at great height, a short horizontal distance away from our apartments? Where if anything should slip, it could crush through our roof or fall into our center light well and crash through our windows? The City of Oakland would be negligent to place its citizens in such a position of great risk.

CEQA mandates that an analysis of a project's impacts consider whether the project might cause existing environmental hazards to get worse. For a project of such long duration, one such hazard is the impact of construction traffic. 19th St. is a busy pedestrian and vehicular traffic corridor. If 1750 Broadway is under construction at the same time as 1900 Broadway, both sides of 19th St. will be clogged due to additional construction traffic. If construction occurs sequentially, it will be noisy and congested for a longer period of time. The impact of construction of both of these and other projects must be considered together, as this is how they impact our city.

This project will require the removal and replacement of the 19th St. BART elevator. For how long will disabled citizens lose access to a central BART station? The construction of 1750 Broadway will cause additional impact upon infrastructure which is already suffering impact from neighboring construction projects.

4) Increase in Housing Disparity and other long-term effects

No replacement apartments similar to ours are under construction in downtown Oakland. The approval of 1750 Broadway's luxury apartments will fall outside the housing guidelines set by both

the City of Oakland and State of California, which could put our city's funding at risk. It will place additional stress on the infrastructure and social fabric of our city.

Our city has a responsibility to prevent our displacement or rehouse residents who will be impacted. We didn't choose this fight. Rather, we unwittingly contributed to the "Oakland Vibe" listed in the marketing material of those who wish to displace us.

"Oakland is fast becoming unaffordable to those who have called our city home for generations and who give our city its rich diversity. This is unacceptable."

- Libby Schaaf, Oakland At Home, 2016

Another 350 units of luxury apartments will only exacerbate Oakland's existing housing crisis. They will be unaffordable for those who serve our city, including Oakland's teachers, police officers and even city council members. Moreover, the impact upon our building will result in a net decrease in livable, affordable units.

The 2017 Housing Element Annual Progress report can be found here:

<http://www2.oaklandnet.com/government/o/PBN/OurOrganization/PlanningZoning/OAK045364>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

Jurisdiction OAKLAND
 Reporting Period 01/01/2017 - 12/31/2017

Table B.

Regional Housing Needs Allocation Progress

Permitted Units Issued by Affordability

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.												Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level	RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9			
Very Low	Deed Restricted	2059	98	26	247	0	0	0	0	0	0	371	1698
	Non-Restricted		0	0	0	0	0	0	0	0	0		
Low	Deed Restricted	2075	30	13	66	0	0	0	0	0	0	109	1966
	Non-Restricted		0	0	0	0	0	0	0	0	0		
Moderate	2815	0	0	11	0	0	0	0	0	0	0	11	2804
Above Moderate	7816	643	2082	3900	0	0	0	0	0	0	0	6685	1131
Total RHNA by COG. Enter allocation number:		14765											
Total Units			771	2121	4284	0	0	0	0	0	0	7176	
Remaining Need for RHNA Period													7589

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

The 2018 Progress Report is scheduled to be released on April 1, 2019. After projects approved in 2018 have been added, the target for Above Moderate units (> 120% AMI) will be exceeded. All other targets will remain disproportionately unfulfilled.

Enforcement of these guidelines have been lax, but Governor Newsom may change this. In his first budget speech, he suggested withdrawing gas tax money from cities if they don't meet regional housing targets.

<https://www.sfchronicle.com/bayarea/article/Newsom-touches-a-nerve-by-connecting-gas-tax-13546364.php>

Approval of additional Above Moderate units will result in further non-compliance. These guidelines were put in place to build healthy, vibrant communities where the needs of all residents are met. Regional Housing Needs Allocation guidelines cannot be deliberately and flagrantly flaunted. If this trend is not reversed, it may adversely affect the financial health of our City and its residents.

5) Funding

The funding mechanisms employed by neighboring downtown projects have been somewhat suspect, as is the proposed funding for 1750 Broadway. Last year, the Planning Commission extended another one-year extension for the 1900-1944 Broadway project. This building is being funded via EB-5 visas, a program that has been noted for rampant fraud. Meanwhile this block across our street remains sitting in blight. The historic Tapscott Building has been entered by homeless people and peeping toms.

In lightly reported news last September, it appears 1750 Broadway LLC tokenized their ownership of their property. As the listed developers, do they intend to finance this project via a blockchain product?

<https://www.globest.com/2018/09/21/how-one-group-of-owners-tokenized-an-office-for-greater-liquidity/>

By Erika Morphy | September 21, 2018

SAN FRANCISCO - It is all well and good to hear the theory behind blockchain and how it can help commercial real estate, but to see it in action is another thing all together. Case in point: A group of owners of an office building in Oakland, CA's uptown district just tokenized the building to provide greater liquidity and make it easier for the owners to sell and exchange their shares.

Essentially this was a securities transaction, according to Razmig Boladian, co-founder and managing partner of Real Estate Private Equity firm Rubicon Point Partners. Boladian spoke to GlobeSt.com on behalf of the building owners. "It was a faster, cheaper and more liquid route instead of trading paper," he says.

The transaction complete, the shares have already been distributed among the owners, he adds. The owners used Flote, a fintech startup based in San Francisco, to tokenize the shares of the office building, which is valued at \$10 million. Flote provides software and services to fractionalize large commercial real estate assets into tradeable tokens on blockchain.

Because it is a new method of finance, some users can be leery of it, Roland Pan, CEO of Flote, tells GlobeSt.com.

The developers have not divulged this information to the Planning Commission. Flote is a very cryptic form of cryptocurrency. Roland Pan is a mystery man. Flote has no website or publicly available information.

1750 Broadway LLC is required to fulfill specific financial obligations to the City. Who are these owners? Are their funding sources legitimate? Are they legal, secure and accountable? As our apartments may be catastrophically impacted, we have a right to know this information, as damages may cause us to seek redress. The citizens of Oakland may wish to be informed of the funding sources for this project. Why has this been kept secret?

6) Appeal to City Council

We believe we have provided the Planning Commission sufficient evidence demonstrating why this project cannot proceed as planned. Any project for the 1750 Broadway parcel must start with a sufficient set of mitigation measures approved by the impacted residents of our building. Should this project go forward, we will seek injunctions and appropriate monetary damages.

If this project returns to the Agenda of future Planning Commission meetings, we request 28 days notice prior to this meeting. The developers have been allowed to set the schedule and spring meetings on us with little warning, resulting in insufficient time for us to prepare. We have been living under the threat of this life-altering project and its potential impacts for over a year.

The 1750 Broadway project requires a Major Conditional Use Permit. If the Planning Commission approves this project, we intend to appeal this decision in front of the City Council. ~~If the Planning Commission finds this project is in accordance with current city policy, we will address this policy~~ at a level where its consequences can be considered. We will enlist greater public support and engage other organizations who share these policy concerns.

We have been quoted an appeal fee of \$1,891.08. This fee is not listed in the City of Oakland Fiscal Year 2018-9 Master Fee Schedule or anywhere else on the City's website. This fee should be published as public information. We will raise this fee through crowd-funding and must provide transparency to our donors.

Our appeal will raise each and every issue that is contested above, along with all the arguments and evidence other residents of 1770 Broadway have placed in the record and presented to the City Planning Commission prior to the close of its public hearing on this item.

Thank you for your time and attention,

Joseph Hornof
1770 Broadway #112
Oakland, CA 94612

Rivera, Mike

From: Chantal Reynolds <creynolds@actransit.org>
Sent: Tuesday, March 19, 2019 4:13 PM
To: jmyres.oakplanningcommission@gmail.com; amandamonchamp@gmail.com;
tlimon.opc@gmail.com; jfearnopc@gmail.com; cmanusopc@gmail.com;
SShiraziOPC@gmail.com; NHegdeOPC@gmail.com
Cc: Claudia Burgos; Beverly Greene; Robert Del Rosario; Mallory Nestor; Rivera, Mike
Subject: Letter from AC Transit and BART General Managers regarding Item number 1 - Case File
PLN18369 - 1750 Broadway at March 20th Planning Commission Meeting
Attachments: City of Oakland Planning Commission_2019-03-14 (003).pdf

Dear Planning Commissioners,

Please find the attached letter from AC Transit and BART General Managers regarding the East Bay Paratransit Consortium site and lease at 1750 Broadway on the March 20th Planning Commission agenda.

Kindest regards,

**Chantal Reynolds | External Affairs Representative
Legislative Affairs and Community Relations Department**



Alameda-Contra Costa Transit District
1600 Franklin Street | Oakland, CA 94612
Phone: 510-891-7194 | Cell: 510-418-9364 | Fax: 510-891-4874
Email: creynolds@actransit.org | www.actransit.org



March 14, 2019

Via email

Jahmese Myres, Chair
City of Oakland Planning Commission
250 Frank Ogawa Plaza
Suite 2114
Oakland, CA 94612

Dear Chair Myres and Commissioners:

AC Transit and BART write with respect to project API70064 located at 1750 Broadway. This project calls for the demolition of the existing building and the construction of a multi-story, mixed use tower in its stead.

Previously AC Transit and BART informed the City's Design Review Committee that the first two floors of the property are currently leased by the East Bay Paratransit Consortium (EBPC). The lease on this property, including options, runs through 2030.

As you may be aware, EBPC provides door-to-door service for individuals within the service area who are unable, due to a cognitive or physical disability, to use regular buses or trains. EBPC is jointly funded by AC Transit and BART. The current location of the office is ideal for a number of reasons: secure parking for EBPC vans in the rear of the building, off Broadway, convenient access to multiple bus and BART lines for the numerous advisory/community meetings we host at the location, and direct access to the BART elevator at the property.

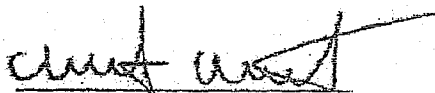
While AC Transit and BART are aware of Rubicon's desire to repurpose this property, we remain concerned that this project is moving forward through the planning approval process at this time; with more than 11 years remaining on the leasehold.

Representatives of AC Transit and BART have met with Rubicon to discuss the project, and various alternatives, but as of this writing no firm agreement has been reached between the parties to shorten the leasehold.

AC Transit and BART believe that it is important for the Planning Commission to be aware of the circumstances related to the existing building in considering an application for the redevelopment of the property. Given the nature of EBPC's leasehold interest, we suggest that the present application is premature.

This situation might change if the parties are able to come to a mutually satisfactory agreement to reduce the term of the leasehold, but until such an agreement is reached the consortium intends to remain at the property for the duration of its lease. In fact, for the first time in the parties' ongoing negotiations, Rubicon recently presented a proposal that AC Transit, BART, and Transdev may be able to use as the basis for reaching a deal to allow EBPC to move out of the building earlier than the lease provides. However, the parties are still negotiating the terms of such an agreement and have a way to go to finalize the specifics.

We appreciate your consideration of the facts outlined herein.



Michael Hursh
General Manager
AC Transit



Grace Crunican
General Manager
BART

Rivera, Mike

From: Stephen Merjavy <merjavy.stephen@gmail.com>
Sent: Tuesday, March 19, 2019 11:46 PM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway
Attachments: 1750 broadway.docx

Dear Mr. Rivera,

Attached is my letter regarding the proposed development at 1750 Broadway. Thank you

Stephen Merjavy

Dear Mr. Rivera,

I am writing in regard to my concerns around the proposed development at 1750 Broadway. I have been living at 1770 Broadway for the last year and a half and think this development would significantly affect the quality of life in our building and irrevocably change the neighborhood.

1. Noise/air pollution: I live in a 3rd floor apartment facing the parking lot where the staging area for the construction of 1750 Broadway will be. Since I often work at night and sleep in the day this project will likely have effects on my health, as my ability to rest will certainly be curtailed. I'm already finding difficulty with maintaining a restful atmosphere with the beginning of construction across 19th street. If this project is to move forward and I'm looking at multiple years of noisy construction disturbance, I may need to move.

2. Parking: Street parking and movement in the 19th street area is already limited and congested by the numerous construction projects in the surrounding blocks. Rubicon needs to be more specific about what affects their development will have on parking and people movement, in concert with other current and proposed projects nearby. This development does not occur in a bubble given the rapid changes happening nearby.

3. Equity: Rubicon developers plan to build 300+ market rate apartments, the rental price of which they are unable to quote. I might be able to support a project that was more open to having a significant portion of affordable housing units in their development. Rubicon has no plan of this and the pittance of an impact fee that they will pay (quoted as \$6.8 million) would likely build fewer than 15 affordable units given current construction costs (~\$500,000+ for an affordable unit). Many of 1750's future residents will likely work in San Francisco and commute due to the comparatively lower rent of these market rate apartments. It is unclear what their contributions will be to Oakland itself.

I question why the "progressive" Oakland city council would not take a stronger stand against these types of market rate only developments as they further drive inequality in downtown. Yes, there is a need for housing affordable or not, but soon there will be only wealthy residents and the homeless in the downtown area. It seems this is their vision.

Stephen Merjavy
1770 Broadway Resident

Rivera, Mike

From: Manar Harb <manar.harb@gmail.com>
Sent: Wednesday, March 20, 2019 6:02 AM
To: Rivera, Mike
Cc: Geeky Girl; Joseph Hornof
Subject: Case File Number: PLN18369, 1750 Broadway

Public Comment on Case File Number: PLN18369, 1750 Broadway
To: MRivera@oaklandca.gov

Mr. Rivera,

I am a current resident at 1770 Broadway and I am deeply concerned about the proposed development plan for 1750 Broadway. There is no consideration to the environment in the proposed plan for 1750 Broadway, and no consideration to the residents who live on Broadway, particularly 1770 Broadway residents.

The development will negatively-impact our lives and living conditions. Health wise, the scale and dimensions of the building will block natural sunlight from the left side of the building. Sunlight deprivation is a leading cause for depression and can cause serious health issues. In addition, the construction will bring noise and dust into our homes, disrupting our living conditions on a daily basis and causing an increase in allergies and respiratory problems. It will likely force us to shut our windows for the entire time of the construction, taking away our ability to circulate the air in our homes.

Mr. Rivera, I urge to take our concerns seriously and not accept the current development plan for 1750 Broadway. Help preserve the history of Oakland and advocate for health-conscious development projects that are environmentally conscious and friendly to the community of Oakland.

Thank you,

Manar Harb

Rivera, Mike

From: Joy Chao-yi Meng <joychaoyim@yahoo.com>
Sent: Monday, March 18, 2019 6:18 PM
To: Office of the Mayor
Cc: Rivera, Mike; Joseph Hornof; Geeky Girl; Nosakhare, Shereda
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Mayor Schaaf:

Hope your day went well. This email is to advocate for all residents at 1770 Broadway apartment building and the residents nearby.

I have been living at 1770 Broadway since December 15th, 2001. As a long term resident and immigrant, I am here to URGE you stopping the possibility of building a luxurious skyscraper at 1750 Broadway for the following 3 major reasons:

1. Three years of construction will be unsafe and unhealthy to neighbors within 5 blocks of all directions - we, residents at 1770 Broadway apartment building, would suffer the most from potential construction errors - very likely to destroy the foundation of our historical apartment building(1910's), endless noise/air pollutions, and lack of access for sidewalk heading toward city hall, where lots of activities happen. We people who live in 1770 Broadway deserve better quality of fear-free live. This potential long term construction would not possibly pass any evaluation of safety and health (our mental health would be ruined by consistent anxiety and stresses).

2. Oakland Mayor has the obligation to END GENTRIFICATION but not introducing it to downtown Oakland. I came to Oakland in 2001 from Taiwan for its' historical activism for civil rights, for its' origin of Black Panthers' movement, for its' hip-hop/ black and brown culture (enriching American culture globally for decades), for its' home of Tupac's legacy impacting young people around the world to this date, for its' socio-economic equity, and for its' nurture for people who are willing to serve for the underserved communities with limited incomes. An "out-of place" high skyscraper that is designed for the 1% simply doesn't fit in our Oakland spirit. We, the 99%, OCCUPIED OAKLAND for fighting against greedy bankers and cooperates downtown Oakland right here in October 2011. This skyscraper at 1750 would take away the Oakland spirit and push us 99% out of downtown Oakland.

3. There are way too many luxurious buildings (built or currently under construction) within 10 blocks in every directions nearby 1750 Broadways. Oaklanders DO NOT NEED to have more buildings serve the wealthy; city of Oakland has historical responsibilities to provide affordable housing and increase the mobility for people who live in East and West Oakland moving to downtown Oakland, which would decrease culture and racial segregations by zip codes. I urge you, Mayor Schaaf, please preserve downtown Oakland as one of the very few areas where reflect on true current American populations. The history is in your hands - for the people or for cooperates. You promised us Oaklanders to serve the people during your two champions. Please do not disappoint Oakland like most of politicians.

I am serving for QUSD students whose mental health is severely compromised (high scores of childhood adversity). These precious young lives are the victims of segregating people by our abilities gaining capitals and our skin colors. The skyscraper at 1750 Broadway would segregate us much

further more socioeconomically. I urge you to give us HOPE that the students and their families that I love from bottom of my heart could one day afford living in downtown Oakland experiencing inclusiveness culturally and socioeconomically.

Respectfully,

Joy

Chao-Yi Meng
Instructional Support Specialist
Incentive Counseling Enrich Special Day Class

Home Address:

1770 Broadway, Apt. #401

Oakland, CA 94612

Home: 510-590-9243

Cell: 510-219-4901

Rivera, Mike

From: Joy Chao-yi Meng <joychaoyim@yahoo.com>
Sent: Monday, March 18, 2019 8:56 PM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Commissioner Mr. Rivera,

Hope your day went well. This email is to advocate for all residents at 1770 Broadway apartment building and the residents nearby.

I have been living at 1770 Broadway since December 15th, 2001. As a long term resident and immigrant, I am here to URGE you stopping the possibility of building a luxurious skyscraper at 1750 Broadway for the following 3 major reasons:

- 1. Three years of construction will be unsafe and unhealthy to neighbors within 5 blocks of all directions** - we, residents at 1770 Broadway apartment building, would suffer the most from potential construction errors - very likely to destroy the foundation of our historical apartment building(1910's), endless noise/air pollution, and lack of access for sidewalk heading toward city hall, where lots of activities happen. We people who live in 1770 Broadway deserve better quality of fear-free live. This potential long term construction would not possibly pass any evaluation of safety and health (our mental health would be ruined by consistent anxiety and stresses).
- 2. Oakland Mayor has the obligation to END GENTRIFICATION but not introducing it to downtown Oakland.** I came to Oakland in 2001 from Taiwan for its' historical activism for civil rights, for its' origin of Black Panthers' movement, for its' hip-hop/ black and brown culture (enriching American culture globally for decades), for its' home of Tupac's legacy impacting young people around the world to this date, for its' socio-economic equity, and for its' nurture for people who are **willing to serve for the under-served communities with limited incomes.** An "out-of place" high skyscraper that is designed for the 1% simply doesn't fit in our Oakland spirit. We, the 99%, OCCUPIED OAKLAND for fighting against greedy bankers and cooperates downtown Oakland right here in October 2011. This skyscraper at 1750 would take away the Oakland spirit and push us 99% out of downtown Oakland.
- 3. There are way too many luxurious buildings (built or currently under construction) within 10 blocks in every directions nearby 1750 Broadways.** Oaklanders DO NOT NEED to have more buildings serve the wealthy; city of Oakland has historical responsibilities to provide affordable housing and increase the mobility for people who live in East and West Oakland moving to downtown Oakland, which would decrease culture and racial segregation by zip codes. **I urge you, Mayor Schaaf, please preserve downtown Oakland as one of the very few areas where reflect on true current American populations.** The history is in your hands - for the people or for cooperates. You promised us Oaklanders to serve the people during your two champions. Please do not disappoint Oakland-like most of politicians.

I am serving for OUSD students whose mental health is severely compromised (high scores of childhood adversity). These precious young lives are the victims of segregating people by our abilities gaining capitals and our skin colors. The skyscraper at 1750 Broadway would segregate us much further more socioeconomically. I urge you to give us HOPE that the students and their families that I

love from bottom of my heart could one day afford living in downtown Oakland experiencing inclusiveness culturally and socioeconomically.

Respectfully,

Joy

Chao-Yi Meng
Instructional Support Specialist
Incentive Counseling Enrich Special Day Class
Home Address:
1770 Broadway, Apt. #401
Oakland, CA 94612
Home: 510-590-9243
Cell: 510-219-4901

Rivera, Mike

From: Scott Goff <scott.c.goff@gmail.com>
Sent: Monday, March 18, 2019 9:11 PM
To: Rivera, Mike
Subject: Re: Case File Number: PLN18369, 1750 Broadway

Dear Planning Commissioners,

I have lived at 1770 Broadway for nine years, now. It is my home, as well as the home of my partner, Angela Roberts, with whom I moved into our apartment almost a decade ago. Prior to that, I have lived in Oakland since 2002, and Angela since 2005.

Angela works at a nonprofit, the Progress Foundation, that operates an array of recovery houses in San Francisco and the North Bay, serving people with mental health, addiction, and chronic homelessness issues, helping them to stabilize and access the services they need to get back on their feet. I work at a company called Ponoko in Oakland, associated with the "Maker Movement" and offering laser cutting services to a wide array of people: Etsy sellers, hobbyists, students, inventors, tinkerers, hardware manufacturers, dreamers, movers, and shakers. We are also both active in the Oakland arts community, helping to enrich the place we call home by pouring our creative energies into playing music at shows and participating in the literature scene. We both bring great value to this Bay Area community, but like many others, still find ourselves placed squarely into the fringe due to increasing pressures induced by the greatly inflated housing market blooming in Oakland.

With this inflated housing market in mind, the proposed project at 1750 Broadway is almost a perfect foil for Angela and I. It is a building not designed for us, therefore exclusionary. It offers no value to us, longtime residents of the city and its proposed neighbors. The only things that this development presents to us, and to all the residents of 1770 Broadway and our current neighbors, at large, are twofold: a big metaphorical "GET OUT" sign, dangled in our faces and impossible to ignore, and a very real, very physically and mentally stressful 3 year intrusion into our lives at 1770 Broadway.

I realize that projects like this are inevitable in cities, but as someone involved in the planning and permitting of this project, you have to realize the impact it will have on residents of neighboring structures, especially in the case of the residents of 1770 Broadway. Most of us cannot afford to move elsewhere, lest we lose our rent control and are priced out of this city entirely. The reality is that for many of us, this is our last foothold in the city we love and call home. And, if the 1750 project goes through as planned, it will literally envelope our home on two of four sides, with constant traffic and interruption of our lives on the remaining two sides bordered by the city streets. This will be our reality *for three years*, with incessant noise, construction dust and grime, street constrictions and closures, danger from overhead cranes, blockage of natural light, and general chaos from the proposed 7am to 7pm on weekdays, and 9am to 5pm on Saturdays. Is this how you would want to live? In your own home? *For three years?*

And then, should this project be finished to completion, the city will be left with 307 new units, filled with new residents being sluiced into surrounding city infrastructure that was never designed for even the current number of residents. To green-light such a project without first expanding and fortifying the surrounding city infrastructure, at the whim of real estate developers who are doing this not for Oakland, but because they feel they can profit from this venture, seems at the very best ill advised, and at worst highly unethical. And ultimately, we current residents will be the ones to feel the first wave, the brunt, of the effects on our neighborhood. From the first breaking of ground on the project, through to its opening, we will suffer if there are not steps taken to mitigate the situation.

I am not a city planner or a real estate developer, nor am I a contractor, architect, or construction worker. I am simply a resident of this city, which I love dearly and wish to flourish. Oakland is a rich tapestry of culture, arts, and history. I do

not think that the way for it to flourish is through subjecting the people who make this city the jewel that it is to years of physical and mental abuse. If you do not speak up on behalf of the residents of this area, you will be doing Oakland a great disservice. Oakland has not and should not be about 36 story buildings with literally no affordable housing contained within. Such buildings and the people who propose to build them are not representative of the fabric of Oakland, and are simply profiteering based on our currently inflated real estate market. The elected and appointed members of our city government should be fighting on our behalf, and at the very least mitigating the impact of this development on the residents of this neighborhood to the highest degree possible. I urge you to take our situation into account when dealing with the proposed development at 1750 Broadway. Our way of life depends on your care and concern at this point, and if you do not listen to us, who will?

Sincerely,

Scott Goff and Angela Roberts
(510) 517-1433
1770 Broadway #203
Oakland, CA
94612

Rivera, Mike

From: Matt Perry <mcp514@gmail.com>
Sent: Monday, March 18, 2019 10:27 AM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Mr. Rivera:

I have been a resident of 1770 Broadway since 2007. I have lived in Oakland, on and off, since 1966, and I am proud to call myself an Oaklander.

As you are aware, another large-scale development is looming Downtown/Uptown: 1750 Broadway.

I am concerned about the noise, dust, traffic, air quality, safety, natural sunlight (or lack thereof), lack of parking during construction, the economic impact of local businesses during construction, and the overall inconvenience.

While I do recognize the need for additional housing, I also recognize the impact this project will have on my fellow residents and local businesses.

What is the City of Oakland doing to mitigate these issues?

Sincerely,

Matt Perry

1770 Broadway, #208

Oakland, CA 94612

mcp514@gmail.com

Matt

Rivera, Mike

From: Velta Mara <veltamara@gmail.com>
Sent: Sunday, March 17, 2019 6:51 PM
To: Rivera, Mike
Cc: Joseph Hornof; geekygirl@gmail.com
Subject: Re: Case File Number: PLN18369, 1750 Broadway

I am also concerned about green space in our vicinity... This area needs at least 5 trees per block on either side of the street to offset all of the pollution created by development... are green walls and roofs being considered? not just for projected wealthy tenants, but for historic neighbors and the general public? the well being and health of the neighborhood?

Best,
Velta Savelis
Resident 1770 Broadway

> On 17 Mar 2019, at 11:30 AM, Velta Mara <veltamara@gmail.com> wrote:

>
> Hello Mr. Rivera-

>
> I am writing this note to express my concern around the projected construction on Broadway between 17th and 19th streets in Oakland. I am a resident of the building (for two years) and a native of Oakland. I am very concerned about a next high rise development occurring so close to my residence when there are already so many high rise developments occurring at this time in Oakland. It is very stressful to live with the constant din of construction and I am becoming increasingly disturbed as the demolitions, jackhammering, cranes and cement mixers are constantly active around this neighborhood.

>
> I am also concerned about the displacement of even more folks from Oakland and dismayed at the thought of yet **another monstrosity, taking away natural sunlight and fresh air from those of us who live and work here.**

>
> I am aware that none of the new living spaces will be affordable to myself nor most working or disabled/elderly people in Oakland and implore you to take into consideration those of us living at 1770 Broadway who may not have other affordable/convenient options available.

>
> Thank you for your time and consideration in reconsidering this new "project"...

>
> Kindly,

>
> Velta Savelis
> 1770 Broadway Resident

Rivera, Mike

From: Velta Mara <veltamara@gmail.com>
Sent: Sunday, March 17, 2019 11:31 AM
To: Rivera, Mike
Cc: Joseph Hornof; geekygirl@gmail.com
Subject: RE: Case File Number: PLN18369, 1750 Broadway

Hello Mr. Rivera-

I am writing this note to express my concern around the projected construction on Broadway between 17th and 19th streets in Oakland. I am a resident of the building (for two years) and a native of Oakland. I am very concerned about a next high rise development occurring so close to my residence when there are already so many high rise developments occurring at this time in Oakland. It is very stressful to live with the constant din of construction and I am becoming increasingly disturbed as the demolitions, jackhammering, cranes and cement mixers are constantly active around this neighborhood.

I am also concerned about the displacement of even more folks from Oakland and dismayed at the thought of yet another monstrosity, taking away natural sunlight and fresh air from those of us who live and work here.

I am aware that none of the new living spaces will be affordable to myself nor most working or disabled/elderly people in Oakland and implore you to take into consideration those of us living at 1770 Broadway who may not have other affordable/convenient options available.

Thank you for your time and consideration in reconsidering this new "project"...

Kindly,

Velta Savelis
1770 Broadway Resident

Rivera, Mike

From: Andre Owens <andreacehigh@yahoo.com>
Sent: Friday, March 15, 2019 9:31 PM
To: Rivera, Mike
Subject: Public Comment on Case File Number: PLN18369, 1750 Broadway

Subject: Public Comment on Case File Number: PLN18369, 1750 Broadway
To: MRivera@oaklandca.gov

Mr. Rivera,

I am a resident at 1770 Broadway. I have concerns about the size of the proposed construction at 1750 Broadway and safety risks this construction poses. During construction, something could easily drop from this building onto and through my roof, damaging the building structure or worse, hurting residents. Additionally, the duration of construction is expected to last up to 36 months. That is 3 years of sleep. I will never get back. I work nights and sleep during the day. My bedroom faces south and will be pressed against the proposed parking garage. Can you guarantee me that noise, dust, and other safety risks will not adversely impact my health? Could a smaller building with an appropriate amount of space between buildings be a solution? Also, where are the low-income units? Oakland already has many new constructions of luxury and market-rate apartments. Oakland needs more affordable housing and the planning department needs to stand up to developers, demanding affordable units and refusing an easy payout. I request that Oakland planning put a stop to taking developer's money and letting developers have an easy go of our city. Oakland deserves more than a simple impact fee, we need housing that will contribute to the culture and prosperity of Oakland by providing shelter to low- and moderate-income residents who are currently underserved. Where does that "impact" money go, anyways? We need more housing, yes, but we do not need to sell ourselves short and, in the process, endanger residents. Make new developments work for Oakland and don't rush to approve projects that are ill-advised. Please do not approve this project as proposed. By the looks of the current proposal, I will be buried alive.

Sincerely,

Andre Owens, 1770 Broadway resident

Rivera, Mike

From: Nancy Morosohk <NMorosohk@familypaths.org>
Sent: Sunday, March 17, 2019 10:02 AM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Hi,

I am writing to express my strong objection to the continued development of expensive luxury apartments in Oakland. I have lived in Oakland for the past 30 years and raised my daughter here. For the past almost 18 years I have also worked at a nonprofit in Oakland that serves the most vulnerable members of our community. As my daughter graduated from college 2 years ago and returned to the Bay Area, I was initially excited to see the construction of so many new apartment buildings around the city. Then I was shocked to discover that they all seemed to be luxury apartments that are very far out of the price range not only for my daughter, who works at a local school, but also for all of the experienced professionals I work with who are living on a non profit salary. While I am happy to see Oakland thriving, I am very troubled by this trend which seems to care more about the tech and business community that is new to Oakland and less about those of us who are already here and helping to make and keep Oakland the great city that it is.

As the Planning Commission of Oakland, I hope you will prioritize Planning for the citizens Oakland and not allow Oakland to become the next San Francisco where only the richest of people can afford to live. We need our diversity, we need to support our local workforce and we need to make it possible for the people who were raised here and who love Oakland to live here now and in the future.

I urge the Planning Commission to make the construction and preservation of affordable housing it's top priority. There are already enough luxury apartments here. Please do the right thing so that Oakland can stay a home for all people....that's what makes it Oakland! Thank you, Nancy

*Nancy Morosohk, LCSW
TIPS Program Manager
nmorosohk@familypaths.org
Pronouns: she, her, and hers*

*Family Paths
1727 Martin Luther King Jr. Way #109
Oakland, CA 94612
(510)893-9230x217*

www.familypaths.org

you can call our 24/7 parental stress hotline 510-893-5444

Family Paths strengthens family relationships by providing mental health treatment and supportive services with respect, integrity, compassion, and hope.

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strictly prohibited. If you are not the intended recipient notify the sender immediately by return e-mail, delete this communication and destroy all copies.

Rivera, Mike

From: Clay Kilby <wckilby@gmail.com>
Sent: Friday, March 15, 2019 8:48 AM
To: Rivera, Mike
Subject: Public Comment on Case File Number: PLN18369, 1750 Broadway.

Mr. Rivera,

My name is Clay Kilby, and I'm writing to express some concerns about the new construction planned for 1750 Broadway, Case File Number: PLN18369.

I'm a resident of 1770 Broadway and have been for just over three years. I run a small creative agency serving non-profits and I work from home. This apartment has been a true gift to me because of the proximity it has afforded me to the organizations I work with and the opportunity to live within the community I am working to support.

Upon becoming aware of the new development at 1750 Broadway, I have become concerned. My apartment, on the third floor, faces the area set aside for the new building's construction staging. It seems unlikely that I will be able to work productively during the day with the noise and inconveniences of construction, which is projected to last for years. Though I have loved living here, and have no desire and little ability to move, I believe I will be forced to relocate when construction begins. I am uncertain about my future. Having been here for years, I am quite dependent on my rent controlled rate. I doubt I will be able to afford another apartment in the area, and will be forced to consider moving out of Oakland, which has been my home for much longer than I have been at 1770 Broadway.

But my deepest concerns over this project are not over my own wellbeing. In talking with my neighbors in my building and across the street I have come to realize that many will real harm to their quality of life, far beyond my own, as a consequence of this project. Many in my building will loose their only access to the outside world as their windows will be covered over by the new building's walls. Across the street many residents expect to loose their windows too, but to an overabundance of light, as the new structure reflects glaring light into their apartments during the day, and beams artificial light in at night. At the recent public planning meeting the developer representatives for the 1750 Broadway project offered access to their proposed dog park for these residents, which I consider a woefully inadequate solution. These residents should be compensated financially in an amount that would allow them relocate to a similar property in the neighborhood, or should be offered a comparable apartment at 1750 Broadway, subsidized to their current rent. I'm not advocating for a handout or windfall here. When doing harm to the life of another, the most appropriate solution is to compensate them in amount nearest to the harm they received in the form nearest to what has been lost.

My second concern is for the residents of downtown Oakland more broadly. The cost of living here is already extraordinarily high. I am not opposed to new development. I believe it to be a necessary part of the solution, reducing housing cost by reducing housing scarcity. I am however opposed to regressive development, that which adds housing only for the wealthy and at the expense of the poor. I am not opposed to the influx of new residents of wealth or any class, from San Francisco or anywhere else. Oakland welcomed me some years ago and I have been grateful to call it my home ever since. But I am concerned about new development which serves only those with means, and excludes those without, especially those who have already worked so hard to carve out a life here. For too long we poor residents have been told to accept new construction intended only for the wealthy. That serving them would somehow, someday trickle down to help us. It hasn't. It won't. This new building should include copious amounts of affordable, below market rate units for residents of limited means, much more than is currently proposed.

During the recent meeting I attended, developer representatives told us that they were attracted to this location by the distinctive "Uptown vibe," showing us photos of its iconic buildings, the Fox, the Paramount, the Magnin Building. They claimed to be inspired by these structures and duty bound to make their building one that would do service to the

aesthetic of the neighborhood. I don't think they're wrong about the uptown vibe. It is a beautiful, diverse, creative, and fun place to live. But this uptown vibe is not defined by its architecture. It is defined by its residents. They are hardworking. They are diverse in ethnicity and in class. They are artists, and public servants, and entrepreneurs, and families. They are the architects of the uptown vibe. They have a right to remain here. They are the life in this city. Without them all the iconic buildings, and this new construction too, will be little more than dead boxes.

Thank you,
Clay Kilby
1770 Broadway #310
wckilby@gmail.com
864-710-4994

Rivera, Mike

From: Christy Booth <christybooth@gmail.com>
Sent: Friday, March 15, 2019 12:56 PM
To: Rivera, Mike
Cc: bsilver@familypaths.org
Subject: Case File Number: PLN18369, 1750 Broadway

(Hi Christy, if you can add this to public comment, please do so.)

Public comment on the 1750 Broadway high-rise.

As the Executive Director of Family Paths, an Oakland based non-profit that employs over 80 people to provide mental health services and supportive services, I am extremely concerned about the lack of affordable housing in the planning for this new construction. Non-profit employers who serve the most vulnerable Oakland residents are losing our workforce due to the housing crisis and lack of affordable housing for our staff. I urge the planning commission to strongly prioritize the construction and preservation of affordable housing so that small and mid-size businesses can continue to hire local residents. The City is losing precious human capital that helps this community thrive and I urge you to plan for them as well and require affordable units in this project.

Barbra Silver, MFT
Executive Director
Pronouns: she, her, and hers
Family Paths, Inc.
510-893-9230 ext. 227
bsilver@familypaths.org

Family Paths strengthens family relationships by providing mental health and supportive services with respect, integrity, compassion, and hope.

www.familypaths.org

Rivera, Mike

From: Christy Booth <christybooth@gmail.com>
Sent: Friday, March 15, 2019 7:07 AM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Mike Rivera,

My husband and I have lived at 1770 Broadway since August 2013. We are originally from NC and having this affordable place to live enabled me to study counseling psychology at a local graduate school and, since 2015, serve low-income families and children throughout Alameda County with quality mental health services. The invaluable services I and others like me provide are in jeopardy as the high cost of living has forced many young mental health professionals to leave the bay area or leave the non-profit sector. I work for a non-profit that receives county funds. We work to prevent and end child abuse.

I am also an artist and have contributed to Oakland First Fridays and other local events. I am concerned that the creative community I have actively contributed to is being exploited by those who seek an easy payday without giving anything to the community in return.

Please help us save our building. If 1750 goes up as planned, I will no longer be able to live in my apartment, leaving my job and the bay area altogether. Noise, traffic, pollution, and rising costs in the neighborhood are already significant stressors. If 1750 is built, my bedroom window will be one of the windows only inches from a concrete wall and directly exposed to "28-36 months" of construction, fumes, and any other danger this construction will pose to my wellbeing.

Of what I have read in the CEQA report, I am concerned that 1770 Broadway has no recognition as a place that will be impacted. We are 48 units of hard-working members of the community and we should not be invisible. The shadow study insufficiently describes the impact to our building. The traffic study relies on data from 2017 and does not take into account numerous current factors impacting congestion in the uptown/downtown area, including the addition of **scooters, new businesses, road closures due to additional new construction, and ongoing festivities such as marathons, parades, protests, and rallies.** I urge you to reconsider the validity of the CEQA report and demand further study into current traffic patterns and health costs to current residents, including the mental and physical toll of living with noise pollution and limited sunlight. We are being squeezed into a dark, noisy, shaft.

I have no doubt that I will be displaced as a result of this construction. Moreover, I can afford to earn a minimal wage working at Family Paths, the non-profit I am employed at full-time and live only 4 blocks from, because I have rent control. For me, losing my housing means leaving my job, and abandoning the dozens of families I support in order to reduce their risk of negative life outcomes, including depression, suicide, child abuse, substance abuse, gang involvement, and stunted academic progress. I am bilingual and serve the Latinx immigrant community. We always have a waitlist--of families in crisis!--because we do not have enough bilingual mental health professionals in the bay area. Families in crisis should never be told they have to wait for help, yet families end up waiting for months while their problems get worse.

Where is the affordable housing for people like me who work every day to create a better community by enriching and empowering lives? Allowing the proposed building at 1750 Broadway sends the message that Oakland is only for the wealthy and that Oakland officials are unable to recognize the actual lived experiences and valuable contributions of their low- and middle-income residents.

Please help us save our building and make a commitment to ensuring stability and safety for low- and middle-income residents.

Sincerely,

Christy Booth
1770 Broadway resident



Rivera, Mike

From: Chris Relf <chris@RubiconPoint.com>
Sent: Monday, March 18, 2019 10:00 PM
To: Rivera, Mike
Cc: Will Sandman
Subject: 1750 Broadway Case File Number: ZP170064 - Letter for Planning Commission
Attachments: 1750 Broadway - Update Letter 3-18-19.pdf

Mike,

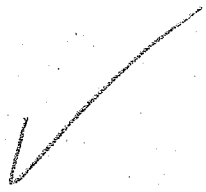
Thanks for all your hard work on the staff report.

Please see the attached letter with some updates for the Planning Commission Wednesday.

Let me know if you have any questions or would like to discuss any items further.

Thank you,

Chris Relf | Rubicon Point Partners | 650 224 6381 c | 415 500 6410 o | 55 2nd Street, Suite 1900, San Francisco, CA 94105 | www.RubiconPoint.com



RUBICON POINT

PARTNERS

1750 Broadway, LLC
c/o Rubicon Point Partners, LLC
55 2nd Street, Suite 1900
San Francisco, CA 94105
(415) 500-6400 Main
(877) 702-2738 Fax

Tuesday, March 19th, 2019

Mike Rivera
Major Planning, Bureau of Planning
250 Frank H. Ogawa, Suite 2114
City of Oakland
Oakland, CA 94612
Phone: (510) 238-6417
Fax: (510) 238-4730

Re: 1750 Broadway (Case File Number: PLN18369) - Project Update

Dear Mr. Rivera,

We are writing to provide an update on our project at 1750 Broadway in advance of our Planning Commission hearing on Wednesday, March 20th, 2019. As you know, we presented to the Design Review Committee on December 5th, 2018 and the project was recommended to go forward to Planning Commission for final consideration. Since that hearing, we have had some developments in the design of the project and in our discussions with the current tenant on the first and second floor, as discussed below.

Garage Screen Design: In advance of our Planning Commission hearing, Staff requested that we look at options for modifying the design of the garage screen to integrate it more into the design of the rest of the tower. After meeting with Staff on March 8th to discuss various options, we all agreed to move forward with one of those options. Attached to this letter is the design that was presented to the DRC along with the modified design that was agreed upon as a result of Staff's comments. The intent of the new design is to bring more elements of the tower into the screen by adding the same metal panels that clad the tower into the screen, which also breaks up the massing of the screen.

Tenant Discussions: We also wanted to provide an update on our discussions with the tenant on the first floor and second floor of the existing building at 1750 Broadway, Transdev. Transdev is a privately-owned company that provides contracted transportation services of varying types across North America. The Transdev offices at 1750 Broadway have a contract with BART & AC Transit to provide paratransit services (i.e., transportation services for individuals with disabilities) throughout the East Bay. Transdev currently has a lease in the property with approximately 7 years remaining on the lease term. The tenant also has a 5-year renewal option that can be exercised at the end of the current lease term.

In February 2019, we met with senior members of Transdev, BART, and AC Transit. At the meeting, we presented an offer to the tenant that would allow them to continue their

operations at an alternate location, which would allow for development of the proposed project. The offer was well received, and both parties agreed to work in good faith to towards an amendment to their lease with the overarching terms that were presented in our offer.

Community Outreach: We also wanted to provide an update on our community outreach efforts for the project. In February, we held a community meeting across the street from 1750 Broadway where we presented our project design and held a Q&A session to hear everyone's questions, thoughts, and concerns. We had attendees from local community groups as well as local residents and neighbors. The majority of the concerns that were raised were related to construction disturbances and light and shadow impacts on neighboring buildings. We also gathered input and suggestions from those in attendance about the retail use on the ground floor of the building (approximately 5,000 SF). We provided everyone that attended the meeting with a copy of the CEQA report that was prepared for the project, and we committed to continuing to provide updates to the neighbors as the project moves forward. In addition to the community meetings, we have met with various community organizations, such as the Oakland Chamber of Commerce, the Oakland Heritage Alliance, local artists, local business owners, and others to discuss the project and gather input.

As you know, Oakland and the entire Bay Area is in a housing crisis. The proposed project at 1750 Broadway would add 307 new residential units in the heart of the city on an underdeveloped, transit-oriented site consistent with the vision of Oakland's General Plan for this location. The project is anticipated to bring over 450 new residents to Oakland and to generate \$3 million in new annual tax revenue from increased property taxes and business license taxes. The project is anticipating paying over \$13 million in affordable housing impact fees and permit fees and is expected to create close to 1,000 jobs during construction. Additionally, an analysis conducted by Hausrath Economics Group (attached to this letter) concluded that the new residents of this project would spend over \$7.9 million annually at local retail stores, service businesses, and other recreation and entertainment activities in Oakland, which will support increased employment and business activity in the city.

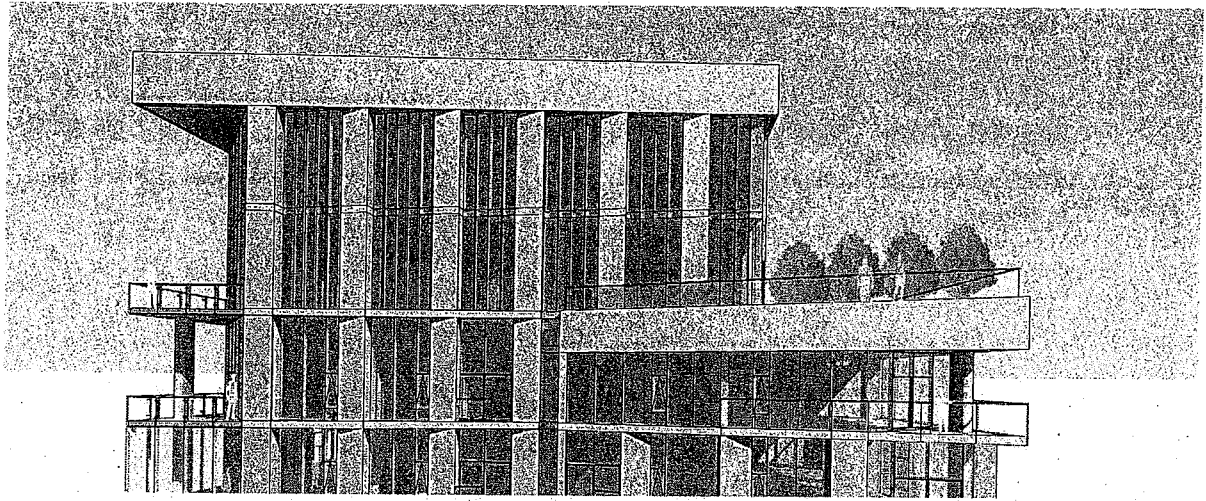
In sum, we believe that the project, as currently proposed, creates a significant benefit to the city, and we're excited to have the opportunity to build it. If you have any questions or need any additional information, please let me know.

Sincerely,

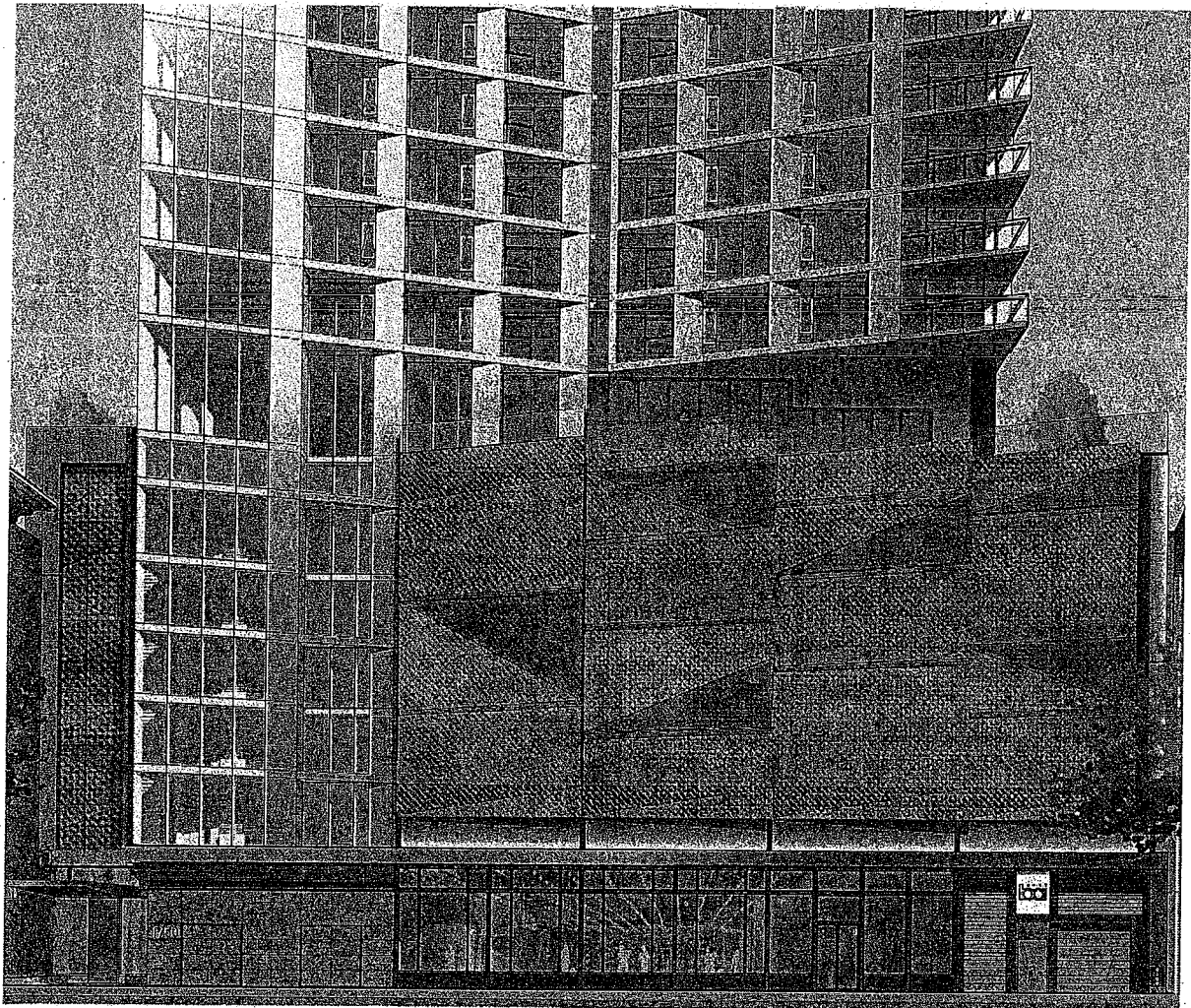
Chris Relf
Construction Management Director
Rubicon Point Partners

Attachments

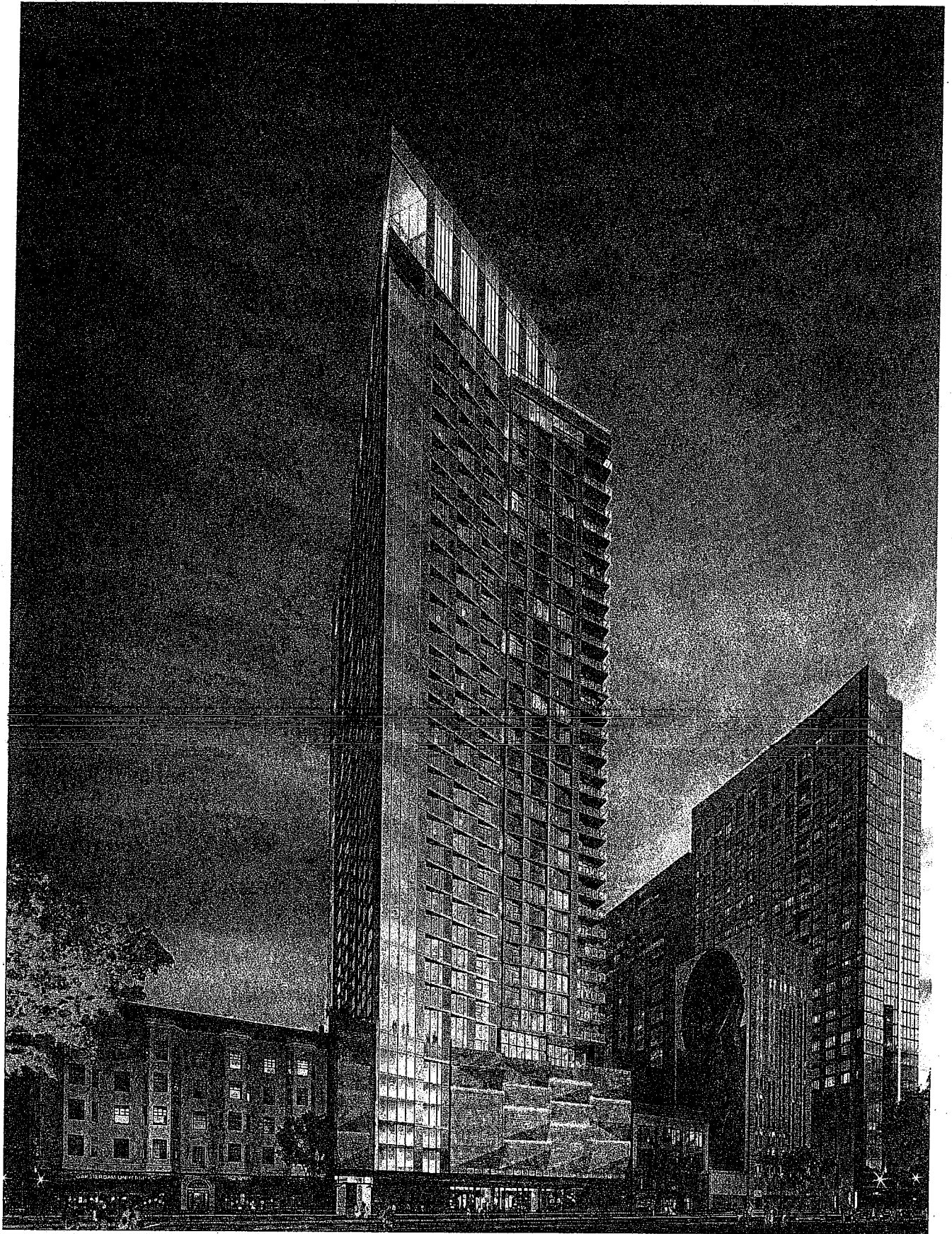
- (1) Modified Garage Screen Design
- (2) Hausrath Economics Group Impact Study



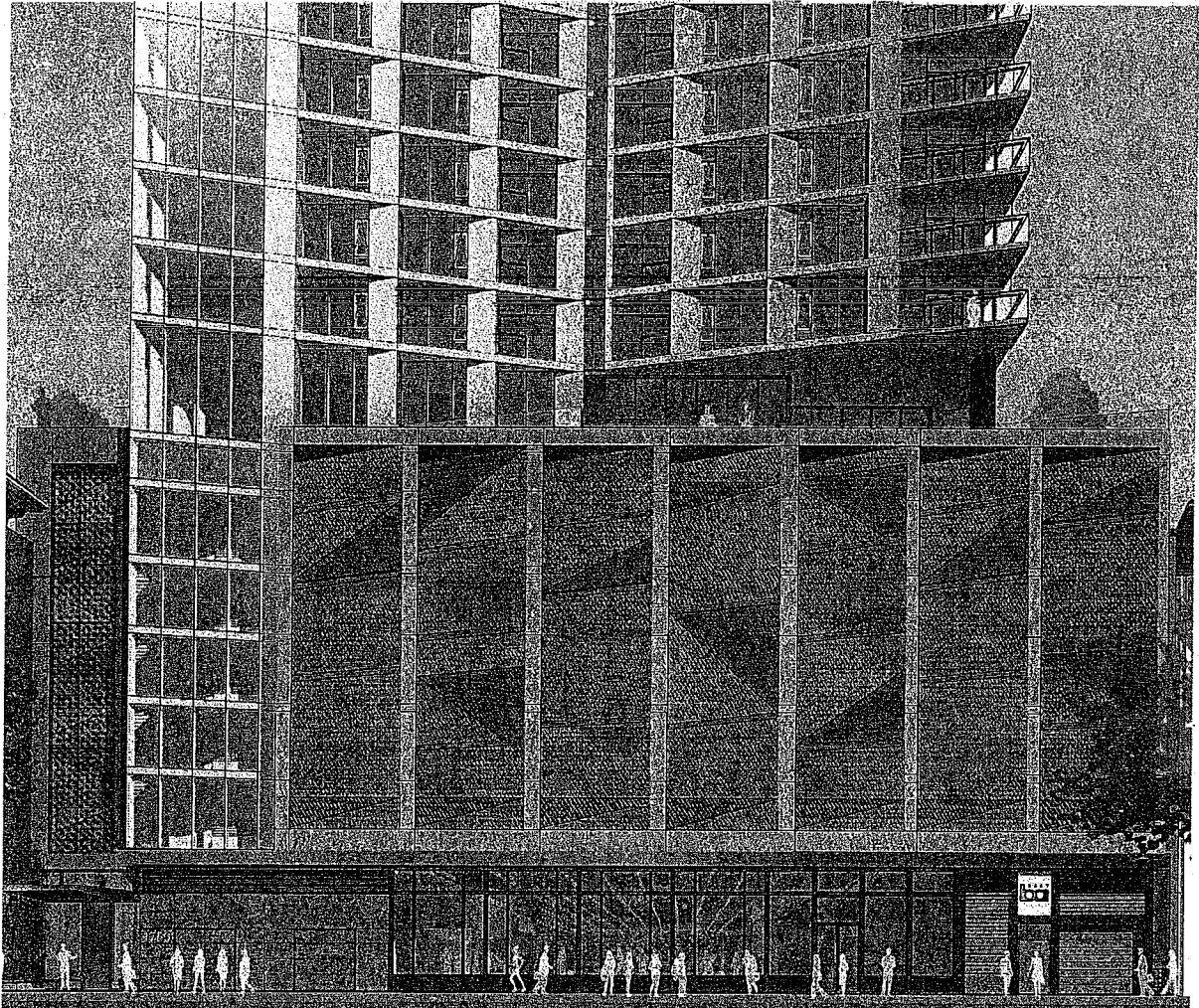
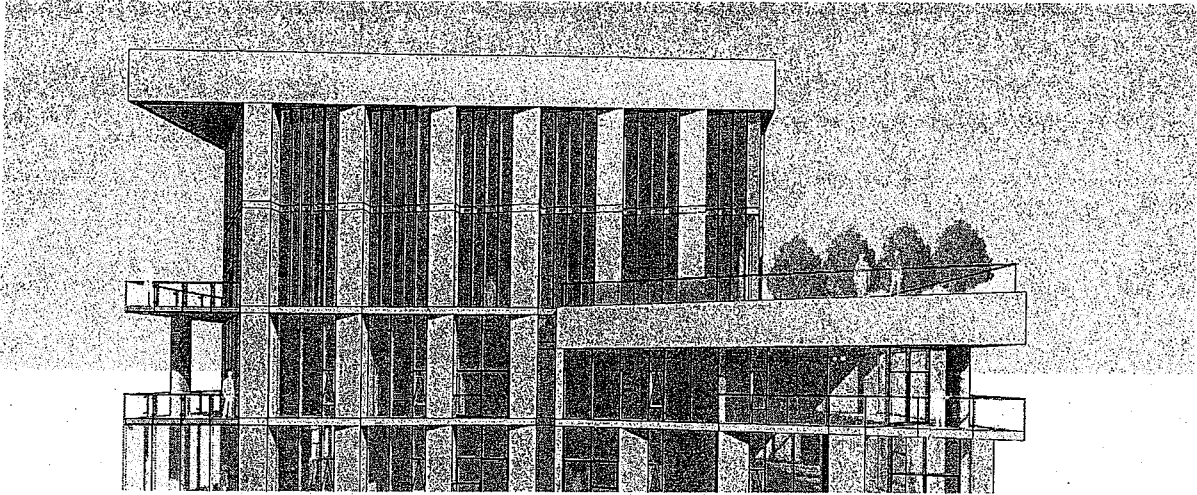
CROWN

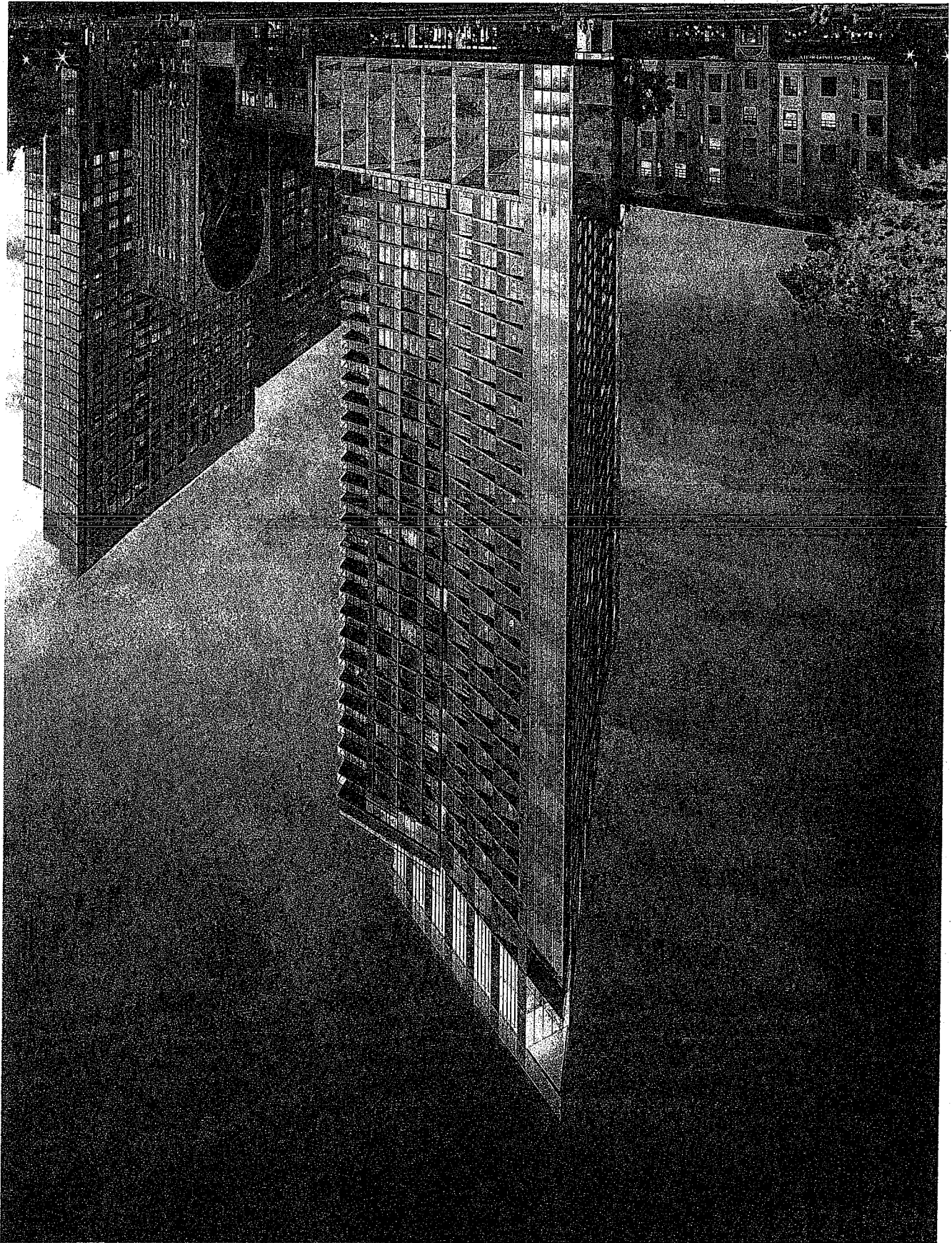


ORIGINAL DESIGN



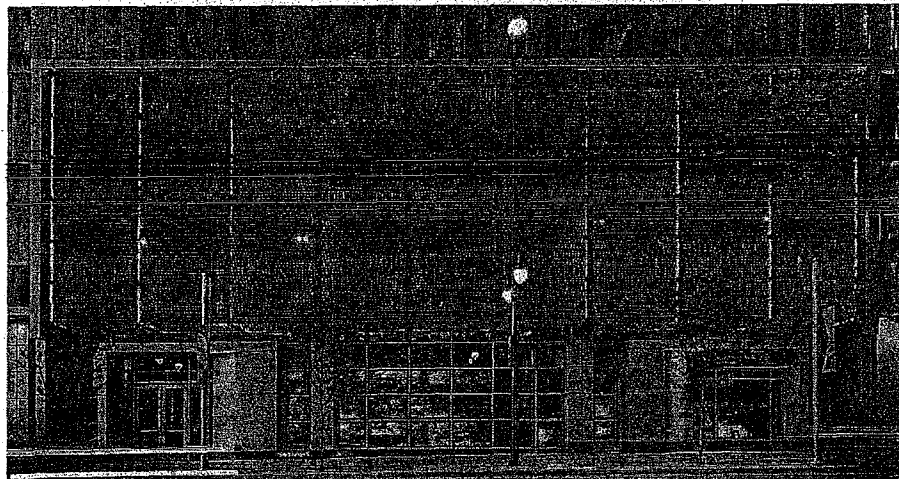
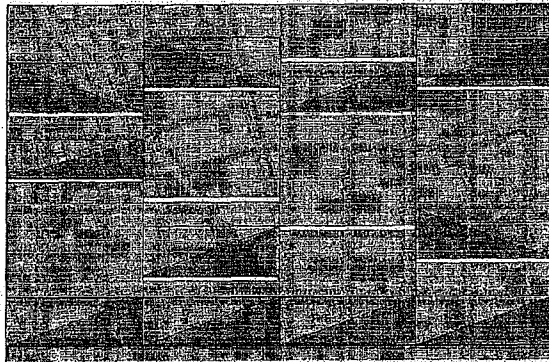
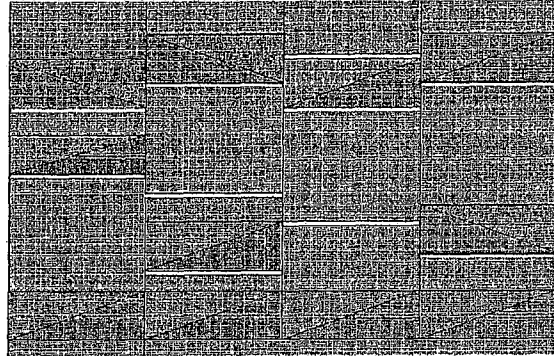
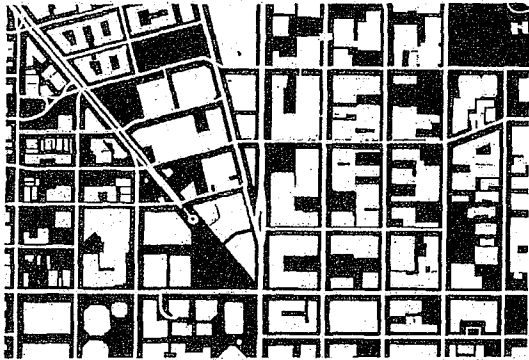
ORIGINAL DESIGN





PERFORATED METAL SCREENS

ALLOW FOR VENTILATION - LIGHT - ANIMATION
CONCEPT OF MAPPING





MEMORANDUM

Date: March 1, 2019
To: Rubicon Point Partners
From: Hausrath Economics Group
Subject: Economic Impact Analysis

Household Spending and Sales Tax Benefits of Residential Development at 1750 Broadway

The proposal for new high-rise residential development at 19th and Broadway in downtown Oakland includes 307 units. The range of unit types consists of studios, one-bedroom, two-bedroom, and three-bedroom units. The households living in these new units will generate spending for retail and service businesses downtown and elsewhere in Oakland. The table on the next page summarizes the results. Based on our economic analysis, the following spending, business activity, and sales tax benefits are expected:

- ◆ \$7.9 million per year in total spending at retail and service businesses in Oakland will support increased business activity, employment, and payroll in the city. The total amount consists of \$5.6 million of retail spending and \$2.3 million of household spending for services in Oakland.
- ◆ The \$5.6 million per year of household retail spending in Oakland will support businesses downtown and in the rest of the City.
- ◆ The largest amount of retail spending (\$2.2 million) will be for convenience goods in grocery and food stores, drug stores, and liquor stores. The new households will also spend \$1.3 million per year in clothing stores, bookstores, gift shops, and other specialty retailers in Oakland; \$1.0 million per year in restaurants, bars, and cafés; and \$1.1 million for vehicle purchases, supplies, and gas.
- ◆ \$4.1 million of this retail spending in Oakland will be taxable, generating additional sales tax revenue for the City of Oakland on the order of \$40,000 per year.
- ◆ The households will also spend \$2.3 million per year for a variety of services in Oakland, including medical services, personal services and other household expenses, household and vehicle maintenance and repair services, and spending for recreation and entertainment activities in Oakland.

Annual Household Spending and Sales Tax Estimates
1750 Broadway Residential Development

Retail Spending by Category	
Convenience goods	\$2,187,000
Comparison goods	1,261,000
Eating and drinking out	1,030,000
Vehicles, gas, and supplies	<u>1,153,000</u>
Subtotal retail spending	\$5,631,000
Other household spending on services	<u>\$2,306,000</u>
Total household spending in Oakland	\$7,937,000
Taxable retail spending in Oakland	\$4,122,000
Sales tax revenue to Oakland	\$39,000

Note: Estimates of annual spending and annual sales tax revenue at stabilized occupancy of the new development.

Source: Hausrath Economics Group based on a project description from Rubicon Point Partners and analysis of the U.S. Department of Commerce, Bureau of Labor Statistics, *Consumer Expenditure Survey, 2016-2017*, State of California Board of Equalization taxable sales data, and data from the U.S. Department of Commerce Census of Retail Trade, California.

Rivera, Mike

From: Joseph Hornof <hornof@earcom.com>
Sent: Tuesday, March 19, 2019 4:41 PM
To: Rivera, Mike
Subject: Public comment: Case File Number: PLN18369, 1750 Broadway
Attachments: PLN18369response031919hornof.pdf

Hi Mr Rivera -

I'm attaching my public comment for tomorrow's Planning Commission meeting as a PDF. It includes a few charts, so hopefully this will be easy to print:

PLN18369response031919hornof.pdf

I apologize for its length, but there are a number of issues I had to specifically address. I did my best not to wait until the last minute.

Also I want to thank you for your help. It hasn't been easy for me to learn the Planning Commission's policies and practices. You have been patiently helping me through that, while juggling a lot of other important cases. I have many complaints about this project, but your level of service has been first-rate.

I'd appreciate if you can confirm you received this. Tomorrow, I'll check to make sure you received the responses from other residents that were sent.

Thanks again,

-Joe

Joseph Hornof
1770 Broadway #112
Oakland, CA 94612
510.763.1488
hornof@earcom.com



Re: Case File Number: PLN18369, 1750 Broadway
March 19, 2019

Dear Planning Commission Members,

We live at 1770 Broadway, directly adjacent to 1750 Broadway. Our walls physically touch. The new project will encircle our rear exit, and rise 423 feet above our heads. Before you approve this project, we have a number of concerns we hope you will address. We also believe the project may violate numerous regulatory schemes.

This project would dramatically impact our quality of life. Its construction could risk our personal safety and displace the current 48 tenants at historic 1770 Broadway. Some are elderly or disabled and will require assistance. Our displacement would cause even greater loss to our city: it will impact our employers, their clients and the citizens who we serve.

Here are some of the problems we need to address.

1) Planning Process

The planning process has not been transparent. It is difficult to find Planning Commission information on the City websites. Agendas are posted, but the decisions are not. Meetings have been scheduled and postponed at little notice, which decreases a citizen's ability to participate. Citizens have presented concerns that have not been addressed and questions which have not been answered.

We were informed of the first community meeting held for this project with only 30 hours notice. **This meeting was held on Tuesday, February 26, 2019, shortly before the Planning Commission meeting originally scheduled for March 6, postponed until today. Only seven of our 48+ residents** were able to attend this community meeting, due to such short notice. There we learned details that had not been presented at previous Planning Commission meetings, such as the duration of construction: 28-36 months. Our jaws dropped.

The developers of this project presented false information in prior reports to the Design Review Committee. They reported discussions with myself and residents of our building that never took place. This has been reported to the Planning Commission, as evidenced by the public comments in the March 20, 2019 Staff Report:

<https://cao-94612.s3.amazonaws.com/documents/2019-03-20-PC-Item-01-for-Publication.pdf>

In the Staff Report, February 28, 2018, page 8, the developers wrote:

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak069364.pdf>

Finally, we received the letter from Joseph Hornof, our neighbor at 1770 Broadway, the day of the DRC hearing. Following the DRC hearing we reached out to Mr. Hornof to discuss his concerns in more detail. We discussed with him, as we mentioned during the DRC hearing, that the project will be incorporating a mural along the garage walls and will be setting back the building from the property line by three (3) feet. We are discussing the concerns regarding light with Mr. Hornof's landlord as well as with Mr. Hornof and his fellow tenants and are also discussing their concerns regarding demolition and construction. The project will be required to comply with the City's standard conditions of approval regarding demolition and construction and we believe compliance with these measures should help mitigate Mr. Hornof's concerns. We also will provide Mr. Hornof with notice of key construction milestones and commit to provide him with the contact information for the construction manager to ensure that any concerns he may have regarding demolition or construction are responded to in a timely fashion.

The developers may have received the letter I submitted to the Design Review Committee, but we never discussed this project. To the best of my knowledge, no discussion with any of my fellow tenants was held until our first community meeting, one year later, prior to the Planning Commission scheduled for March 6. Representatives of East Bay Paratransit reported similar false statements presented during their negotiation with the developers.

2) CEQA report

Today this project will present its CEQA report.

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak072045.pdf>
<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak072046.pdf>

We are not CEQA experts and it is beyond our means to challenge this report in a court of law. Nonetheless, the City of Oakland has a responsibility to preserve public health, safety, and welfare, and to advance the housing policies of the city with regard to low- and fixed-income persons, people of color, students, and those needing special protections, such as long-term elderly and disabled tenants. The deficiency of this CEQA report is contained within the single sentence that references our building, with only one word acknowledging our human existence:

A five-story mixed-use residential building with ground floor retail is located adjacent to the existing building to the north (1770 Broadway), and is occupied by multiple restaurant and commercial tenants including Oaksterdam University, a cannabis educational facility; Zaya Café; and Sweet Belly Desserts.

This description and the remainder of the CEQA report entirely disregards the adverse impacts this project will affect upon the residents of our 48 apartments. If this report is intended to be accurate, transparent and reflect real-life, we have some questions:

a) Shadow Study

The CEQA report is deficient in that it fails to adequately consider the shadow the new project would cast on our building.

In Appendix G. PreVision Design states:

Under City of Oakland thresholds of significance, a project would have a significant shadow impact if it would:

D. cast shadow on an historic resource such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its designation as an historic resource.

Our 5-story building, 1770 Broadway, is a historic resource and listed as such in 1750 Broadway's CEQA report under Project Setting. The Bauer Apartments were constructed circa 1912 by Righetti and Headman, renowned Bay Area architects. There are two retail stores and two cafes on our ground floor. Above that are 4 floors of apartments. Our apartments are both affordable and market-rate. The Bauer Apartments are historic not just for their facade, but their purpose, which includes the former residence of Mayor John L. Davie. Yet the impacts upon 1770 Broadway are entirely absent in this CEQA report, including this Shadow Study.

Our building has already sacrificed significant sunlight to our city's new luxury towers. The shadow study for 1750 Broadway is out of date - it was prepared January 25, 2018 and does not include 1640 Broadway. The shadow study diagrams do not accurately portray the additional sunlight our residents would lose to the 1750 Broadway tower. We demand to see more accurate data. Once 1750 Broadway is complete, we may live in a perpetual cave. Sunlight is important for physical and emotional health. Any new building proposed between us and 1640 Broadway should be staggered in height, to preserve our remaining natural sunlight.

b) Pollution:

The CEQA report fails to adequately consider the additional pollution the tenants would suffer. Our entire building is the size of 1750's parking garage, which will stretch from levels 2 through 6. The ventilation of exhaust from this garage will flow directly to our windows. We request a more thorough report of this impact.

We also have significant concerns regarding the pollution that will be generated during construction, which could span three years, addressed below.

c) Traffic: Broadway at 19th St was designated as a high-injury corridor in Oakland's 2017 Pedestrian Plan. The 2017 traffic studies are outdated and need to be recalculated with new traffic patterns, including electric scooters and rideshare, projects recently completed, under construction, or approved. This block of 19th St. currently features two busy parking lots; this number will double, with additional sets of entrance/exits on each side of the street.

The CEQA report characterizes the current structure at 1750 Broadway as an "underutilized site with outmoded facilities and/or marginal existing use." That would be disputed by the current occupants of this building, East Bay Paratransit, and the citizens who benefit from their services. East Bay Paratransit has been on our block for over two decades and have characterized this

building an ideal location. They have a long-term lease on their facilities. This site provides their clients access to a BART elevator directly from their building. Their small, gated surface parking lot allows for safe ingress and egress from their busses. This reference to their building as underutilized and/or marginal insults their service, their ridership, and the Americans with Disabilities Act (ADA).

3) Construction

Construction of the new project will endanger our safety and likely lead to lawsuits.

A land use impact due to construction activity is a function of the intensity and duration of construction work, the sensitivity of land uses adjacent to the construction areas, and distance of these land uses to the construction site. Construction-related effects that can result in land-use conflicts include increase in noise, increase in dust levels and other pollutants, traffic and circulation issues, and decrease in safety. A significant socioeconomic construction impact would occur if construction activity diminishes the use of our apartments.

The Implied Covenant of Quiet Enjoyment is a foundational concept built into every rental agreement. It affords a tenant rights including the freedom from unreasonable and recurring disturbances from the landlord and/or other neighbors, and a premise that is free of bodily hazards. The construction of this project may force us out of our apartments due to noise, disruption of the foundation of our building, material which may fall upon us, or any other external impact which results in a red tag hazard. Our building will not be a safe place to live while 1750 Broadway is constructed. Breach of the covenant can result in an injunction and monetary damages.

In their CEQA report, the developers claim:

There is nothing unique or peculiar about the Project or its construction that would suggest that the Proposed Project would have greater noise impacts than other typical high-rise construction projects within Downtown Oakland

Contrary to this plan's claims, it is not comparable to other projects. At 423 feet high, it would be the tallest building in Oakland, with the deepest foundation, another 150 feet below the surface. It has the longest construction timeline, longer than other tower projects. Here again, they ignore our existence. This project entirely is unique due to its prolonged impact upon existing residents and their proximity to this impact. We have 12 apartments in our building which touch the existing building they intend to demolish, plus another 4 apartments immediately above that. The rear of our building and its 12 apartments will impacted, as they will face the area where heavy equipment and building materials will be staged, within a 50 foot distance from their living spaces.

The developers claim:

The Proposed Project would comply with the City of Oakland Noise Ordinance

Oakland Planning Code section 17.120.050 states the Maximum Allowable Receiving Noise Level Standards.

TABLE 17.120.02

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS

Cumulative Number of Minutes in Either the daytime or Nighttime One Hour Time Period	Anytime
20	65
10	70
5	75
1	80
0	85

Sound levels of 80 dB are permitted for one minute per hour; sound levels over 85dB are not permitted. If construction lasts 28-36 months, this construction zone will impact us for a great portion of our lives. Long-term construction or demolition operation is defined as 10 days or more; this construction will take place over a minimum of 850 days, or 1095 days if it stretches over 3 years, which we anticipate. Oakland Planning Code lists the maximum allowable receiving noise levels for construction and demolition:

TABLE 17.120.04

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

	Daily 7a.m. to 7p.m.	Weekends 9a.m. to 6p.m.
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

In the Health Risk Assessment, Appendix C, the CEQA report states that Concrete/Industrial Saws will be used for 8 hours per day for 59 days during demolition and grading. At their source, concrete saws are deafening, reaching sound levels over 110 dB. They will be used to cut through thick concrete mere inches from our windows. Their sound level is 90dB at a 50 foot distance.

Demolition and grading will entail 3,188 hauling trips; over 300 hauling trips per day during the grading process, removing 24,500 cubic yards of excavated materials. A clam shovel dropping material into a dump truck has a sound level of 93 dB at 50 feet; the dump truck contributes another 84 dB at this distance.

Building Construction is estimated at 494 days. The CEQA report omits the number of the hauling trips required to deliver material to this site. A concrete mixer truck is rated at 85 dB at 50 feet. While concrete is being poured an air compressor adds another 80 dB at that distance.

These are just a few examples of construction activity which will violate noise ordinances. The cumulative sound levels of all construction activities and their duration must be calculated. Construction of this building will take up to three years, and the health risks regarding noise are not theoretical. Exposure to a noise level of 85 dB for even one workday can produce hearing loss. Chronic exposure to noise levels as low as 65 dB can increase adrenaline and stress hormone levels and elevate blood pressure, which increases the risk of heart disease and stroke.

We do not believe the particulate pollution that will be emitted by construction has been accurately calculated. It gets worse - will the demolition of the current building release asbestos?

The Proposed Project would also include demolition of the existing building totaling an area of 27,600 square feet. The existing building may contain Asbestos Containing Materials (ACM) which could pose a health risk to workers and nearby receptors during demolition.

As nearby receptors, before this project is approved, we demand this question is answered.

A building of this size in such close proximity to our living spaces presents another significant safety issue: gravity. Will their crane swing heavy material over our heads, above our airspace, up to 500 feet in the air, over 494 days of operation? Where it will be affixed to their structure at great height, a short horizontal distance away from our apartments? Where if anything should slip, it could crush through our roof or fall into our center light well and crash through our windows? The City of Oakland would be negligent to place its citizens in such a position of great risk.

CEQA mandates that an analysis of a project's impacts consider whether the project might cause existing environmental hazards to get worse. For a project of such long duration, one such hazard is the impact of construction traffic. 19th St. is a busy pedestrian and vehicular traffic corridor. If 1750 Broadway is under construction at the same time as 1900 Broadway, both sides of 19th St. will be clogged due to additional construction traffic. If construction occurs sequentially, it will be noisy and congested for a longer period of time. The impact of construction of both of these and other projects must be considered together, as this is how they impact our city.

This project will require the removal and replacement of the 19th St. BART elevator. For how long will disabled citizens lose access to a central BART station? The construction of 1750 Broadway will cause additional impact upon infrastructure which is already suffering impact from neighboring construction projects.

4) Increase in Housing Disparity and other long-term effects

No replacement apartments similar to ours are under construction in downtown Oakland. The approval of 1750 Broadway's luxury apartments will fall outside the housing guidelines set by both

the City of Oakland and State of California, which could put our city's funding at risk. It will place additional stress on the infrastructure and social fabric of our city.

Our city has a responsibility to prevent our displacement or rehouse residents who will be impacted. We didn't choose this fight. Rather, we unwittingly contributed to the "Oakland Vibe" listed in the marketing material of those who wish to displace us.

"Oakland is fast becoming unaffordable to those who have called our city home for generations and who give our city its rich diversity. This is unacceptable."

- Libby Schaaf, Oakland At Home, 2016

Another 350 units of luxury apartments will only exacerbate Oakland's existing housing crisis. They will be unaffordable for those who serve our city, including Oakland's teachers, police officers and even city council members. Moreover, the impact upon our building will result in a net decrease in livable, affordable units.

The 2017 Housing Element Annual Progress report can be found here:

<http://www2.oaklandnet.com/government/o/PBN/OurOrganization/PlanningZoning/OAK045364>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction OAKLAND
Reporting Period 01/01/2017 - 12/31/2017

Table B

Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.												Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level	RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9			
Very Low	Deed Restricted	2059	98	26	247	0	0	0	0	0	0	371	1688
	Non-Restricted		0	0	0	0	0	0	0	0	0		
Low	Deed Restricted	2075	30	13	66	0	0	0	0	0	0	109	1966
	Non-Restricted		0	0	0	0	0	0	0	0	0		
Moderate		2815	0	0	11	0	0	0	0	0	0	11	2804
Above Moderate		7816	643	2082	3960	0	0	0	0	0	0	6685	1131
Total RHNA by COG. Enter allocation number.		14785											
Total Units			771	2121	4284	0	0	0	0	0	0	7176	
Remaining Need for RHNA Period													7589

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

The 2018 Progress Report is scheduled to be released on April 1, 2019. After projects approved in 2018 have been added, the target for Above Moderate units (> 120% AMI) will be exceeded. All other targets will remain disproportionately unfulfilled.

Enforcement of these guidelines have been lax, but Governor Newsom may change this. In his first budget speech, he suggested withdrawing gas tax money from cities if they don't meet regional housing targets.

<https://www.sfchronicle.com/bayarea/article/Newsom-touches-a-nerve-by-connecting-gas-tax-13546364.php>

Approval of additional Above Moderate units will result in further non-compliance. These guidelines were put in place to build healthy, vibrant communities where the needs of all residents are met. Regional Housing Needs Allocation guidelines cannot be deliberately and flagrantly flaunted. If this trend is not reversed, it may adversely affect the financial health of our City and its residents.

5) Funding

The funding mechanisms employed by neighboring downtown projects have been somewhat suspect, as is the proposed funding for 1750 Broadway. Last year, the Planning Commission extended another one-year extension for the 1900-1944 Broadway project. This building is being funded via EB-5 visas, a program that has been noted for rampant fraud. Meanwhile this block across our street remains sitting in blight. The historic Tapscott Building has been entered by homeless people and peeping toms.

In lightly reported news last September, it appears 1750 Broadway LLC tokenized their ownership of their property. As the listed developers, do they intend to finance this project via a blockchain product?

<https://www.globest.com/2018/09/21/how-one-group-of-owners-tokenized-an-office-for-greater-liquidity/>

By Erika Morphy | September 21, 2018

SAN FRANCISCO - It is all well and good to hear the theory behind blockchain and how it can help commercial real estate, but to see it in action is another thing all together. Case in point: A group of owners of an office building in Oakland, CA's uptown district just tokenized the building to provide greater liquidity and make it easier for the owners to sell and exchange their shares.

Essentially this was a securities transaction, according to Razmig Boladian, co-founder and managing partner of Real Estate Private Equity firm Rubicon Point Partners. Boladian spoke to GlobeSt.com on behalf of the building owners. "It was a faster, cheaper and more liquid route instead of trading paper," he says.

The transaction complete, the shares have already been distributed among the owners, he adds. The owners used Flote, a fintech startup based in San Francisco, to tokenize the shares of the office building, which is valued at \$10 million. Flote provides software and services to fractionalize large commercial real estate assets into tradeable tokens on blockchain.

Because it is a new method of finance, some users can be leery of it, Roland Pan, CEO of Flote, tells GlobeSt.com.

The developers have not divulged this information to the Planning Commission. Flote is a very cryptic form of cryptocurrency. Roland Pan is a mystery man. Flote has no website or publicly available information.

1750 Broadway LLC is required to fulfill specific financial obligations to the City. Who are these owners? Are their funding sources legitimate? Are they legal, secure and accountable? As our apartments may be catastrophically impacted, we have a right to know this information, as damages may cause us to seek redress. The citizens of Oakland may wish to be informed of the funding sources for this project. Why has this been kept secret?

6) Appeal to City Council

We believe we have provided the Planning Commission sufficient evidence demonstrating why this project cannot proceed as planned. Any project for the 1750 Broadway parcel must start with a sufficient set of mitigation measures approved by the impacted residents of our building. Should this project go forward, we will seek injunctions and appropriate monetary damages.

If this project returns to the Agenda of future Planning Commission meetings, we request 28 days notice prior to this meeting. The developers have been allowed to set the schedule and spring meetings on us with little warning, resulting in insufficient time for us to prepare. We have been living under the threat of this life-altering project and its potential impacts for over a year.

The 1750 Broadway project requires a Major Conditional Use Permit. **If the Planning Commission approves this project, we intend to appeal this decision in front of the City Council. If the Planning Commission finds this project is in accordance with current city policy, we will address this policy at a level where its consequences can be considered. We will enlist greater public support and engage other organizations who share these policy concerns.**

We have been quoted an appeal fee of \$1,891.08. This fee is not listed in the City of Oakland Fiscal Year 2018-9 Master Fee Schedule or anywhere else on the City's website. This fee should be published as public information. We will raise this fee through crowd-funding and must provide transparency to our donors.

Our appeal will raise each and every issue that is contested above, along with all the arguments and evidence other residents of 1770 Broadway have placed in the record and presented to the City Planning Commission prior to the close of its public hearing on this item.

Thank you for your time and attention,

Joseph Hornof
1770 Broadway #112
Oakland, CA 94612

Rivera, Mike

From: Chantal Reynolds <creynolds@actransit.org>
Sent: Tuesday, March 19, 2019 4:13 PM
To: jmyres.oakplanningcommission@gmail.com; amandamonchamp@gmail.com;
tlimon.opc@gmail.com; jfearnopc@gmail.com; cmanusopc@gmail.com;
SShiraziOPC@gmail.com; NHegdeOPC@gmail.com
Cc: Claudia Burgos; Beverly Greene; Robert Del Rosario; Mallory Nestor; Rivera, Mike
Subject: Letter from AC Transit and BART General Managers regarding Item number 1 - Case File
PLN18369 - 1750 Broadway at March 20th Planning Commission Meeting
Attachments: City of Oakland Planning Commission_2019-03-14 (003).pdf

Dear Planning Commissioners,

Please find the attached letter from AC Transit and BART General Managers regarding the East Bay Paratransit Consortium site and lease at 1750 Broadway on the March 20th Planning Commission agenda.

Kindest regards,

Chantal Reynolds | External Affairs Representative
Legislative Affairs and Community Relations Department



Alameda-Contra Costa Transit District
1600 Franklin Street | Oakland, CA 94612
Phone: 510-891-7194 | Cell: 510-418-9364 | Fax: 510-891-4874
Email: creynolds@actransit.org | www.actransit.org



March 14, 2019

Via email

Jahmese Myres, Chair
City of Oakland Planning Commission
250 Frank Ogawa Plaza
Suite 2114
Oakland, CA 94612

Dear Chair Myres and Commissioners:

AC Transit and BART write with respect to project AP170064 located at 1750 Broadway. This project calls for the demolition of the existing building and the construction of a multi-story, mixed use tower in its stead.

Previously AC Transit and BART informed the City's Design Review Committee that the first two floors of the property are currently leased by the East Bay Paratransit Consortium (EBPC). The lease on this property, including options, runs through 2030.

As you may be aware, EBPC provides door-to-door service for individuals within the service area who are unable, due to a cognitive or physical disability, to use regular buses or trains. EBPC is jointly funded by AC Transit and BART. The current location of the office is ideal for a number of reasons: secure parking for EBPC vans in the rear of the building, off Broadway, convenient access to multiple bus and BART lines for the numerous advisory/community meetings we host at the location, and direct access to the BART elevator at the property.

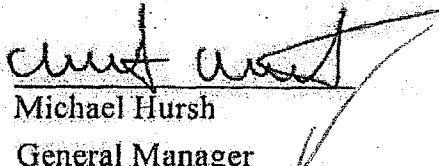
While AC Transit and BART are aware of Rubicon's desire to repurpose this property, we remain concerned that this project is moving forward through the planning approval process at this time; with more than 11 years remaining on the leasehold.

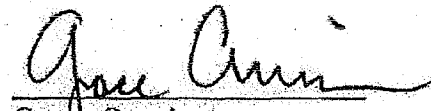
Representatives of AC Transit and BART have met with Rubicon to discuss the project, and various alternatives, but as of this writing no firm agreement has been reached between the parties to shorten the leasehold.

AC Transit and BART believe that it is important for the Planning Commission to be aware of the circumstances related to the existing building in considering an application for the redevelopment of the property. Given the nature of EBPC's leasehold interest, we suggest that the present application is premature.

This situation might change if the parties are able to come to a mutually satisfactory agreement to reduce the term of the leasehold, but until such an agreement is reached the consortium intends to remain at the property for the duration of its lease. In fact, for the first time in the parties' ongoing negotiations, Rubicon recently presented a proposal that AC Transit, BART, and Transdev may be able to use as the basis for reaching a deal to allow EBPC to move out of the building earlier than the lease provides. However, the parties are still negotiating the terms of such an agreement and have a way to go to finalize the specifics.

We appreciate your consideration of the facts outlined herein.


Michael Hursh
General Manager
AC Transit


Grace Crunican
General Manager
BART

Rivera, Mike

From: Stephen Merjavy <merjavy.stephen@gmail.com>
Sent: Tuesday, March 19, 2019 11:46 PM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway
Attachments: 1750 broadway.docx

Dear Mr. Rivera,

Attached is my letter regarding the proposed development at 1750 Broadway. Thank you

Stephen Merjavy

Dear Mr. Rivera,

I am writing in regard to my concerns around the proposed development at 1750 Broadway. I have been living at 1770 Broadway for the last year and a half and think this development would significantly affect the quality of life in our building and irrevocably change the neighborhood.

1. Noise/air pollution: I live in a 3rd floor apartment facing the parking lot where the staging area for the construction of 1750 Broadway will be. Since I often work at night and sleep in the day this project will likely have effects on my health, as my ability to rest will certainly be curtailed. I'm already finding difficulty with maintaining a restful atmosphere with the beginning of construction across 19th street. If this project is to move forward and I'm looking at multiple years of noisy construction disturbance, I may need to move.

2. Parking: Street parking and movement in the 19th street area is already limited and congested by the numerous construction projects in the surrounding blocks. Rubicon needs to be more specific about what affects their development will have on parking and people movement, in concert with other current and proposed projects nearby. This development does not occur in a bubble given the rapid changes happening nearby.

3. Equity: Rubicon developers plan to build 300+ market rate apartments, the rental price of which they are unable to quote. I might be able to support a project that was more open to having a significant portion of affordable housing units in their development. Rubicon has no plan of this and the pittance of an impact fee that they will pay (quoted as \$6.8 million) would likely build fewer than 15 affordable units given current construction costs (~\$500,000+ for an affordable unit). Many of 1750's future residents will likely work in San Francisco and commute due to the comparatively lower rent of these market rate apartments. It is unclear what their contributions will be to Oakland itself.

I question why the "progressive" Oakland city council would not take a stronger stand against these types of market rate only developments as they further drive inequality in downtown. Yes, there is a need for housing affordable or not, but soon there will be only wealthy residents and the homeless in the downtown area. It seems this is their vision.

Stephen Merjavy
1770 Broadway Resident

Rivera, Mike

From: Manar Harb <manar.harb@gmail.com>
Sent: Wednesday, March 20, 2019 6:02 AM
To: Rivera, Mike
Cc: Geeky Girl; Joseph Hornof
Subject: Case File Number: PLN18369, 1750 Broadway

Public Comment on Case File Number: PLN18369, 1750 Broadway
To: MRivera@oaklandca.gov

Mr. Rivera,

I am a current resident at 1770 Broadway and I am deeply concerned about the proposed development plan for 1750 Broadway. There is no consideration to the environment in the proposed plan for 1750 Broadway, and no consideration to the residents who live on Broadway, particularly 1770 Broadway residents.

The development will negatively-impact our lives and living conditions. Health wise, the scale and dimensions of the building will block natural sunlight from the left side of the building. Sunlight deprivation is a leading cause for depression and can cause serious health issues. In addition, the construction will bring noise and dust into our homes, disrupting our living conditions on a daily basis and causing an increase in allergies and respiratory problems. It will likely force us to shut our windows for the entire time of the construction, taking away our ability to circulate the air in our homes.

Mr. Rivera, I urge to take our concerns seriously and not accept the current development plan for 1750 Broadway. Help preserve the history of Oakland and advocate for health-conscious development projects that are environmentally conscious and friendly to the community of Oakland.

Thank you,

Manar Harb

Rivera, Mike

From: Joy Chao-yi Meng <joychaoyim@yahoo.com>
Sent: Monday, March 18, 2019 6:18 PM
To: Office of the Mayor
Cc: Rivera, Mike; Joseph Hornof; Geeky Girl; Nosakhare, Shereda
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Mayor Schaaf:

Hope your day went well. This email is to advocate for all residents at 1770 Broadway apartment building and the residents nearby.

I have been living at 1770 Broadway since December 15th, 2001. As a long term resident and immigrant, I am here to URGE you stopping the possibility of building a luxurious skyscraper at 1750 Broadway for the following 3 major reasons:

1. **Three years of construction will be unsafe and unhealthy to neighbors within 5 blocks of all directions** - we, residents at 1770 Broadway apartment building, would suffer the most from potential construction errors - very likely to destroy the foundation of our historical apartment building(1910's), endless noise/air pollutions, and lack of access for sidewalk heading toward city hall, where lots of activities happen. We people who live in 1770 Broadway deserve better quality of fear-free live. This potential long term construction would not possibly pass any evaluation of safety and health (our mental health would be ruined by consistent anxiety and stresses).
2. **Oakland Mayor has the obligation to END GENTRIFICATION but not introducing it to downtown Oakland.** I came to Oakland in 2001 from Taiwan for its' historical activism for civil rights, for its' origin of Black Panthers' movement, for its' hip-hop/ black and brown culture (enriching American culture globally for decades), for its' home of Tupac's legacy impacting young people around the world to this date, for its' socio-economic equity, and for its' nurture for people who are willing to serve for the underserved communities with limited incomes. An "out-of place" high skyscraper that is designed for the 1% simply doesn't fit in our Oakland spirit. We, the 99%, OCCUPIED OAKLAND for fighting against greedy bankers and cooperates downtown Oakland right here in October 2011. This skyscraper at 1750 would take away the Oakland spirit and push us 99% out of downtown Oakland.
3. **There are way too many luxurious buildings (built or currently under construction) within 10 blocks in every directions nearby 1750 Broadways.** Oaklanders DO NOT NEED to have more buildings serve the wealthy; city of Oakland has historical responsibilities to provide affordable housing and increase the mobility for people who live in East and West Oakland moving to downtown Oakland, which would decrease culture and racial segregations by zip codes. I urge you, Mayor Schaaf, please preserve downtown Oakland as one of the very few areas where reflect on true current American populations. The history is in your hands - for the people or for cooperates. You promised us Oaklanders to serve the people during your two champions. Please do not disappoint Oakland like most of politicians.

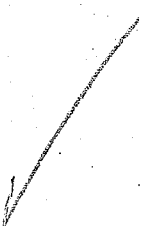

I am serving for OUSD students whose mental health is severely compromised (high scores of childhood adversity). These precious young lives are the victims of segregating people by our abilities gaining capitals and our skin colors. The skyscraper at 1750 Broadway would segregate us much

further more socioeconomically. I urge you to give us HOPE that the students and their families that I love from bottom of my heart could one day afford living in downtown Oakland experiencing inclusiveness culturally and socioeconomically.

Respectfully,

Joy

Chao-Yi Meng
Instructional Support Specialist
Incentive Counseling Enrich Special Day Class
Home Address:
1770 Broadway, Apt. #401
Oakland, CA 94612
Home: 510-590-9243
Cell: 510-219-4901



Rivera, Mike

From: Joy Chao-yi Meng <joychaoyim@yahoo.com>
Sent: Monday, March 18, 2019 8:56 PM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Commissioner Mr. Rivera,

Hope your day went well. This email is to advocate for all residents at 1770 Broadway apartment building and the residents nearby.

I have been living at 1770 Broadway since December 15th, 2001. As a long term resident and immigrant, I am here to URGE you stopping the possibility of building a luxurious skyscraper at 1750 Broadway for the following 3 major reasons:

1. Three years of construction will be unsafe and unhealthy to neighbors within 5 blocks of all directions - we, residents at 1770 Broadway apartment building, would suffer the most from potential construction errors - very likely to destroy the foundation of our historical apartment building(1910's), endless noise/air pollution, and lack of access for sidewalk heading toward city hall, where lots of activities happen. We people who live in 1770 Broadway deserve better quality of fear-free live. This potential long term construction would not possibly pass any evaluation of safety and health (our mental health would be ruined by consistent anxiety and stresses).

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love from bottom of my heart could one day afford living in downtown Oakland experiencing inclusiveness culturally and socioeconomically.

Respectfully,

Joy

Chao-Yi Meng
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Incentive Counseling Enrich Special Day Class
Home Address:
1770 Broadway, Apt. #401
Oakland, CA 94612
Home: 510-590-9243
Cell: 510-219-4901

Rivera, Mike

From: Scott Goff <scott.c.goff@gmail.com>
Sent: Monday, March 18, 2019 9:11 PM
To: Rivera, Mike
Subject: Re: Case File Number: PLN18369, 1750 Broadway

Dear Planning Commissioners,

I have lived at 1770 Broadway for nine years, now. It is my home, as well as the home of my partner, Angela Roberts, with whom I moved into our apartment almost a decade ago. Prior to that, I have lived in Oakland since 2002, and Angela since 2005.

Angela works at a nonprofit, the Progress Foundation, that operates an array of recovery houses in San Francisco and the North Bay, serving people with mental health, addiction, and chronic homelessness issues, helping them to stabilize and access the services they need to get back on their feet. I work at a company called Ponoko in Oakland, associated with the "Maker Movement" and offering laser cutting services to a wide array of people: Etsy sellers, hobbyists, students, inventors, tinkerers, hardware manufacturers, dreamers, movers, and shakers. We are also both active in the Oakland arts community, helping to enrich the place we call home by pouring our creative energies into playing music at shows and participating in the literature scene. We both bring great value to this Bay Area community, but like many others, still find ourselves placed squarely into the fringe due to increasing pressures induced by the greatly inflated housing market blooming in Oakland.

With this inflated housing market in mind, the proposed project at 1750 Broadway is almost a perfect foil for Angela and I. It is a building not designed for us, therefore exclusionary. It offers no value to us, longtime residents of the city and its proposed neighbors. The only things that this development presents to us, and to all the residents of 1770 Broadway and our current neighbors, at large, are twofold: a big metaphorical "GET OUT" sign, dangled in our faces and impossible to ignore, and a very real, very physically and mentally stressful 3 year intrusion into our lives at 1770 Broadway.

I realize that projects like this are inevitable in cities, but as someone involved in the planning and permitting of this project, you have to realize the impact it will have on residents of neighboring structures, especially in the case of the residents of 1770 Broadway. Most of us cannot afford to move elsewhere, lest we lose our rent control and are priced out of this city entirely. The reality is that for many of us, this is our last foothold in the city we love and call home. And, if the 1750 project goes through as planned, it will literally envelope our home on two of four sides, with constant traffic and interruption of our lives on the remaining two sides bordered by the city streets. This will be our reality *for three years*, with incessant noise, construction dust and grime, street constrictions and closures, danger from overhead cranes, blockage of natural light, and general chaos from the proposed 7am to 7pm on weekdays, and 9am to 5pm on Saturdays. Is this how you would want to live? In your own home? *For three years?*

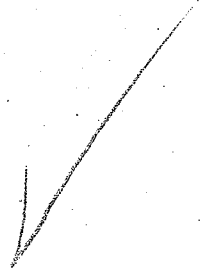
And then, should this project be finished to completion, the city will be left with 307 new units, filled with new residents being sluiced into surrounding city infrastructure that was never designed for even the current number of residents. To green-light such a project without first expanding and fortifying the surrounding city infrastructure, at the whim of real estate developers who are doing this not for Oakland, but because they feel they can profit from this venture, seems at the very best ill advised, and at worst highly unethical. And ultimately, we current residents will be the ones to feel the first wave, the brunt, of the effects on our neighborhood. From the first breaking of ground on the project, through to its opening, we will suffer if there are not steps taken to mitigate the situation.

I am not a city planner or a real estate developer, nor am I a contractor, architect, or construction worker. I am simply a resident of this city, which I love dearly and wish to flourish. Oakland is a rich tapestry of culture, arts, and history. I do

not think that the way for it to flourish is through subjecting the people who make this city the jewel that it is to years of physical and mental abuse. If you do not speak up on behalf of the residents of this area, you will be doing Oakland a great disservice. Oakland has not and should not be about 36 story buildings with literally no affordable housing contained within. Such buildings and the people who propose to build them are not representative of the fabric of Oakland, and are simply profiteering based on our currently inflated real estate market. The elected and appointed members of our city government should be fighting on our behalf, and at the very least mitigating the impact of this development on the residents of this neighborhood to the highest degree possible. I urge you to take our situation into account when dealing with the proposed development at 1750 Broadway. Our way of life depends on your care and concern at this point, and if you do not listen to us, who will?

Sincerely,

Scott Goff and Angela Roberts
(510) 517-1433
1770 Broadway #203
Oakland, CA
94612



Rivera, Mike

From: Matt Perry <mcp514@gmail.com>
Sent: Monday, March 18, 2019 10:27 AM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Mr. Rivera:

I have been a resident of 1770 Broadway since 2007. I have lived in Oakland, on and off, since 1966, and I am proud to call myself an Oaklander.

As you are aware, another large-scale development is looming Downtown/Uptown: 1750 Broadway.

I am concerned about the noise, dust, traffic, air quality, safety, natural sunlight (or lack thereof), lack of parking during construction, the economic impact of local businesses during construction, and the overall inconvenience.

While I do recognize the need for additional housing, I also recognize the impact this project will have on my fellow residents and local businesses.

What is the City of Oakland doing to mitigate these issues?

Sincerely,

Matt Perry

1770 Broadway, #208

Oakland, CA 94612

mcp514@gmail.com

Matt



Rivera, Mike

From: Velta Mara <veltamara@gmail.com>
Sent: Sunday, March 17, 2019 6:51 PM
To: Rivera, Mike
Cc: Joseph Hornof; geekygirl@gmail.com
Subject: Re: Case File Number: PLN18369, 1750 Broadway

I am also concerned about green space in our vicinity... This area needs at least 5 trees per block on either side of the street to offset all of the pollution created by development... are green walls and roofs being considered? not just for projected wealthy tenants, but for historic neighbors and the general public? the well being and health of the neighborhood?

Best,
Velta Savelis
Resident 1770 Broadway

> On 17 Mar 2019, at 11:30 AM, Velta Mara <veltamara@gmail.com> wrote:

>

> Hello Mr. Rivera-

>

> I am writing this note to express my concern around the projected construction on Broadway between 17th and 19th streets in Oakland. I am a resident of the building (for two years) and a native of Oakland. I am very concerned about a next high rise development occurring so close to my residence when there are already so many high rise developments occurring at this time in Oakland. It is very stressful to live with the constant din of construction and I am becoming increasingly disturbed as the demolitions, jackhammering, cranes and cement mixers are constantly active around this neighborhood.

>

> I am also concerned about the displacement of even more folks from Oakland and dismayed at the thought of yet another monstrosity, taking away natural sunlight and fresh air from those of us who live and work here.

>

> I am aware that none of the new living spaces will be affordable to myself nor most working or disabled/elderly people in Oakland and implore you to take into consideration those of us living at 1770 Broadway who may not have other affordable/convenient options available.

>

> Thank you for your time and consideration in reconsidering this new "project"...

>

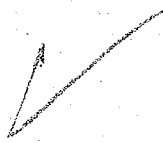
> Kindly,

>

> Velta Savelis

> 1770 Broadway Resident

>



Rivera, Mike

From: Velta Mara <veltamara@gmail.com>
Sent: Sunday, March 17, 2019 11:31 AM
To: Rivera, Mike
Cc: Joseph Hornof; geekygirl@gmail.com
Subject: RE: Case File Number: PLN18369, 1750 Broadway

Hello Mr. Rivera-

I am writing this note to express my concern around the projected construction on Broadway between 17th and 19th streets in Oakland. I am a resident of the building (for two years) and a native of Oakland. I am very concerned about a next high rise development occurring so close to my residence when there are already so many high rise developments occurring at this time in Oakland. It is very stressful to live with the constant din of construction and I am becoming increasingly disturbed as the demolitions, jackhammering, cranes and cement mixers are constantly active around this neighborhood.

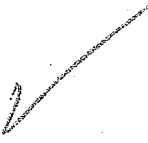
I am also concerned about the displacement of even more folks from Oakland and dismayed at the thought of yet another monstrosity, taking away natural sunlight and fresh air from those of us who live and work here.

I am aware that none of the new living spaces will be affordable to myself nor most working or disabled/elderly people in Oakland and implore you to take into consideration those of us living at 1770 Broadway who may not have other affordable/convenient options available.

Thank you for your time and consideration in reconsidering this new "project"...

Kindly,

Velta Savelis
1770 Broadway Resident



Rivera, Mike

From: Andre Owens <andreacehigh@yahoo.com>
Sent: Friday, March 15, 2019 9:31 PM
To: Rivera, Mike
Subject: Public Comment on Case File Number: PLN18369, 1750 Broadway

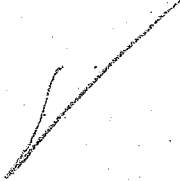
Subject: Public Comment on Case File Number: PLN18369, 1750 Broadway
To: MRivera@oaklandca.gov

Mr. Rivera,

I am a resident at 1770 Broadway. I have concerns about the size of the proposed construction at 1750 Broadway and safety risks this construction poses. During construction, something could easily drop from this building onto and through my roof, damaging the building structure or worse, hurting residents. Additionally, the duration of construction is expected to last up to 36 months. That is 3 years of sleep I will never get back. I work nights and sleep during the day. My bedroom faces south and will be pressed against the proposed parking garage. Can you guarantee me that noise, dust, and other safety risks will not adversely impact my health? Could a smaller building with an appropriate amount of space between buildings be a solution? Also, where are the low-income units? Oakland already has many new constructions of luxury and market-rate apartments. Oakland needs more affordable housing and the planning department needs to stand up to developers, demanding affordable units and refusing an easy payout. I request that Oakland planning put a stop to taking developer's money and letting developers have an easy go of our city. Oakland deserves more than a simple impact fee, we need housing that will contribute to the culture and prosperity of Oakland by providing shelter to low- and moderate-income residents who are currently underserved. Where does that "impact" money go, anyways? We need more housing, yes, but we do not need to sell ourselves short and, in the process, endanger residents. Make new developments work for Oakland and don't rush to approve projects that are ill-advised. Please do not approve this project as proposed. By the looks of the current proposal, I will be buried alive.

Sincerely,

Andre Owens, 1770 Broadway resident



Rivera, Mike

From: Nancy Morosohk <NMorosohk@familypaths.org>
Sent: Sunday, March 17, 2019 10:02 AM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Hi,

I am writing to express my strong objection to the continued development of expensive luxury apartments in Oakland. I have lived in Oakland for the past 30 years and raised my daughter here. For the past almost 18 years I have also worked at a nonprofit in Oakland that serves the most vulnerable members of our community. As my daughter graduated from college 2 years ago and returned to the Bay Area, I was initially excited to see the construction of so many new apartment buildings around the city. Then I was shocked to discover that they all seemed to be luxury apartments that are very far out of the price range not only for my daughter, who works at a local school, but also for all of the experienced professionals I work with who are living on a non profit salary. While I am happy to see Oakland thriving, I am very troubled by this trend which seems to care more about the tech and business community that is new to Oakland and less about those of us who are already here and helping to make and keep Oakland the great city that it is.

As the Planning Commission of Oakland, I hope you will prioritize Planning for the citizens Oakland and not allow Oakland to become the next San Francisco where only the richest of people can afford to live. We need our diversity, we need to support our local workforce and we need to make it possible for the people who were raised here and who love Oakland to live here now and in the future.

I urge the Planning Commission to make the construction and preservation of affordable housing it's top priority. There are already enough luxury apartments here. Please do the right thing so that Oakland can stay a home for all people....that's what makes it Oakland! Thank you, Nancy

Nancy Morosohk, LCSW
TIPS Program Manager
nmorosohk@familypaths.org
Pronouns: she, her, and hers

Family Paths
1727 Martin Luther King Jr. Way #109
Oakland, CA 94612
(510)893-9230x217

www.familypaths.org

you can call our 24/7 parental stress hotline 510-893-5444

Family Paths strengthens family relationships by providing mental health treatment and supportive services with respect, integrity, compassion, and hope.

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strictly prohibited. If you are not the intended recipient notify the sender immediately by return e-mail, delete this communication and destroy all copies.

Rivera, Mike

From: Clay Kilby <wckilby@gmail.com>
Sent: Friday, March 15, 2019 8:48 AM
To: Rivera, Mike
Subject: Public Comment on Case File Number: PLN18369, 1750 Broadway

Mr. Rivera,

My name is Clay Kilby, and I'm writing to express some concerns about the new construction planned for 1750 Broadway, Case File Number: PLN18369.

I'm a resident of 1770 Broadway and have been for just over three years. I run a small creative agency serving non-profits and I work from home. This apartment has been a true gift to me because of the proximity it has afforded me to the organizations I work with and the opportunity to live within the community I am working to support.

Upon becoming aware of the new development at 1750 Broadway, I have become concerned. My apartment, on the third floor, faces the area set aside for the new building's construction staging. It seems unlikely that I will be able to work productively during the day with the noise and inconveniences of construction, which is projected to last for years. Though I have loved living here, and have no desire and little ability to move, I believe I will be forced to relocate when construction begins. I am uncertain about my future. Having been here for years, I am quite dependent on my rent controlled rate. I doubt I will be able to afford another apartment in the area, and will be forced to consider moving out of Oakland, which has been my home for much longer than I have been at 1770 Broadway.

But my deepest concerns over this project are not over my own wellbeing. In talking with my neighbors in my building and across the street I have come to realize that many will real harm to their quality of life, far beyond my own, as a consequence of this project. Many in my building will loose their only access to the outside world as their windows will be covered over by the new building's walls. Across the street many residents expect to loose their windows too, but to an overabundance of light, as the new structure reflects glaring light into their apartments during the day, and beams artificial light in at night. At the recent public planning meeting the developer representatives for the 1750 Broadway project offered access to their proposed dog park for these residents, which I consider a woefully inadequate solution. These residents should be compensated financially in an amount that would allow them relocate to a similar property in the neighborhood, or should be offered a comparable apartment at 1750 Broadway, subsidized to their current rent. I'm not advocating for a handout or windfall here. When doing harm to the life of another, the most appropriate solution is to compensate them in amount nearest to the harm they received in the form nearest to what has been lost.

My second concern is for the residents of downtown Oakland more broadly. The cost of living here is already extraordinarily high. I am not opposed to new development. I believe it to be a necessary part of the solution, reducing housing cost by reducing housing scarcity. I am however opposed to regressive development, that which adds housing only for the wealthy and at the expense of the poor. I am not opposed to the influx of new residents of wealth or any class, from San Francisco or anywhere else. Oakland welcomed me some years ago and I have been grateful to call it my home ever since. But I am concerned about new development which serves only those with means, and excludes those without, especially those who have already worked so hard to carve out a life here. For too long we poor residents have been told to accept new construction intended only for the wealthy. That serving them would somehow, someday trickle down to help us. It hasn't. It won't. This new building should include copious amounts of affordable, below market rate units for residents of limited means, much more than is currently proposed.

During the recent meeting I attended, developer representatives told us that they were attracted to this location by the distinctive "Uptown vibe," showing us photos of its iconic buildings, the Fox, the Paramount, the Magnin Building. They claimed to be inspired by these structures and duty bound to make their building one that would do service to the

aesthetic of the neighborhood. I don't think they're wrong about the uptown vibe. It is a beautiful, diverse, creative, and fun place to live. But this uptown vibe is not defined by its architecture. It is defined by its residents. They are hardworking. They are diverse in ethnicity and in class. They are artists, and public servants, and entrepreneurs, and families. They are the architects of the uptown vibe. They have a right to remain here. They are the life in this city. Without them all the iconic buildings, and this new construction too, will be little more than dead boxes.

Thank you,
Clay Kilby
1770 Broadway #310
wckilby@gmail.com
864-710-4994

Z

Rivera, Mike

From: Christy Booth <christybooth@gmail.com>
Sent: Friday, March 15, 2019 12:56 PM
To: Rivera, Mike
Cc: bsilver@familypaths.org
Subject: Case File Number: PLN18369, 1750 Broadway

(Hi Christy, if you can add this to public comment, please do so.)

Public comment on the 1750 Broadway high-rise.

As the Executive Director of Family Paths, an Oakland based non-profit that employs over 80 people to provide mental health services and supportive services, I am extremely concerned about the lack of affordable housing in the planning for this new construction. Non-profit employers who serve the most vulnerable Oakland residents are losing our workforce due to the housing crisis and lack of affordable housing for our staff. I urge the planning commission to strongly prioritize the construction and preservation of affordable housing so that small and mid-size businesses can continue to hire local residents. The City is losing precious human capital that helps this community thrive and I urge you to plan for them as well and require affordable units in this project.

Barbra Silver, MFT
Executive Director
Pronouns: she, her, and hers
Family Paths, Inc.
510-893-9230 ext. 227
bsilver@familypaths.org

Family Paths strengthens family relationships by providing mental health and supportive services with respect, integrity, compassion, and hope.

www.familypaths.org

Rivera, Mike

From: Christy Booth <christybooth@gmail.com>
Sent: Friday, March 15, 2019 7:07 AM
To: Rivera, Mike
Subject: Case File Number: PLN18369, 1750 Broadway

Dear Mike Rivera,

My husband and I have lived at 1770 Broadway since August 2013. We are originally from NC and having this affordable place to live enabled me to study counseling psychology at a local graduate school and, since 2015, serve low-income families and children throughout Alameda County with quality mental health services. The invaluable services I and others like me provide are in jeopardy as the high cost of living has forced many young mental health professionals to leave the bay area or leave the non-profit sector. I work for a non-profit that receives county funds. We work to prevent and end child abuse.

I am also an artist and have contributed to Oakland First Fridays and other local events. I am concerned that the creative community I have actively contributed to is being exploited by those who seek an easy payday without giving anything to the community in return.

Please help us save our building. If 1750 goes up as planned, I will no longer be able to live in my apartment, leaving my job and the bay area altogether. Noise, traffic, pollution, and rising costs in the neighborhood are already significant stressors. If 1750 is built, my bedroom window will be one of the windows only inches from a concrete wall and directly exposed to "28-36 months" of construction, fumes, and any other danger this construction will pose to my wellbeing.

Of what I have read in the CEQA report, I am concerned that 1770 Broadway has no recognition as a place that will be impacted. We are 48 units of hard-working members of the community and we should not be invisible. The shadow study insufficiently describes the impact to our building. The traffic study relies on data from 2017 and does not take into account numerous current factors impacting congestion in the uptown/downtown area, including the addition of **scooters, new businesses, road closures due to additional new construction, and ongoing festivities such as marathons, parades, protests, and rallies**. I urge you to reconsider the validity of the CEQA report and demand further study into current traffic patterns and health costs to current residents, including the mental and physical toll of living with noise pollution and limited sunlight. We are being squeezed into a dark, noisy, shaft.

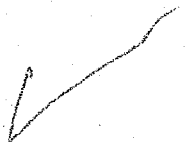
I have no doubt that I will be displaced as a result of this construction. Moreover, I can afford to earn a minimal wage working at Family Paths, the non-profit I am employed at full-time and live only 4 blocks from, because I have rent control. For me, losing my housing means leaving my job, and abandoning the dozens of families I support in order to reduce their risk of negative life outcomes, including depression, suicide, child abuse, substance abuse, gang involvement, and stunted academic progress. I am bilingual and serve the Latinx-immigrant community. We always have a waitlist--of families in crisis!--because we do not have enough bilingual mental health professionals in the bay area. Families in crisis should never be told they have to wait for help, yet families end up waiting for months while their problems get worse.

Where is the affordable housing for people like me who work every day to create a better community by enriching and empowering lives? Allowing the proposed building at 1750 Broadway sends the message that Oakland is only for the wealthy and that Oakland officials are unable to recognize the actual lived experiences and valuable contributions of their low- and middle-income residents.

Please help us save our building and make a commitment to ensuring stability and safety for low- and middle-income residents.

Sincerely,

Christy Booth
1770 Broadway resident

A handwritten mark or signature in the bottom right corner of the page, consisting of a few connected strokes.

ATTACHMENT B

April 1, 2019 Appeal by Residents of 1770 Broadway



CITY OF OAKLAND

APPEAL FORM

FOR DECISION TO PLANNING COMMISSION, CITY COUNCIL OR HEARING OFFICER

RECEIVED

APR 01 2019

CITY OF OAKLAND BUREAU OF PLANNING

PROJECT INFORMATION

Case No. of Appealed Project: PLN18369

Project Address of Appealed Project: 1750 Broadway

Assigned Case Planner/City Staff: Mike Rivera

APPELLANT INFORMATION:

Printed Name: Joseph Hornof

Phone Number: (510) 763-1488

Mailing Address: 1770 Broadway Apt 112

Alternate Contact Number:

City/Zip Code Oakland, CA 94612

Representing: Residents of 1770 Broadway

Email: hornof@earcom.com

An appeal is hereby submitted on:

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

YOU MUST INDICATE ALL THAT APPLY:

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

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

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

(Continued on reverse)

(Continued)

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

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

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

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

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

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

See Attached.

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

(Continued on reverse)

(Continued)

Jack A. Kelly
Signature of Appellant or Representative of
Appealing Organization

4/1/2019
Date

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

APPEAL FEE: \$ _____

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

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:

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APR 01 2019
CITY OF OAKLAND
BUREAU OF PLANNING

RECEIVED

APR 01 2019

**CITY OF OAKLAND
BUREAU OF PLANNING**

Appeal to the Oakland City Council

Project: Case File Number: PLN18369, 1750 Broadway

Applicants: Rubicon Point Partners

Appealed by: Residents of 1770 Broadway, Chad Abley, Roberto Abiog, Adria Anderson, Charles Barrett, Mac Battle, Christy Booth, Kishira Caldwell, Brendan Friedrich, Scott Goff, Manar Harb, Joseph Hornof, Dominique Jones, Clay Kilby, Brendan Kuklok, Pauline Luppert, Chao-Yi Joy Meng, Stephen Merjavy, Misheel Munkherdene, Brett Nichols, Stan O'Neill, Joy Ou, Andre Owens, Vikki Panchal, Matt Perry, Angela Roberts, Rory Ross, Velta Savelis, Tsolmonbaatar Sergelen, Vernie Yong Tim, Jwlhyfer de Winter, and John Does living in Apartments 101-112, 201-212, 301-312, 401-412

Prepared by: Christy Booth, Joseph Hornof, Matt Perry
1770 Broadway, Oakland CA 94612

Date Filed: April 1, 2019

Dear Oakland City Council, Mayor Libby Schaaf, City Administrator Sabrina Landreth, City officials, and employees:

We are your neighbors, the tenants of 1770 Broadway. We live a short walk from City Hall, at 19th Street and Broadway. We are a diverse group of people of varying racial and ethnic backgrounds, ages, abilities, incomes, and education levels. Many of us have lived here over a decade; some of us are elderly or disabled. We contribute our valuable skills to each other and our City.

Our apartments are both affordable and market-rate, but not subsidized. We appeal to you humbly and together, with no other allegiances or interests. We represent Oakland's human capital. We have no representation except ourselves.

In Planning Commission meetings and reports, we have frequently heard there is nothing unique or peculiar about PLN18369, the 1750 Broadway Project.

We disagree. No other 423 foot towers in downtown Oakland have been built in such hazardous proximity to a residential building like ours, an historic resource, at one of the busiest intersections in Oakland. A building of this magnitude is entirely unique in both its scale and location. PLN18369 puts us in direct threat of becoming injured or displaced. We understand that this project may provide funding to the City of Oakland, including \$6.8 million in affordable housing funds. This would come at the expense of our health and well-being. Our displacement will further affect the communities we support.

We come to you asking for your help. We file this appeal 10 days after we presented the same request to the City of Oakland Planning Commission. In a short period of time, we self-organized to prepare this appeal and fund the \$1,891.08 filing fee. Not everyone in our 47-unit building has been informed of the effects of PLN18369. The listed appellants have consented to join this appeal. Additional appellants from 1770 Broadway may come forward at our hearing.

Our presentation to you will include much of what we presented to the Planning Commission on March 20, 2019, shortly before they reached their decision to approve PLN18369. It is our understanding that we must state errors or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence; we must raise each and every issue we may ever want to contest, along with all the arguments and evidence in the record that supports the basis of our appeal; and we are limited to issues and/or evidence presented to the Planning Commission prior to the close of that public hearing.

According to the Oakland Municipal Code, section 2.20.010, the "commissions, boards, councils, advisory bodies, and other agencies of the city exist to conduct the people's business." As elected representatives of the people of Oakland, we request that you read our appeal in its entirety and carefully consider your responsibilities to the people who will be directly impacted by PLN18369. Without accurate assessment and sufficient mitigation measures, this development will impact our lives and may displace us from our homes in downtown Oakland.

Our Building and our Neighborhood

We live in the Bauer Apartments, 47 residential units at 1770 Broadway. Our 5-story building is a listed historic resource. The Bauer Apartments were constructed circa 1912 by Righetti and Headman, renowned Bay Area post-earthquake architects. There are four retail stores on our ground floor.

Above are our four floors of apartments, 12 per floor, with no other amenities save a laundry facility. But the Bauer Apartments are historic not just for their facade, but their purpose, which includes the former residence of Mayor John L. Davie. In previous reports, we listed 48 as the total number of apartments. We recently discovered that there is no Apartment 103 in our building. That space is incorporated into Apartment 104. Now we know where the Mayor lived, and apologize for our error.

The current building at 1750 Broadway adjoins the southern wall of our apartment building. It was constructed circa 1972, concurrently with the BART tracks under our foundations. It was built with thick concrete pillars laid carefully next to our building. It currently houses the offices of East Bay Paratransit and includes the only public elevator to the 19th Street BART Station, which is vital to the disabled residents of our building.

To clarify confusion between the existing 1750 Broadway building and this new project, we will try to refer to the latter by its case file number, PLN18369, the 1750 Broadway Project. The demolition of the existing 1750 Broadway building is one of our concerns. The construction of PLN18369 is another. At previous Planning Commission meetings, Commissioners expressed similar confusion.

The PLN18369 Project is Peculiar and Unique

Contrary to its claims, the PLN18369 project is not comparable to other projects. At 423 feet high, it would be the tallest building in Oakland, with the deepest foundation, another 150 feet below the surface. It has the longest construction timeline of any downtown project. It is set on a BART station at one of the busiest intersections in Oakland. It will involve the removal and replacement of that station's only publicly accessible elevator.

This project is unique due to its prolonged impact upon neighboring residents and their proximity to this impact. This would be us. That is why we are here. The walls of 16 of our apartments face the existing building at 1750 Broadway. The rear of our building and its 12 apartments will face the area where heavy equipment, building material and debris will be delivered, removed and staged, 20-80 feet from living spaces, for up to three years.

Additionally, the construction of PLN18369 may overlap with the construction of the 1900-1944 Broadway project, which has an undisclosed timeline, and is directly across 19th Street to our north. This would mean two concurrent tower constructions taking place above a BART station, a busy intersection, and an historic resource that dozens of people call home.

The Planning Process Has Not Been Transparent

In Chapter 2.20.010 of the City of Oakland municipal code, the Oakland City Council finds and declares:

A government's duty is to serve the public and in reaching its decisions to accommodate those who wish to obtain information about or participate in the process.

We have attended every Planning Commission meeting for PLN18369 and submitted written public feedback at each meeting. We have received no response or recognition from the Commissioners, who, on several occasions, disclosed private communication with the applicants, Rubicon Point Partners.

The applicants were allowed to set the schedule. In its early stages, we were informed with only one yellow sign posted two weeks before Planning and Design Review meetings. Rubicon Point Partners held one token community meeting after their final plan had been submitted for approval and gave neighbors an alarming 30 hours notice.

It is difficult to find Planning Commission information on the City's multiple websites. They contain broken links and outdated information. We can no longer access PLN18369 documentation from previous Planning Commission and Design Review Committee meetings. We cannot find lists of the Commissioners who were in attendance.

The Developers Reported False Information Regarding Community Engagement

Rubicon Point Partners presented false information in prior reports to the Design Review Committee. They reported discussions with Joseph Hornof and residents of 1770 Broadway that never took place. Mr. Hornof reported this to the Planning Commission, as documented in Appendices A and B. No action was taken by the Planning Commission to follow up on Mr. Hornof's claim about falsely reported conversations between Rubicon Point Partners, himself and our residents.

Nonetheless, Mr. Hornof reached out again to advocate for additional clarification for himself and his neighbors. See Mr. Hornof's letter from Appendix A, December 5, 2018, where he suggested an informational packet, a community meeting, and clarified that he could not be responsible for representing all of our residents. Mr. Hornof received no response from Rubicon Point Partners, nor did the Planning Commission act upon these suggestions.

At the March 20 Planning Commission meeting, Ani Vartanian, the founding partner of Rubicon Point Partners, opened their presentation with this claim:

Here, we have done our best to enter into a collaborative design process by listening to what people have to say, do our best to incorporate those ideas into building design, look at the context of the neighborhood, work with a design team that has similar sensitivities, and provide a product visually appealing for all members of the community, irrespective whether or not you live in the unit, in the project or not. (Appendix C, page 2, lines 1-6)

We vigorously dispute her claim.

A Token Community Meeting Was Held After the Approved Plan was Submitted

We were informed of the first community meeting held for this project with only 30 hours' notice. Residents who work standard hours effectively received less than 24 hours notice. This meeting was held on Tuesday, February 26, 2019, shortly before the Planning Commission meeting originally scheduled for March 6, 2019, and later postponed until March 20, 2019. As we received such short notice from Rubicon Point Partners regarding the only community meeting for the PLN18369 project, only seven of our nearly sixty residents were able to attend.

For many of our residents, this was their first time learning of PLN18369. There, we learned details that had not been presented at previous Planning Commission meetings, such as the expected duration of construction, the flow of exhaust produced

by mechanical equipment in the parking garage, and the proximity of mechanical equipment adjacent to our southern wall.

We asked pertinent questions at the community meeting, and were repeatedly told that Rubicon Point Partners is working in accordance with the guidelines established by the City of Oakland. As we have consistently witnessed, City Noise Ordinance and other City regulations flouted by current projects in our area, we demand honest answers supported by research and best practices in this field. As Rubicon Point Partners has never completed a development in Oakland, or a project of this magnitude, our involvement as residents should have been a top priority. The actions of Rubicon Point Partners demonstrate a lack of respect and integrity for the impacted community and a lack of experience with planning a project of this scale.

If Rubicon Point Partners cannot be trusted with simple community involvement, how can we trust them with the safety of our residents when construction begins?

Absence of Commissioners Led to Unequal Representation at the March 20, 2019 Planning Commission Meeting

Commissioner Monchamp was the acting chair of the March 20, 2019 Planning Commission Meeting in the absence of Chairperson Jahmese Myres. Also absent were Nischit Hegde and Clark Manus. For a project of such great size, stature and impact, their absence was significant. The PLN18369 Project was approved by a quorum of just four members of the Planning Commission at this meeting.

Commissioner Monchamp presided over previous Design Review Committee meetings. Due to changes with the Oakland City website, we are unable to identify other Committee members who were present at those DRC meetings. At the March 20, 2019 meeting, we were hoping to reach all of our commissioners, who, as an entire body, may have more closely reflected the perspectives, identities, and interests of downtown Oakland residents.

Insufficient Mitigation Measures

From the inception of PLN18369, up to the March 20, 2019 meeting, not one single mitigation measure for the residents of 1770 Broadway had been discussed by the Planning Commission. Meetings were held for well over a year, yet consideration of the impacts presented by PLN18369 upon 1770 Broadway were grossly insufficient.

An insignificant mitigation measure was hastily added by Planning Commissioners minutes before giving their approval on March 20, 2019, after we had presented our oral and written public comment. This concession indicates a major design flaw does exist and has not been adequately addressed.

During the March 20, 2019 Planning Commission meeting, Glen Resvalvo of Handel Architects stated of the light well at 1770 Broadway:

I think the light well is really where the primary space is and the windows on the property line are secondary spaces. We don't know enough about these units, but that would be, from an architectural standpoint, that would be what I would imagine, is that the light wells are the primary windows of those spaces, so, by creating some type of recess there, I think, what, that would create a better environment, into, with respect to light and air. (Appendix C, page 12, lines 9-17)

Mr. Resvalvo's statement and the concerns expressed by Commissioners indicate a significant lack of research into the impact PLN18369 will have on the livability of our apartments and that serious health concerns do exist.

This measure was tacked on to the end of the Conditions For Approval for PLN18369, released on March 22, 2019:

24. New Building Lightwell

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

Consider the feasibility of adding, and if feasible, add a northside lightwell on the new building. A submittal demonstrating whether a lightwell is feasible should be submitted for review and approval by Planning staff prior to building permit submittal.

Left to Rubicon Point Partners' discretion, this design flaw will never be addressed. We have been asking the Planning Commission and Rubicon Point Partners for information that will allow us to be informed and engaged in this process. This concern was publicly acknowledged only moments before the Commissioners voted and is entirely insufficient. We have little faith that Rubicon Point Partners will seriously consider any mitigation that can be waived under the pretense of feasibility.

Lot-Line Windows Are Found on Many Downtown Oakland Buildings

The Commissioners acted in haste to approve PLN18369 with inadequate information. There are nine lot-line windows on the southern wall of our building, 1770 Broadway.

The haste of the applicants and the Planning Commission is evidenced by the comments made by architect Glenn Resvalvo and Commissioner Monchamp regarding our building's lot-line windows:

I think there's maybe 6 windows that face off the... those are property line windows, they shouldn't be there to begin with. (Resvalvo, Appendix C, page 11, lines 21-25)

Those windows are property line windows and would not typically be allowed, and I, from my count, there's like four of them. (Monchamp, Appendix C, pages 12-13, lines 28-1)

There are thousands of lot-line windows in downtown Oakland, allowable per the building codes in place at their time of construction. There are another 10 lot-line windows at PLN18369's southern property line. The Commission's discussion of protected windows is another matter, however. Protected windows are those covered by storm shutters or plywood in hurricane zones. Virtually every window in the City of Oakland is unprotected, unless it is boarded up.

At the March 20, 2019 Planning Commission meeting, the statements regarding our windows demonstrate the complete lack of knowledge that influenced a decision that will impact our lives. We had no means to rectify this mistake.

The Distance Between The Existing Structures Has Not Been Accurately Calculated or Considered

At the March 20, 2019 Planning Commission meeting, Chris Relf, representing Rubicon Point Partners may have erroneously and/or deliberately misled the Planning Commission. His testimony indicated the current 1750 Broadway building is set back from 1770 Broadway by 1.5 to 3 feet of distance. This assertion may have misinformed the Planning Commissioners prior to their decision.

We want to emphasize that the existing 1750 building and the 1770 Broadway building are separated by no more than two inches at their shared property line, and physically touch in their middle, as demonstrated in Appendix D. The demolition of a building with no setback is far different than the demolition of a building with 1.5 feet (20 inches) to three feet of setback. This would also affect the structural stability of 1770 Broadway, as demolition is extended into the foundation of the existing 1750 building.

This confusion was first addressed by Commissioner Sahar Shirazi in Appendix C, page 8, line 28.

Sorry, just a couple other questions of things that came up in that discussion, there were a couple different things noted about the distance between the building and the adjacent building. I, I think I heard 3 feet a few times, and then I heard 20 inches and I also wasn't clear on whether that's with the existing structure or with the planned structure.

We apologize for not having Case Planner's Mike Rivera's answer transcribed at this time, but he describe setbacks of 1.5 to 3 feet. He describes the PLN18369 project, and applicant Chris Relf joins in that discussion. Neither of them mention that the existing setback between 1750 and 1770 Broadway is 2 inches to non-existent. This can be verified by the City's recording of this meeting.

This confusion persists for another five minutes, and concludes as follows:

Amanda Monchamp: I realize it's only two stories of the adjacent building that's not already right next to the existing building and it looks like you have four stories on the bottom.

Chris Relf: So you're saying where the building butts up against 1770?

Amanda Monchamp: Hmm-hmm.

Chris Relf: And it's currently set back three feet?

Amanda Monchamp: Right. (Appendix C, page 11, lines 1-13)

Commissioner Shirazi asked an honest question and never received an honest answer. We respond in sympathy to her question, and the answer she did not receive.

Before the existing structure at 1750 Broadway can be demolished, its distance from 1770 Broadway must be accurately calculated, along with the impact it will pose upon our building. This data must be placed into consideration for the impacts that it may have upon the residents of our building, and the mitigation measures that can be put into place to protect us or provide for our relocation.

PLN18369 California Environmental Quality Act (CEQA) Reports Do Not Accurately Assess Environmental Impacts

The PLN18369 CEQA reports were presented at the March 20, 2019 meeting. The CEQA Checklist/Exemption Report was 126 pages, with another 256 pages in appendices.

The California Environmental Quality Act declares it state policy to develop and maintain a high-quality environment now and in the future, and to take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state. PLN18369's CEQA reports do not adhere to the true purpose of these laws.

In their entirety, the PLN18369 CEQA reports contain only scant references to the impacts this project places upon 1770 Broadway, with barely a word acknowledging our human existence:

A five-story mixed-use residential building with ground floor retail is located adjacent to the existing building to the north (1770 Broadway), and is occupied by multiple restaurant and commercial tenants including Oaksterdam University, a cannabis educational facility; Zaya Café; and Sweet Belly Desserts.

This statement indicates how little attention was paid to our building and overlooks the crucial fact that there are 47 units inhabited by people living at 1770 Broadway. PLN18369 is not simply a building adjacent to 1770 Broadway, as its footprint will wrap around our apartments at the southern and eastern sides, enveloping half our residence.

In the her statement at the March 20, 2019 Planning Commission Meeting, Christina Caro, representing East Bay Residents for Responsible Development, stated concerns

regarding cumulative impacts that have not been disclosed or mitigated by PLN18369. Ms. Caro claimed that there is significant data indicating PLN18369 will have substantial environmental impacts that are identified within the City's own CEQA analysis:

We've commented to this commission before on various projects in the city, and are very active in supporting development in the city, particularly infill development, but are very concerned about the impacts of projects like this one, particularly cumulative impacts that are not being adequately mitigated by the CEQA analysis that are being prepared by the city.

We would like to urge the commission to continue this hearing in order to prepare an Environmental Impact Report for the project. The city is again relying on a series of CEQA exemptions that are not applicable to this project, that are not supported by substantial evidence, and are in fact, contradicted by substantial evidence demonstrating that the project has significant impacts that have not been adequately disclosed or mitigated, and that's actually evidenced in the city's own CEQA analysis. (Appendix C, page 21, lines 2-17)

We are not familiar with CEQA reports and the exemptions employed by the Planning Commissioners and developers to deny us our rights to a healthy environment. We feel that it is essential for the Planning Commission to rely on accurate information and comprehensive data before approving a project. The margin of error for a development of this scale and novelty is enormous, and inaccurate information places residents in danger.

On March 20, 2019, the Planning Commission affirmed staff's Environmental Determination and adopted their CEQA findings, with little questioning whatsoever. The Planning Commissioners accepted their Staff Reports, and then they approved the project.

PLN18369 CEQA Reports Minimize Construction Impacts

In their CEQA report, the developers claim:

There is nothing unique or peculiar about the Project or its construction that would suggest that the Proposed Project would have greater noise impacts than other typical high-rise construction projects within Downtown Oakland.

Contrary to this plan's claims, it is not comparable to other projects. At 423 feet high, it would be the tallest building in Oakland, with the deepest foundation, another 150 feet below the surface. It has the longest construction timeline, longer than other tower projects, estimated at 28 - 36 months.

This project entirely is unique due to its prolonged impact upon existing residents and their proximity to this impact. We have 16 apartments in our building facing the existing building they intend to demolish. The rear of our building and its 12 apartments will be

impacted, as they face the area where the building materials will be staged. Within 20 to 80 feet from their living spaces, trucks will roll in and roll out.

The Proposed Project would include the demolition of the existing building, an area of 27,600 square feet. 24,500 cubic yards of material will be removed. This project is unique in size, location, and the impacts and duration of demolition and construction. PLN18369 should not be shrugged off as "normal" but should be subject to additional analysis warranted by its novelty.

CEQA Recommended Noise Attenuation Measures Cannot Be Implemented

The PLN18369 CEQA Exemption Report (Attachment A, page 19) states:

Prior to any extreme noise generating construction activities generating greater than 90dBA the project applicant shall submit a Construction Noise Management Plan.

Potential attenuation measures include erecting temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings and utilizing noise control blankets.

The negligible distance between the existing 1750 Broadway building and 1770 Broadway will preclude any effective noise attenuation while the current building is demolished and the new tower is constructed. Due to the insufficient space between the existing 1750 Broadway building and 1770 Broadway, PLN18369 will violate applicable Construction Noise Management Plans.

Construction of PLN18369 Will Violate Oakland Planning Code Noise Ordinances

Oakland Planning Code section 17.120.050 states the Maximum Allowable Receiving Noise Level Standards. Long-term construction or demolition operation is defined as 10 days or more. Sound levels of 80 dB are permitted for one minute per hour; sound levels over 85dB are not permitted.

The construction of PLN18369 is scheduled at or 28-36 months, or 850-1095 days. Oakland Planning Code lists the maximum allowable receiving noise levels for construction and demolition, as referenced in the report of Mr. Hornof in Appendix B. The following construction activities will violate the Noise Ordinances of Oakland Planning Code.

In the PLN18369 Health Risk Assessment, Appendix C, page C-3, the report states that Concrete/Industrial Saws will be used for 8 hours per day for 59 days during demolition and grading. At their source, concrete saws are deafening, reaching sound levels over 110 dB. They will be used to cut through thick concrete mere inches from our windows. Their sound level is 90dB at a 50 foot distance.

This page states that demolition and grading will entail 3,188 hauling trips. This will require over 300 hauling trips per day during the grading process, removing 24,500 cubic yards of excavated materials. A clam shovel dropping material into a dump truck has a sound level of 93 dB at 50 feet; the dump truck contributes another 84 dB at this distance.

Building Construction is estimated at 494 days. The report omits the number of hauling trips required to deliver material to this site. A concrete mixer truck is rated at 85 dB at 50 feet. While concrete is being poured, an air compressor adds another 80 dB at that distance.

We believe the listed construction activities underestimate the duration and impact of construction. They appear to simply be numbers on a piece of paper but we are the people exposed to their actual consequences.

These are just a few listed examples of construction activity which will violate noise ordinances. The cumulative sound levels of all construction activities and their duration must be calculated. Construction of this building will take up to three years, and the health risks regarding noise are not theoretical. Exposure to a noise level of 85 dB for even one workday can produce hearing loss. Chronic exposure to noise levels as low as 65 dB can increase adrenaline and stress hormone levels and elevate blood pressure, which increases the risk of heart disease and stroke.

Will Construction Cranes Be Swinging Over Our Heads?

A building of this size in such close proximity to our living spaces presents another significant safety issue: gravity. Will its crane swing heavy material over our heads, above our airspace, up to 500 feet in the air, over 494 days of operation? Where it will be affixed to their structure at great height, a short horizontal distance *away from our* apartments? Where if anything should slip, it could crush through our roof, fall into our center light well or crash through our windows?

We presented this question at the March 20, 2019 Planning Commission meeting, in print and public comment. We never received an answer. The Planning Commission did not address the other environmental concerns our residents presented at that meeting, detailed in Appendices B and C. The City of Oakland would be negligent to place its citizens in such a position of great risk.

1770 Broadway Must be Provided an Accurate Shadow Study

The Bauer Apartments are historic not just for their facade, but their purpose. Shadow impacts upon 1770 Broadway are entirely absent in the findings of Appendix G, Shadow Study. The Shadow Study is deficient in that it fails to adequately consider the shadow PLN18369 would cast on our residential building. The Shadow Study lists every historic resource in our neighborhood, except our building. This omission is significant – it speaks louder than words.

The PLN18369 CEQA Checklist/Exemption Report, page 80, states:

In terms of historic resources, the City of Oakland's CEQA thresholds of significance state that a significant impact would occur if a project were to shade designated historic resources such that the new shadow would "materially impair" the resource's historic significance.

Under City of Oakland thresholds of significance, a project would have a significant shadow impact if it would:

D. Cast shadow on an historic resource such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its designation as an historic resource.

Our apartments have already sacrificed significant sunlight to our city's new luxury towers. 1640 Broadway broke ground in March 2017 and topped out in November 2018. Our residents now suffer the loss of two hours of peak sunlight for the darkest four months of the year.

The shadow study diagrams do not accurately portray the additional sunlight the residents of 1770 Broadway will lose to the PLN18369 tower. We demand to see more accurate data and receive an honest answer. If PLN18369 is allowed to arise, our residents will live in a perpetual cave. Sunlight is important for physical and emotional health. This is why our historical resource has a light well.

Demolition of the 1750 Broadway Structure Poses a Risk to Our Residence

The demolition of the current structure at 1750 Broadway is our first concern in the project's timeline. The gap between 1770 Broadway and the existing 1750 building is less than two inches at the front of our buildings, facing Broadway, and at the rear facing the current 1750 Broadway parking lot. The gap between the buildings appears to be filled with plywood, and our structures physically adjoin in the light well. 1750 Broadway is constructed with thick concrete walls, mere feet from our apartment windows.

As the City Council may not have been provided an opportunity to inspect the properties, we have supplied photographs in Appendix D. We encourage you to evaluate the close proximity of the existing 1750 Building to our apartments, which is clearly visible in these photographs.

The demolition of 1750 Broadway will not be an easy task. As stated within Appendix D of the PLN18369 CEQA Report, Historical Context, page D-6:

The existing building exhibits the Modern architectural style often referred to as "Brutalist" due to its exposed concrete construction and expressionistic massing, whereby the interior disposition of spaces is clearly articulated on the exterior façade. Brutalist structures tend to be geometric in style and are usually constructed of large amounts of poured concrete with a rough blocky appearance.

Character defining architectural features of the Brutalist style include:

- Rough unadorned poured concrete construction
- Massive form and heavy cubic shapes

The demolition of the walls of 1750 Broadway that adjoin 1770 Broadway will endanger our residents. In the event 1770 Broadway becomes damaged as a result of demolition of 1750 Broadway, we may be forced to relocate. Additionally, unhealthy living conditions may stem from construction-related pollution, contaminants, or other unknown health hazards, rendering our apartments uninhabitable during the demolition/construction process. No mitigation measures have been discussed or offered regarding these concerns, by Rubicon Point Partners or the Planning Commission.

In a letter to Mike Rivera on February 15, 2018, Rubicon Point Partners representative Chris Relf claimed the developer would provide key information regarding construction and demolition:

We also will provide Mr. Hornof with notice of key construction milestones and commit to provide him with the contact information for the construction manager to ensure that any concerns he may have regarding demolition or construction are responded to in a timely fashion.

We do not consider this an acceptable mitigation measure for impacts that demolition or construction will impose upon us. We will receive inadequate mitigation if we are forced to rely on Code Enforcement.

While Rubicon Point Partners submitted this letter as evidence of community engagement, Mr. Hornof and other residents did not receive any engagement from the developer outside of what was presented during planning meetings. We believe it is reasonable and necessary to be provided with mitigation that adequately addresses the risk imposed on 1770 Broadway residents by PLN18369.

The Effects of Housing Disparity Will Inflict Damage Upon Our Residents

In a March 2019 survey, 23 current residents from 1770 Broadway provided responses. We compared the survey responses with the 2018 Income Limits provided by the City of Oakland Housing and Community Development Department.

More than 35% of our residents reported income levels of Very Low. Their income level is below 50% Area Median Income, less than \$40,700 annually for an individual or \$46,500 for a household of two. The income levels of some of these residents are Extremely Low, a category we did not place on our survey. Many of these residents' incomes and rental expenses are bound by annual Consumer Price Index (CPI) increases. Another 26% of our neighbors reported Low Income levels.

The shelter of the majority of 1770 Broadway residents relies on affordable market-rate units and rent control measures provided by the City of Oakland. Should our apartments become uninhabitable, there are no comparable apartments where they can be relocated, affordable and centrally located within our City. This will disproportionately affect our moderate and lower income residents, including seniors and disabled persons. Our city has a responsibility to prevent the displacement of Oakland residents, especially those who are most vulnerable.

This Project is Not Consistent with General Plan Policies of the Central Business District

Our building, 1770 Broadway, is fully consistent with General Plan Policies of the Central Business District. It has been a fixture in our city since 1912, conforming with all plans between then and now. It will remain in compliance with the forthcoming Downtown Oakland Specific Plan. It provides 47 units of affordable housing, which is in very short supply. It meets density requirements and has no parking lot.

Policy D1.1

Enhance the visual quality of downtown by preserving and improving existing housing stock

The PLN18369 project would provide downtown Oakland with 307 luxury apartments. Thousands of luxury apartments in our area are nearing completion, under construction, or have been approved. These residential units will offer greater amenities, but will come at a price that we and other Oakland residents cannot afford. PLN18369 poses a direct threat to an historic resource: 47 units of existing affordable market-rate housing in downtown Oakland. These units may be taken out of Oakland's affordable housing stock if this project is allowed to proceed.

Policy D2.1

Downtown development should... harmonize with its surroundings...

The PLN18369 project does not create a pleasing balance with the existing structures on the 1700 Broadway block. While presenting this project, the developers, Rubicon Point Partners, made no attempt to harmonize with their neighbors. If this project were allowed to proceed, it not would harmonize with us.

Policy D10.5

Housing in downtown should... respect the downtown neighborhoods and its history.

As residents of 1770 Broadway, we represent the diversity that makes Oakland so special. Rubicon Point Partners has not treated our residents with respect. This is evidenced by the lack of authentic engagement as we have outlined in this appeal, and within the project plans they have submitted. PLN18369 was approved without respect to our testimony detailing the hazards of this project, and the threat that we may become displaced. The PLN18369 project is an affront to downtown's historic architecture and the existing neighbors who live within it.

We Dispute the Findings of Approval

The Findings For Approval for PLN18369, released on March 22, 2019, state:

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.

We have presented evidence how this development will adversely affect the livability of our abutting apartments. PLN18369 will touch every part of our lives, most immediately, our rights to decent living conditions and a healthy environment. In the long-term the location, size, and design of PLN18369 could effect the structural stability of our residence.

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 design may be well-related to luxury towers on other blocks, but is not well related on the block on which it is located. The claim by developers that they are "borrowing" from the great historic architecture of Oakland to place metal vents on Broadway is shameful and a violation of Oakland's rich history. PLN18369 has absolutely no compatibility with surrounding buildings on the block. This is evidenced, most notably, by the enormous height differential.

The Conditions of Approval for the PLN18369 Project Are Insufficient

Any acceptable Conditions of Approval would include the examination by building and housing inspectors. This would include licensed professionals to determine the impacts the demolition of 1750 Broadway and construction of PLN18369 upon 1770 Broadway residents.

We have asked for transparent and good-faith negotiation. We are entitled to a comprehensive and enforceable set of mitigation measures before any permits relative to our safety and quality of life are approved.

As the citizens of Oakland, we want our rights protected. We want to share similar conditions of approval that the City grants itself.

5. Compliance with Conditions of Approval

b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval.

13. Construction Management Plan

The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, storm water pollution prevention, noise control, complaint management, and cultural resource management. (See applicable Conditions, below)

The Conditions of Approval Should Account for the Potential Loss of our Apartments

The Implied Covenant of Quiet Enjoyment is a foundational concept built into every rental agreement. It affords a tenant rights, including the freedom from unreasonable and recurring disturbances from the landlord and/or other neighbors, and a premise that is free of bodily hazards. The construction of this project may force us out of our apartments due to noise, disruption of the foundation of our building, material which may fall upon us, or any other external impact which results denies us use of our apartments. Our building will not be a safe place to live while 1750 Broadway is demolished and PLN18369 is constructed. Breach of the covenant can result in an injunction and monetary damages.

We Are Asking for your Help

We love living in downtown Oakland and we believe there is room for new residents who will contribute to the city. However, putting existing and long-term residents at risk for the sake of new development is unacceptable.

This project will dramatically impact our quality of life and could put our housing at risk. Most at risk are our moderate and lower income residents, including seniors, disabled persons, and those on fixed incomes. Our displacement would cause even greater loss to our city – it will impact our employers, their clients and the citizens we serve, including some of Oakland's most vulnerable children and families. It will be a loss of human capital and culture, including the loss of artists and creatives who have contributed to the flourishing Oakland art scene.

It is our belief that we have provided the Planning Commission with sufficient evidence demonstrating why this project should not have been approved as planned. Without appropriate mitigation and assessment of impact, we believe this plan was approved prematurely.

PLN18369, the 1750 Broadway Project, must not be allowed to proceed without a sufficient set of mitigation measures approved by the impacted residents of our building. We have the right to a thorough, honest and transparent accounting of all the issues that we have contested in this appeal and prior public content. We have provided you with arguments and evidence that demonstrate errors and abuses of discretion that may have serious negative consequences for 1770 Broadway residents and the City of Oakland. 1770 Broadway residents have, at every part of the process, attempted to be engaged in order to gain information and voice our concerns. We appeal to the City Council to reverse the approval of this project until our concerns are addressed.

Thank you for your time and attention,

Residents of 1770 Broadway, Oakland CA, 94612

Brendan Friedrich, Apt. 101
Dominique Jones, Apt. 102
Mac Battle, Apt. 105
Joy Ou, Apt. 106
Stan O'Neill, Apt. 107
Joseph Hornof, Apt. 112
Pauline Luppert, Apt. 202
Scott Goff, Apt. 203
Angela Roberts, Apt. 103
Matt Perry, Apt. 208
Chad Abbley, Apt. 109
Roberto Abiog, Apt. 303
Kishira Caldwell, Apt. 305
Vikki Panchal, Apt. 305
Adria Anderson, Apt. 306
Velta Savelis, Apt. 307
Clay Kilby, Apt. 310
Stephen Merjavy, Apt. 311
Jwlhyfer de Winter, Apt. 312
Chao-Yi Joy Meng Apt. 401

Christy Booth, Apt. 402
Andre Owen, Apt. 402
Manar Harb, Apt. 403
Misheel Munkherdene, Apt. 405
Tsolmonbaatar Sergelen, Apt. 405
Vernie Yong Tim, Apt. 407
Brendan Kuklok, Apt. 408
Charles Barrett, Apt. 409
Rory Ross, Apt. 411
Brett Nichols, Apt. 412
and John Does living in Apartments 101-112, 201-212, 301-312, 401-412

Includes:

Appendix A – Public Comment presented to the Planning Commission, 2019
Appendix B – Public Comment presented to the Planning Commission, March 20, 2019
Appendix C – Excerpts from the transcript of the Commission Meeting, March 20, 2019
Appendix D – Photos of 1770 Broadway / 1750 Broadway

Appendix A

Case File Number: PLN18369, 1750 Broadway

Public Comment submitted to prior meetings of the
Design Review Committee and the Oakland City
Planning Commission

January 31, 2018

February 28, 2018

November 28, 2018

December 5, 2018

1770 Broadway Apt 112
Oakland, CA 94612
(510) 763-1488
hornof@earcom.com

January 31, 2018

Dear Mr. Rivera,

Thank you for speaking with me today. As you suggested, here is a letter you can forward to the Oakland Planning Commission Design Review Committee.

This is in reference to item 1 on today's agenda: Case File Number ZP170064; 1750 Broadway; APN 008

I am a resident of 1770 Broadway, and am typing a dozen feet away from where these new walls would rise. I have a number of concerns about how this project will affect the living conditions in our building. Before this project is approved, I think it would be fair and prudent for the residents of my building to have an opportunity to address our concerns.

Our five-story building has been a fixture in Oakland for over 100 years. A former mayor of Oakland, John L. Davie, once lived here. Our building is comprised of 4 retail shops on the ground floor and 48 apartments above, on 4 floors with 12 apartments per floor. Half of the apartments have windows facing outwards, half face inwards towards a light well.

This new proposal would envelope our building on two sides. It will throw our building into the shadows, blocking nearly all direct sunlight. That is one of my many concerns. And that is far down the road: first we will be impacted by the destruction of the current building and the construction of the tower. That may make our units virtually unlivable for the duration.

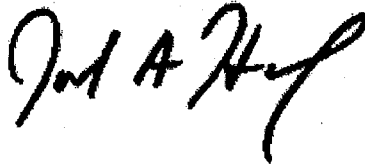
Some of the residents in our building have been here for years. Decreased conditions will affect them. Relocation may be hard for many of them. Moreover, we can tell you first hand the challenges we have faced living here, the changes we have witnessed from the development which has transpired and that which is under construction. These are livability issues that will face future residents of downtown Oakland.

I will attend this meeting tonight, but somewhat in a state of fear. I doubt many of my fellow tenants will appear. For a start, I doubt any of them noticed the public notice that was posted and subsequently has been removed. Nobody has provided our residents any notice of these plans.

I don't think we can have a proper discussion by filling out speaking cards; many of our tenants would be intimidated, including myself. I'm also somewhat afraid of possible reprisal. I have a very good relationship with my landlord, Ted Dang of Commonwealth Companies. Additionally, I recently began paying rent to 1750 Broadway LLC for a parking space in the back of our building. I don't want to imperil either of these landlord/tenant relationships.

Before this plan is approved, could you provide a time and space where we could discuss some of these concerns? We represent a good batch of proud downtown Oakland residents - we should work together. I would greatly appreciate that opportunity, myself.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe A. Hornof". The signature is written in a cursive, somewhat stylized font.

Joseph Hornof

1770 Broadway Apt 112
Oakland, CA 94612
(510) 763-1488
hornof@earcom.com
Re: Case File Number ZP170064; 1750 Broadway
February 28, 2018

Dear members of the Design Review Committee,

I supplied a public comment on this project prior to your meeting on January 31, 2018. While the committee mentioned in passing they had received my correspondence, none of my concerns were addressed.

I am a resident of 1770 Broadway. This project will dramatically affect the living conditions in our building. Before this project is approved, I think it would be fair and prudent to present the residents of my building full and detailed information, and an opportunity to discuss the impact of this project with representatives from the Planning Commission.

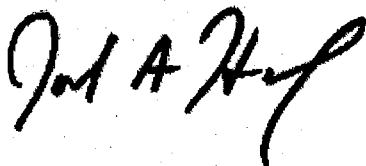
The 1750 Broadway proposal would envelope our building and cast it into the shadows, blocking nearly all direct sunlight. That is one of my many concerns. And that is far down the road: first we will be impacted by the destruction of the current building and the construction of the tower. That may make our units virtually unlivable for the duration.

Many of the residents in our building have been here for years. Decreased conditions will affect them. Relocation may be very difficult for some of them. Moreover, we can tell you first hand the challenges we face living here, the changes we have witnessed from the development which has transpired and that which is under construction. These are livability issues that will face future residents of downtown Oakland.

Subsequent to the January 31 meeting, I presented information to the occupants of my building, both residential and retail, and invited them to tonight's meeting so they can see how this process works. I believe this information should be presented to potentially impacted residents by the city itself.

After discussing this with my neighbors, I've received more questions and concerns, too many to list in this letter. Some of these issues may be somewhat private, not suitable to be published in public comment. These issues are real and valid. As citizens of Oakland, we feel we have both a right and a duty to ensure that they are addressed.

Sincerely,



Joseph Hornof

Re: Case Files PLN18369/ZP170064; 1750 Broadway

November 28, 2018

Dear Members of the Design Review Committee,

I supplied written comments regarding this project on January 31 and February 28, 2018. Several residents of my building attended your meeting on February 28 and voiced their concerns. We addressed many real-world questions regarding how his project will impact our quality of life and the well-being of our neighborhood.

It appears your Committee has chosen to ignore us. There is no mention of our concerns listed or considered in your report.

Moreover, you have printed a false statement not just once, but twice. It can be found in the Applicant's Letter with Responses, dated February 15, 2018, in Part 2, Page 37 of the 2018-11-28-DRC report. This false statement has been provided to the public in print and on the City of Oakland website.

I am listed by name six times in this single paragraph. I have had no discussion with the applicant regarding this project. This claim is entirely false. To the best of my knowledge, the applicant has had no discussion with any of my fellow tenants.

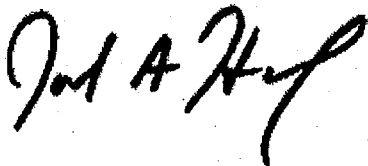
Our correspondence and comments were provided to the Planning Commission, from whom we have received no response.

Before this project is allowed to proceed, all statements attached to my name should be corrected and/or retracted.

Moreover, the applicant's decision to respond with an untruthful statement indicates that our fears are warranted and worthy of acknowledgment.

If the Planning Commission negotiates in the interest of the citizens of Oakland, we should be treated with respect. Our lives will be impacted by this project. We deserve a truthful voice in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe A. Hornof". The signature is written in a cursive, flowing style.

Joseph Hornof
1770 Broadway Apt 112
Oakland, CA 94612

Re: Case Files PLN18369/ZP170064; 1750 Broadway
December 5, 2018

Dear Members of the Design Review Committee,

Please forgive me - I'm having a hard time trying to learn how this process works. This is a follow-up to my public comment from 11/28/18, prior to the meeting scheduled last week.

It was only by chance that I learned this meeting was rescheduled. A public notice was not posted on the premises of 1750 Broadway. That sign still reads 11/28. Why does the City of Oakland website post only the agendas for these meetings, but no minutes or reports?

Yesterday I received a phone message from Christopher Relf of Rubicon Partners, the developers of this proposed project. I didn't list my phone number on the comment I submitted last week, but I would like to thank him for reaching out. I didn't get home in time to return his call and I'm not sure how to respond. I don't have the authority, expertise or resources to negotiate and enforce the mitigating measures that should be required for a project of this scale.

That's why I'm writing the Planning Commission, right? Isn't that your job? I'm sorry, I'm still trying to figure out how this works.

Tonight a neighbor with better eyes than me pointed out #7 in the background summary: Demonstrate communication with the affected tenant of existing facility. Once again, I appreciate Mr. Relf's phone call, but I am not the only affected tenant of a singular existing facility. There are 48 apartments in our building, along with retail on the ground floor, with neighbors up and down and across our street.

At a minimum, this communication should include:

- An informational packet including details of demolition and construction plans, timelines, how the completed building will affect our quality of life. Is this tantamount to eviction? Should we plan on moving out? What mitigation measures will be offered? Some of the residents in my building do not have access to the Internet. One is worried about living under such a big building in an area prone to earthquakes. If someone drops a coffee cup off this tower, it's plunging straight into our lightwell. The residents of my building will be literally, physically impacted.

- A community meeting to speak directly with Rubicon Partners and representation from the City of Oakland Planning Commission who can guide us and provide necessary oversight. Our neighbors at East Bay Paratransit could provide a conference room to host this. This is a humongous project. It deserves more than a kangaroo court - public safety is at stake. If the Planning Commission wishes to place due diligence upon my sole shoulders, I would consider that negligent.

Thank you for your consideration,



Joseph Hornof
1770 Broadway Apt 112
Oakland, CA 94612

Appendix B

Case File Number: PLN18369, 1750 Broadway

Public Comment submitted by residents of
1770 Broadway and their supporters

Presented to the Oakland City Planning Commission

March 20, 2019

Case File Number: PLN18369, 1750 Broadway

March 15, 2019

Dear Mike Rivera,

My husband and I have lived at 1770 Broadway since August 2013. We are originally from NC and having this affordable place to live enabled me to study counseling psychology at a local graduate school and, since 2015, serve low-income families and children throughout Alameda County with quality mental health services. The invaluable services I and others like me provide are in jeopardy as the high cost of living has forced many young mental health professionals to leave the bay area or leave the non-profit sector. I work for a non-profit that receives county funds. We work to prevent and end child abuse.

I am also an artist and have contributed to Oakland First Fridays and other local events. I am concerned that the creative community I have actively contributed to is being exploited by those who seek an easy payday without giving anything to the community in return.

Please help us save our building. If 1750 goes up as planned, I will no longer be able to live in my apartment, leaving my job and the bay area altogether. Noise, traffic, pollution, and rising costs in the neighborhood are already significant stressors. If 1750 is built, my bedroom window will be one of the windows only inches from a concrete wall and directly exposed to "28-36 months" of construction, fumes, and any other danger this construction will pose to my wellbeing.

Of what I have read in the CEQA report, I am concerned that 1770 Broadway has no recognition as a place that will be impacted. We are 48 units of hard-working members of the community and we should not be invisible. The shadow study insufficiently describes the impact to our building. The traffic study relies on data from 2017 and does not take into account numerous current factors impacting congestion in the uptown/downtown area, including the addition of scooters, new businesses, road closures due to additional new construction, and ongoing festivities such as marathons, parades, protests, and rallies. I urge you to reconsider the validity of the CEQA report and demand further study into current traffic patterns and health costs to current residents, including the mental and physical toll of living with noise pollution and limited sunlight. We are being squeezed into a dark, noisy, shaft.

I have no doubt that I will be displaced as a result of this construction. Moreover, I can afford to earn a minimal wage working at Family Paths, the non-profit I am employed at full-time and live only 4 blocks from, because I have rent control. For me, losing my housing means leaving my job, and abandoning the dozens of families I support in order to reduce their risk of negative life outcomes, including depression, suicide, child abuse, substance abuse, gang involvement, and stunted academic progress. I am bilingual and serve the Latinx immigrant community. We always have a waitlist--of families in crisis!--

because we do not have enough bilingual mental health professionals in the bay area. Families in crisis should never be told they have to wait for help, yet families end up waiting for months while their problems get worse.

Where is the affordable housing for people like me who work every day to create a better community by enriching and empowering lives? Allowing the proposed building at 1750 Broadway sends the message that Oakland is only for the wealthy and that Oakland officials are unable to recognize the actual lived experiences and valuable contributions of their low- and middle-income residents.

Please help us save our building and make a commitment to ensuring stability and safety for low- and middle-income residents.

Sincerely,

Christy Booth
1770 Broadway resident

Public Comment on Case File Number: PLN18369, 1750 Broadway

March 15th, 2019

Mr. Rivera,

I am a resident at 1770 Broadway. I have concerns about the size of the proposed construction at 1750 Broadway and safety risks this construction poses. During construction, something could easily drop from this building onto and through my roof, damaging the building structure or worse, hurting residents.

Additionally, the duration of construction is expected to last up to 36 months. That is 3 years of sleep I will never get back. I work nights and sleep during the day. My bedroom faces south and will be pressed against the proposed parking garage.

Can you guarantee me that noise, dust, and other safety risks will not adversely impact my health?

Could a smaller building with an appropriate amount of space between buildings be a solution? Also, where are the low-income units?

Oakland already has many new constructions of luxury and market-rate apartments. Oakland needs more affordable housing and the planning department needs to stand up to developers, demanding affordable units and refusing an easy payout.

I request that Oakland planning put a stop to taking developer's money and letting developers have an easy go of our city. Oakland deserves more than a simple impact fee, we need housing that will contribute to the culture and prosperity of Oakland by providing shelter to low- and moderate-income residents who are currently underserved.

Where does that "impact" money go, anyways?

We need more housing, yes, but we do not need to sell ourselves short and, in the process, endanger residents. Make new developments work for Oakland and don't rush to approve projects that are ill-advised. Please do not approve this project as proposed. By the looks of the current proposal, I will be buried alive.

Sincerely,

Andre Owens
1770 Broadway Resident

Public comment on the 1750 Broadway high-rise.

March 15, 2019

As the Executive Director of Family Paths, an Oakland based non-profit that employs over 80 people to provide mental health services and supportive services, I am extremely concerned about the lack of affordable housing in the planning for this new construction. Non-profit employers who serve the most vulnerable Oakland residents are losing our workforce due to the housing crisis and lack of affordable housing for our staff. I urge the planning commission to strongly prioritize the construction and preservation of affordable housing so that small and mid-size businesses can continue to hire local residents. The City is losing precious human capital that helps this community thrive and I urge you to plan for them as well and require affordable units in this project.

Barbra Silver, MFT
Executive Director
Pronouns: she, her, and hers
Family Paths, Inc.
510-893-9230 ext. 227
bsilver@familypaths.org

Public Comment on Case File Number: PLN18369, 1750 Broadway

March 15, 2019

Mr. Rivera,

My name is Clay Kilby, and I'm writing to express some concerns about the new construction planned for 1750 Broadway, Case File Number: PLN18369.

I'm a resident of 1770 Broadway and have been for just over three years. I run a small creative agency serving non-profits and I work from home. This apartment has been a true gift to me because of the proximity it has afforded me to the organizations I work with and the opportunity to live within the community I am working to support.

Upon becoming aware of the new development at 1750 Broadway, I have become concerned. My apartment, on the third floor, faces the area set aside for the new building's construction staging. It seems unlikely that I will be able to work productively during the day with the noise and inconveniences of construction, which is projected to last for years. Though I have loved living here, and have no desire and little ability to move, I believe I will be forced to relocate when construction begins. I am uncertain about my future. Having been here for years, I am quite dependent on my rent controlled rate. I doubt I will be able to afford another apartment in the area, and will be forced to consider moving out of Oakland, which has been my home for much longer than I have been at 1770 Broadway.

But my deepest concerns over this project are not over my own wellbeing. In talking with my neighbors in my building and across the street I have come to realize that many will real harm to their quality of life, far beyond my own, as a consequence of this project. Many in my building will loose their only access to the outside world as their windows will be covered over by the new building's walls. Across the street many residents expect to loose their windows too, but to an overabundance of light, as the new structure reflects glaring light into their apartments during the day, and beams artificial light in at night. At the recent public planning meeting the developer representatives for the 1750 Broadway project offered access to their proposed dog park for these residents, which I consider a woefully inadequate solution. These residents should be compensated financially in an amount that would allow them relocate to a similar property in the neighborhood, or should be offered a comparable apartment at 1750 Broadway, subsidized to their current rent. I'm not advocating for a handout or windfall here. When doing harm to the life of another, the most appropriate solution is to compensate them in amount nearest to the harm they received in the form nearest to what has been lost.

My second concern is for the residents of downtown Oakland more broadly. The cost of living here is already extraordinarily high. I am not opposed to new development. I

believe it to be a necessary part of the solution, reducing housing cost by reducing housing scarcity. I am however opposed to regressive development, that which adds housing only for the wealthy and at the expense of the poor. I am not opposed to the influx of new residents of wealth or any class, from San Francisco or anywhere else. Oakland welcomed me some years ago and I have been grateful to call it my home ever since. But I am concerned about new development which serves only those with means, and excludes those without, especially those who have already worked so hard to carve out a life here. For too long we poor residents have been told to accept new construction intended only for the wealthy. That serving them would somehow, someday trickle down to help us. It hasn't. It won't. This new building should include copious amounts of affordable, below market rate units for residents of limited means, much more than is currently proposed.

During the recent meeting I attended, developer representatives told us that they were attracted to this location by the distinctive "Uptown vibe," showing us photos of its iconic buildings, the Fox, the Paramount, the Magnin Building. They claimed to be inspired by these structures and duty bound to make their building one that would do service to the aesthetic of the neighborhood. I don't think they're wrong about the uptown vibe. It is a beautiful, diverse, creative, and fun place to live. But this uptown vibe is not defined by its architecture. It is defined by its residents. They are hardworking. They are diverse in ethnicity and in class. They are artists, and public servants, and entrepreneurs, and families. They are the architects of the uptown vibe. They have a right to remain here. They are the life in this city. Without them all the iconic buildings, and this new construction too, will be little more than dead boxes.

Thank you,
Clay Kilby
1770 Broadway #310
wckilby@gmail.com
864-710-4994

Re: Case File Number: PLN18369, 1750 Broadway

March 17, 2019

Hello Mr. Rivera-

I am writing this note to express my concern around the projected construction on Broadway between 17th and 19th streets in Oakland. I am a resident of the building (for two years) and a native of Oakland. I am very concerned about a next high rise development occurring so close to my residence when there are already so many high rise developments occurring at this time in Oakland. It is very stressful to live with the constant din of construction and I am becoming increasingly disturbed as the demolitions, jackhammering, cranes and cement mixers are constantly active around this neighborhood.

I am also concerned about the displacement of even more folks from Oakland and dismayed at the thought of yet another monstrosity, taking away natural sunlight and fresh air from those of us who live and work here.

I am aware that none of the new living spaces will be affordable to myself nor most working or disabled/elderly people in Oakland and implore you to take into consideration those of us living at 1770 Broadway who may not have other affordable/convenient options available.

I am also concerned about green space in our vicinity. This area needs at least 5 trees per block on either side of the street to offset all of the pollution created by development. Are green walls and roofs being considered? Not just for projected wealthy tenants, but for historic neighbors and the general public? The well being and health of the neighborhood?

Thank you for your time and consideration in reconsidering this new "project"...

Kindly,

Velta Savellis
1770 Broadway Resident

Case File Number: PLN18369, 1750 Broadway

March 17, 2019

Hi,

I am writing to express my strong objection to the continued development of expensive luxury apartments in Oakland. I have lived in Oakland for the past 30 years and raised my daughter here. For the past almost 18 years I have also worked at a nonprofit in Oakland that serves the most vulnerable members of our community. As my daughter graduated from college 2 years ago and returned to the Bay Area, I was initially excited to see the construction of so many new apartment buildings around the city. Then I was shocked to discover that they all seemed to be luxury apartments that are very far out of the price range not only for my daughter, who works at a local school, but also for all of the experienced professionals I work with who are living on a non profit salary. While I am happy to see Oakland thriving, I am very troubled by this trend which seems to care more about the tech and business community that is new to Oakland and less about those of us who are already here and helping to make and keep Oakland the great city that it is.

As the Planning Commission of Oakland, I hope you will prioritize Planning for the citizens Oakland and not allow Oakland to become the next San Francisco where only the richest of people can afford to live. We need our diversity, we need to support our local workforce and we need to make it possible for the people who were raised here and who love Oakland to live here now and in the future.

I urge the Planning Commission to make the construction and preservation of affordable housing it's top priority. There are already enough luxury apartments here. Please do the right thing so that Oakland can stay a home for all people....that's what makes it Oakland! Thank you, Nancy

Nancy Morosohk, LCSW
TIPS Program Manager
nmorosohk@familypaths.org
Pronouns: she, her, and hers

Family Paths
1727 Martin Luther King Jr. Way #109
Oakland, CA 94612
(510)893-9230x217

www.familypaths.org

Case File Number: PLN18369, 1750 Broadway

March 18, 2019

Dear Mr. Rivera:

I have been a resident of 1770 Broadway since 2007. I have lived in Oakland, on and off, since 1966, and I am proud to call myself an Oaklander.

As you are aware, another large-scale development is looming Downtown/Uptown: 1750 Broadway.

I am concerned about the noise, dust, traffic, air quality, safety, natural sunlight (or lack thereof), lack of parking during construction, the economic impact of local businesses during construction, and the overall inconvenience.

While I do recognize the need for additional housing, I also recognize the impact this project will have on my fellow residents and local businesses.

What is the City of Oakland doing to mitigate these issues?

Sincerely,

Matt Perry
1770 Broadway, #208
Oakland, CA 94612
mcp514@gmail.com

Case File Number: PLN18369, 1750 Broadway

March 18, 2019

Dear Commissioner Mr. Rivera,

Hope your day went well. This email is to advocate for all residents at 1770 Broadway apartment building and the residents nearby.

I have been living at 1770 Broadway since December 15th, 2001. As a long term resident and immigrant, I am here to URGE you stopping the possibility of building a luxurious skyscraper at 1750 Broadway for the following 3 major reasons:

1. Three years of construction will be unsafe and unhealthy to neighbors within 5 blocks of all directions - we, residents at 1770 Broadway apartment building, would suffer the most from potential construction errors - very likely to destroy the foundation of our historical apartment building(1910's), endless noise/air pollution, and lack of access for sidewalk heading toward city hall, where lots of activities happen. We people who live in 1770 Broadway deserve better quality of fear-free live. This potential long term construction would not possibly pass any evaluation of safety and health (our mental health would be ruined by consistent anxiety and stresses).

2. Oakland Mayor has the obligation to END GENTRIFICATION but not introducing it to downtown Oakland. I came to Oakland in 2001 from Taiwan for its' historical activism for civil rights, for its' origin of Black Panthers' movement, for its' hip-hop/ black and brown culture (enriching American culture globally for decades), for its' home of Tupac's legacy impacting young people around the world to this date, for its' socio-economic equity, and for its' nurture for people who are willing to serve for the under-served communities with limited incomes. An "out-of place" high skyscraper that is designed for the 1% simply doesn't fit in our Oakland spirit. We, the 99%, OCCUPIED OAKLAND for fighting against greedy bankers and cooperates downtown Oakland right here in October 2011. This skyscraper at 1750 would take away the Oakland spirit and push us 99% out of downtown Oakland.

3. There are way too many luxurious buildings (built or currently under construction) within 10 blocks in every directions nearby 1750 Broadways. Oaklanders DO NOT NEED to have more buildings serve the wealthy; city of Oakland has historical responsibilities to provide affordable housing and increase the mobility for people who live in East and West Oakland moving to downtown Oakland, which would decrease culture and racial segregation by zip codes. **I urge you, Mayor Schaaf, please preserve downtown Oakland as one of the very few areas where reflect on true current American populations.** The history is in your hands - for the people or for cooperates. You promised us Oaklanders to serve the people during your two champions. Please do not disappoint Oakland like most of politicians.

I am serving for OUSD students whose mental health is severely compromised (high scores of childhood adversity). These precious young lives are the victims of segregating people by our abilities gaining capitals and our skin colors. The skyscraper at 1750 Broadway would segregate us much further more socioeconomically. I urge you to give us HOPE that the students and their families that I love from bottom of my heart could one day afford living in downtown Oakland experiencing inclusiveness culturally and socioeconomically.

Respectfully,

Joy

Chao-Yi Meng
Instructional Support Specialist
Incentive Counseling Enrich Special Day Class
Home Address:
1770 Broadway, Apt. #401
Oakland, CA 94612

Home: 510-590-9243
Cell: 510-219-4901

Re: Case File Number: PLN18369, 1750 Broadway

March 18, 2019

Dear Planning Commissioners,

I have lived at 1770 Broadway for nine years, now. It is my home, as well as the home of my partner, Angela Roberts, with whom I moved into our apartment almost a decade ago. Prior to that, I have lived in Oakland since 2002, and Angela since 2005.

Angela works at a nonprofit, the Progress Foundation, that operates an array of recovery houses in San Francisco and the North Bay, serving people with mental health, addiction, and chronic homelessness issues, helping them to stabilize and access the services they need to get back on their feet. I work at a company called Ponoko in Oakland, associated with the "Maker Movement" and offering laser cutting services to a wide array of people: Etsy sellers, hobbyists, students, inventors, tinkerers, hardware manufacturers, dreamers, movers, and shakers. We are also both active in the Oakland arts community, helping to enrich the place we call home by pouring our creative energies into playing music at shows and participating in the literature scene. We both bring great value to this Bay Area community, but like many others, still find ourselves placed squarely into the fringe due to increasing pressures induced by the greatly inflated housing market blooming in Oakland.

With this inflated housing market in mind, the proposed project at 1750 Broadway is almost a perfect foil for Angela and I. It is a building not designed for us, therefore exclusionary. It offers no value to us, longtime residents of the city and its proposed neighbors. The only things that this development presents to us, and to all the residents of 1770 Broadway and our current neighbors, at large, are twofold: a big metaphorical "GET OUT" sign, dangled in our faces and impossible to ignore, and a very real, very physically and mentally stressful 3 year intrusion into our lives at 1770 Broadway.

I realize that projects like this are inevitable in cities, but as someone involved in the planning and permitting of this project, you have to realize the impact it will have on residents of neighboring structures, especially in the case of the residents of 1770 Broadway. Most of us cannot afford to move elsewhere, lest we lose our rent control and are priced out of this city entirely. The reality is that for many of us, this is our last foothold in the city we love and call home. And, if the 1750 project goes through as planned, it will literally envelope our home on two of four sides, with constant traffic and interruption of our lives on the remaining two sides bordered by the city streets. This will be our reality *for three years*, with incessant noise, construction dust and grime, street constrictions and closures, danger from overhead cranes, blockage of natural light, and general chaos from the proposed 7am to 7pm on weekdays, and 9am to 5pm on Saturdays. Is this how you would want to live? In your own home? For *three years*?

And then, should this project be finished to completion, the city will be left with 307 new units, filled with new residents being sluiced into surrounding city infrastructure that was never designed for even the current number of residents. To green-light such a project without first expanding and fortifying the surrounding city infrastructure, at the whim of real estate developers who are doing this not for Oakland, but because they feel they can profit from this venture, seems at the very best ill advised, and at worst highly unethical. And ultimately, we current residents will be the ones to feel the first wave, the brunt, of the effects on our neighborhood. From the first breaking of ground on the project, through to its opening, we will suffer if there are not steps taken to mitigate the situation.

I am not a city planner or a real estate developer, nor am I a contractor, architect, or construction worker. I am simply a resident of this city, which I love dearly and wish to flourish. Oakland is a rich tapestry of culture, arts, and history. I do not think that the way for it to flourish is through subjecting the people who make this city the jewel that it is to years of physical and mental abuse. If you do not speak up on behalf of the residents of this area, you will be doing Oakland a great disservice. Oakland has not and should not be about 36 story buildings with literally no affordable housing contained within. Such buildings and the people who propose to build them are not representative of the fabric of Oakland, and are simply profiteering based on our currently inflated real estate market. The elected and appointed members of our city government should be fighting on our behalf, and at the very least mitigating the impact of this development on the residents of this neighborhood to the highest degree possible. I urge you to take our situation into account when dealing with the proposed development at 1750 Broadway. Our way of life depends on your care and concern at this point, and if you do not listen to us, who will?

Sincerely,

Scott Goff and Angela Roberts
(510) 517-1433
1770 Broadway #203
Oakland, CA 94612

Re: Case File Number: PLN18369, 1750 Broadway
March 19, 2019

Dear Planning Commission Members,

We live at 1770 Broadway, directly adjacent to 1750 Broadway. Our walls physically touch. The new project will encircle our rear exit, and rise 423 feet above our heads. Before you approve this project, we have a number of concerns we hope you will address. We also believe the project may violate numerous regulatory schemes.

This project would dramatically impact our quality of life. Its construction could risk our personal safety and displace the current 48 tenants at historic 1770 Broadway. Some are elderly or disabled and will require assistance. Our displacement would cause even greater loss to our city: it will impact our employers, their clients and the citizens who we serve.

Here are some of the problems we need to address.

1) Planning Process

The planning process has not been transparent. It is difficult to find Planning Commission information on the City websites. Agendas are posted, but the decisions are not. Meetings have been scheduled and postponed at little notice, which decreases a citizen's ability to participate. Citizens have presented concerns that have not been addressed and questions which have not been answered.

We were informed of the first community meeting held for this project with only 30 hours notice. This meeting was held on Tuesday, February 26, 2019, shortly before the Planning Commission meeting originally scheduled for March 6, postponed until today. Only seven of our 48+ residents were able to attend this community meeting, due to such short notice. There we learned details that had not been presented at previous Planning Commission meetings, such as the duration of construction: 28-36 months. Our jaws dropped.

The developers of this project presented false information in prior reports to the Design Review Committee. They reported discussions with myself and residents of our building that never took place. This has been reported to the Planning Commission, as evidenced by the public comments in the March 20, 2019 Staff Report:

<https://cao-94612.s3.amazonaws.com/documents/2019-03-20-PC-Item-01-for-Publication.pdf>

In the Staff Report, February 28, 2018, page 8, the developers wrote:

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak069364.pdf>

Finally, we received the letter from Joseph Hornof, our neighbor at 1770 Broadway, the day of the DRC hearing. Following the DRC hearing we reached out to Mr. Hornof to discuss his concerns in more detail. We discussed with him, as we mentioned during the DRC hearing, that the project will be incorporating a mural along the garage walls and will be setting back the building from the property line by three (3) feet. We are discussing the concerns regarding light with Mr. Hornof's landlord as well as with Mr. Hornof and his fellow tenants and are also discussing their concerns regarding demolition and construction. The project will be required to comply with the City's standard conditions of approval regarding demolition and construction and we believe compliance with these measures should help mitigate Mr. Hornof's concerns. We also will provide Mr. Hornof with notice of key construction milestones and commit to provide him with the contact information for the construction manager to ensure that any concerns he may have regarding demolition or construction are responded to in a timely fashion.

The developers may have received the letter I submitted to the Design Review Committee, but we never discussed this project. To the best of my knowledge, no discussion with any of my fellow tenants was held until our first community meeting, one year later, prior to the Planning Commission scheduled for March 6. Representatives of East Bay Paratransit reported similar false statements presented during their negotiation with the developers.

2) CEQA report

Today this project will present its CEQA report.

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak072045.pdf>

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak072046.pdf>

We are not CEQA experts and it is beyond our means to challenge this report in a court of law. Nonetheless, the City of Oakland has a responsibility to preserve public health, safety, and welfare, and to advance the housing policies of the city with regard to low- and fixed-income persons, people of color, students, and those needing special protections, such as long-term elderly and disabled tenants. **The deficiency of this CEQA report is contained within the single sentence that references our building, with only one word acknowledging our human existence:**

A five-story mixed-use residential building with ground floor retail is located adjacent to the existing building to the north (1770 Broadway), and is occupied by multiple restaurant and commercial tenants including Oaksterdam University, a cannabis educational facility; Zaya Café; and Sweet Belly Desserts.

This description and the remainder of the CEQA report entirely disregards the adverse impacts this project will affect upon the residents of our 48 apartments. If this report is intended to be accurate, transparent and reflect real-life, we have some questions:

a) Shadow Study

The CEQA report is deficient in that it fails to adequately consider the shadow the new project would cast on our building.

In Appendix G. PreVision Design states:

Under City of Oakland thresholds of significance, a project would have a significant shadow impact if it would:

D. cast shadow on an historic resource such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its designation as an historic resource.

Our 5-story building, 1770 Broadway, is a historic resource and listed as such in 1750 Broadway's CEQA report under Project Setting. The Bauer Apartments were constructed circa 1912 by Righetti and Headman, renowned Bay Area architects. There are two retail stores and two cafes on our ground floor. Above that are 4 floors of apartments. Our apartments are both affordable and market-rate. The Bauer Apartments are historic not just for their facade, but their purpose, which includes the former residence of Mayor John L. Davie. Yet the impacts upon 1770 Broadway are entirely absent in this CEQA report, including this Shadow Study.

Our building has already sacrificed significant sunlight to our city's new luxury towers. The shadow study for 1750 Broadway is out of date - it was prepared January 25, 2018 and does not include 1640 Broadway. The shadow study diagrams do not accurately portray the additional sunlight our residents would lose to the 1750 Broadway tower. We demand to see more accurate data. Once 1750 Broadway is complete, we may live in a perpetual cave. Sunlight is important for physical and emotional health. Any new building proposed between us and 1640 Broadway should be staggered in height, to preserve our remaining natural sunlight.

b) Pollution:

The CEQA report fails to adequately consider the additional pollution the tenants would suffer. Our entire building is the size of 1750's parking garage, which will stretch from levels 2 through 6. The ventilation of exhaust from this garage will flow directly to our windows. We request a more thorough report of this impact.

We also have significant concerns regarding the pollution that will be generated during construction, which could span three years, addressed below.

c) Traffic: Broadway at 19th St was designated as a high-injury corridor in Oakland's 2017 Pedestrian Plan. The 2017 traffic studies are outdated and need to be recalculated with new traffic patterns, including electric scooters and rideshare, projects recently completed, under construction, or approved. This block of 19th St. currently features two busy parking lots; this number will double, with additional sets of entrance/exits on each side of the street.

The CEQA report characterizes the current structure at 1750 Broadway as an "underutilized site with outmoded facilities and/or marginal existing use." That would be disputed by the current occupants of this building, East Bay Paratransit, and the citizens who benefit from their services. East Bay Paratransit has been on our block for over two decades and have characterized this

building an ideal location. They have a long-term lease on their facilities. This site provides their clients access to a BART elevator directly from their building. Their small, gated surface parking lot allows for safe ingress and egress from their busses. This reference to their building as underutilized and/or marginal insults their service, their ridership, and the Americans with Disabilities Act (ADA).

3) Construction

Construction of the new project will endanger our safety and likely lead to lawsuits.

A land use impact due to construction activity is a function of the intensity and duration of construction work, the sensitivity of land uses adjacent to the construction areas, and distance of these land uses to the construction site. Construction-related effects that can result in land-use conflicts include increase in noise, increase in dust levels and other pollutants, traffic and circulation issues, and decrease in safety. A significant socioeconomic construction impact would occur if construction activity diminishes the use of our apartments.

The Implied Covenant of Quiet Enjoyment is a foundational concept built into every rental agreement. It affords a tenant rights including the freedom from unreasonable and recurring disturbances from the landlord and/or other neighbors, and a premise that is free of bodily hazards. The construction of this project may force us out of our apartments due to noise, disruption of the foundation of our building, material which may fall upon us, or any other external impact which results in a red tag hazard. Our building will not be a safe place to live while 1750 Broadway is constructed. Breach of the covenant can result in an injunction and monetary damages.

In their CEQA report, the developers claim:

There is nothing unique or peculiar about the Project or its construction that would suggest that the Proposed Project would have greater noise impacts than other typical high-rise construction projects within Downtown Oakland

Contrary to this plan's claims, it is not comparable to other projects. At 423 feet high, it would be the tallest building in Oakland, with the deepest foundation, another 150 feet below the surface. It has the longest construction timeline, longer than other tower projects. Here again, they ignore our existence. This project entirely is unique due to its prolonged impact upon existing residents and their proximity to this impact. We have 12 apartments in our building which touch the existing building they intend to demolish, plus another 4 apartments immediately above that. The rear of our building and its 12 apartments will be impacted, as they will face the area where heavy equipment and building materials will be staged, within a 50 foot distance from their living spaces.

The developers claim:

The Proposed Project would comply with the City of Oakland Noise Ordinance

Oakland Planning Code section 17.120.050 states the Maximum Allowable Receiving Noise Level Standards.

TABLE 17.120.02

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS

Cumulative Number of Minutes in Either the Daytime or Nighttime One Hour Time Period	Anytime
20	65
10	70
5	75
1	80
0	85

Sound levels of 80 dB are permitted for one minute per hour; sound levels over 85dB are not permitted. If construction lasts 28-36 months, this construction zone will impact us for a great portion of our lives. Long-term construction or demolition operation is defined as 10 days or more; this construction will take place over a minimum of 850 days, or 1095 days if it stretches over 3 years, which we anticipate. Oakland Planning Code lists the maximum allowable receiving noise levels for construction and demolition:

TABLE 17.120.04

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

	Daily 7 a.m. to 7 p.m.	Weekends 9 a.m. to 8 p.m.
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

In the Health Risk Assessment, Appendix C, the CEQA report states that Concrete/Industrial Saws will be used for 8 hours per day for 59 days during demolition and grading. At their source, concrete saws are deafening, reaching sound levels over 110 dB. They will be used to cut through thick concrete mere inches from our windows. Their sound level is 90dB at a 50 foot distance.

Demolition and grading will entail 3,188 hauling trips; over 300 hauling trips per day during the grading process, removing 24,500 cubic yards of excavated materials. A clam shovel dropping material into a dump truck has a sound level of 93 dB at 50 feet; the dump truck contributes another 84 dB at this distance.

Building Construction is estimated at 494 days. The CEQA report omits the number of the hauling trips required to deliver material to this site. A concrete mixer truck is rated at 85 dB at 50 feet. While concrete is being poured an air compressor adds another 80 dB at that distance.

These are just a few examples of construction activity which will violate noise ordinances. The cumulative sound levels of all construction activities and their duration must be calculated. Construction of this building will take up to three years, and the health risks regarding noise are not theoretical. Exposure to a noise level of 85 dB for even one workday can produce hearing loss. Chronic exposure to noise levels as low as 65 dB can increase adrenaline and stress hormone levels and elevate blood pressure, which increases the risk of heart disease and stroke.

We do not believe the particulate pollution that will be emitted by construction has been accurately calculated. It gets worse - will the demolition of the current building release asbestos?

The Proposed Project would also include demolition of the existing building totaling an area of 27,600 square feet. The existing building may contain Asbestos Containing Materials (ACM) which could pose a health risk to workers and nearby receptors during demolition.

As nearby receptors, before this project is approved, we demand this question is answered.

A building of this size in such close proximity to our living spaces presents another significant safety issue: gravity. Will their crane swing heavy material over our heads, above our airspace, up to 500 feet in the air, over 494 days of operation? Where it will be affixed to their structure at great height, a short horizontal distance away from our apartments? Where if anything should slip, it could crush through our roof or fall into our center light well and crash through our windows? The City of Oakland would be negligent to place its citizens in such a position of great risk.

CEQA mandates that an analysis of a project's impacts consider whether the project might cause existing environmental hazards to get worse. For a project of such long duration, one such hazard is the impact of construction traffic. 19th St. is a busy pedestrian and vehicular traffic corridor. If 1750 Broadway is under construction at the same time as 1900 Broadway, both sides of 19th St. will be clogged due to additional construction traffic. If construction occurs sequentially, it will be noisy and congested for a longer period of time. The impact of construction of both of these and other projects must be considered together, as this is how they impact our city.

This project will require the removal and replacement of the 19th St. BART elevator. For how long will disabled citizens lose access to a central BART station? The construction of 1750 Broadway will cause additional impact upon infrastructure which is already suffering impact from neighboring construction projects.

4) Increase in Housing Disparity and other long-term effects

No replacement apartments similar to ours are under construction in downtown Oakland. The approval of 1750 Broadway's luxury apartments will fall outside the housing guidelines set by both

Enforcement of these guidelines have been lax, but Governor Newsom may change this. In his first budget speech, he suggested withdrawing gas tax money from cities if they don't meet regional housing targets.

<https://www.sfchronicle.com/bayarea/article/Newsom-touches-a-nerve-by-connecting-gas-tax-13546364.php>

Approval of additional Above Moderate units will result in further non-compliance. These guidelines were put in place to build healthy, vibrant communities where the needs of all residents are met. Regional Housing Needs Allocation guidelines cannot be deliberately and flagrantly flaunted. If this trend is not reversed, it may adversely affect the financial health of our City and its residents.

5) Funding

The funding mechanisms employed by neighboring downtown projects have been somewhat suspect, as is the proposed funding for 1750 Broadway. Last year, the Planning Commission extended another one-year extension for the 1900-1944 Broadway project. This building is being funded via EB-5 visas, a program that has been noted for rampant fraud. Meanwhile this block across our street remains sitting in blight. The historic Tapscott Building has been entered by homeless people and peeping toms.

In lightly reported news last September, it appears 1750 Broadway LLC tokenized their ownership of their property. As the listed developers, do they intend to finance this project via a blockchain product?

<https://www.globest.com/2018/09/21/how-one-group-of-owners-tokenized-an-office-for-greater-liquidity/>

By Erika Morphy | September 21, 2018

SAN FRANCISCO - It is all well and good to hear the theory behind blockchain and how it can help commercial real estate, but to see it in action is another thing all together. Case in point: A group of owners of an office building in Oakland, CA's uptown district just tokenized the building to provide greater liquidity and make it easier for the owners to sell and exchange their shares.

Essentially this was a securities transaction, according to Razmig Boladian, co-founder and managing partner of Real Estate Private Equity firm Rubicon Point Partners. Boladian spoke to GlobeSt.com on behalf of the building owners. "It was a faster, cheaper and more liquid route instead of trading paper," he says.

The transaction complete, the shares have already been distributed among the owners, he adds. The owners used Flote, a fintech startup based in San Francisco, to tokenize the shares of the office building, which is valued at \$10 million. Flote provides software and services to fractionalize large commercial real estate assets into tradeable tokens on blockchain.

Because it is a new method of finance, some users can be leery of it, Roland Pan, CEO of Flote, tells GlobeSt.com.

The developers have not divulged this information to the Planning Commission. Flote is a very cryptic form of cryptocurrency. Roland Pan is a mystery man. Flote has no website or publicly available information.

1750 Broadway LLC is required to fulfill specific financial obligations to the City. Who are these owners? Are their funding sources legitimate? Are they legal, secure and accountable? As our apartments may be catastrophically impacted, we have a right to know this information, as damages may cause us to seek redress. The citizens of Oakland may wish to be informed of the funding sources for this project. Why has this been kept secret?

6) Appeal to City Council

We believe we have provided the Planning Commission sufficient evidence demonstrating why this project cannot proceed as planned. Any project for the 1750 Broadway parcel must start with a sufficient set of mitigation measures approved by the impacted residents of our building. Should this project go forward, we will seek injunctions and appropriate monetary damages.

If this project returns to the Agenda of future Planning Commission meetings, we request 28 days notice prior to this meeting. The developers have been allowed to set the schedule and spring meetings on us with little warning, resulting in insufficient time for us to prepare. We have been living under the threat of this life-altering project and its potential impacts for over a year.

The 1750 Broadway project requires a Major Conditional Use Permit. If the Planning Commission approves this project, we intend to appeal this decision in front of the City Council. If the Planning Commission finds this project is in accordance with current city policy, *we will address this policy at a level where its consequences can be considered.* We will enlist greater public support and engage other organizations who share these policy concerns.

We have been quoted an appeal fee of \$1,891.08. This fee is not listed in the City of Oakland Fiscal Year 2018-9 Master Fee Schedule or anywhere else on the City's website. This fee should be published as public information. We will raise this fee through crowd-funding and must provide transparency to our donors.

Our appeal will raise each and every issue that is contested above, along with all the arguments and evidence other residents of 1770 Broadway have placed in the record and presented to the City Planning Commission prior to the close of its public hearing on this item.

Thank you for your time and attention,

Joseph Hornof
1770 Broadway #112
Oakland, CA 94612

March 19, 2019

Dear Mr. Rivera,

I am writing in regard to my concerns around the proposed development at 1750 Broadway. I have been living at 1770 Broadway for the last year and a half and think this development would significantly affect the quality of life in our building and irrevocably change the neighborhood.

1. Noise/air pollution: I live in a 3rd floor apartment facing the parking lot where the staging area for the construction of 1750 Broadway will be. Since I often work at night and sleep in the day this project will likely have effects on my health, as my ability to rest will certainly be curtailed. I'm already finding difficulty with maintaining a restful atmosphere with the beginning of construction across 19th street. If this project is to move forward and I'm looking at multiple years of noisy construction disturbance, I may need to move.

2. Parking: Street parking and movement in the 19th street area is already limited and congested by the numerous construction projects in the surrounding blocks. Rubicon needs to be more specific about what affects their development will have on parking and people movement, in concert with other current and proposed projects nearby. This development does not occur in a bubble given the rapid changes happening nearby.

3. Equity: Rubicon developers plan to build 300+ market rate apartments, the rental price of which they are unable to quote. I might be able to support a project that was more open to having a significant portion of affordable housing units in their development. Rubicon has no plan of this and the pittance of an impact fee that they will pay (quoted as \$6.8 million) would likely build fewer than 15 affordable units given current construction costs (~\$500,000+ for an affordable unit). Many of 1750's future residents will likely work in San Francisco and commute due to the comparatively lower rent of these market rate apartments. It is unclear what their contributions will be to Oakland itself.

I question why the "progressive" Oakland city council would not take a stronger stand against these types of market rate only developments as they further drive inequality in downtown. Yes, there is a need for housing affordable or not, but soon there will be only wealthy residents and the homeless in the downtown area. It seems this is their vision.

Stephen Merjavy
1770 Broadway Resident

Public Comment on Case File Number: PLN18369, 1750 Broadway

March 20, 2019

Mr. Rivera,

I am a current resident at 1770 Broadway and I am deeply concerned about the proposed development plan for 1750 Broadway. There is no consideration to the environment in the proposed plan for 1750 Broadway, and no consideration to the residents who live on Broadway, particularly 1770 Broadway residents.

The development will negatively-impact our lives and living conditions. Health wise, the scale and dimensions of the building will block natural sunlight from the left side of the building. Sunlight deprivation is a leading cause for depression and can cause serious health issues. In addition, the construction will bring noise and dust into our homes, disrupting our living conditions on a daily basis and causing an increase in allergies and respiratory problems. It will likely force us to shut our windows for the entire time of the construction, taking away our ability to circulate the air in our homes.

Mr. Rivera, I urge to take our concerns seriously and not accept the current development plan for 1750 Broadway. Help preserve the history of Oakland and advocate for health-conscious development projects that are environmentally conscious and friendly to the community of Oakland.

Thank you,

Manar Harb

1750 Broadway proposed project, Case File Number: PLN18369

March 20, 2019

Good Day City of Oakland Planning Committee,

I am submitting my comments and concerns regarding the proposed construction of a large building adjacent to the apartment complex I've lived in for 20 years and rented since 1999.

1770 Broadway is the first and only Oakland building I've lived in. Previously I was a resident in San Francisco for 17 years.

I was an artist for many years, a traveler and very active in the community. In my former years, I hosted gatherings, attended festivals and performed with my deepest passion being the design of period costumes. Oakland has been a wonderful place for me to connect with other artists, promote my art and find people with similar interests.

The proposed building at 1750 Broadway as with any large scale construction project, will bring noise, dust and vibrations.

My primary concern is the potential adverse health impact of this project. I am housebound and spend a majority of time in bed, prone position, due to chronic illness. I live in constant pain. There are many studies, including an in-depth CDC study, that chronic pain and sensory disturbances from excessive light and noise.

The accessibility in Oakland is very bad. Particularity in locations where there is construction. I have fallen where there isn't a ramp. Where there are big, bulgy things in the street. Partially due to the construction and partly because they are not putting money into the city.

I require an electric scooter as I cannot walk unassisted. In the past I have used Paratransit's services to get to these appointments so having their scheduling office nearby has been a blessing. I utilize the Center for Independent Living as well.

Here are my questions:

What has the developer done to assure the tenants of our building that we will not be breathing in harmful dust when the building is taken down?

What are the construction hours and how long will the construction last for?

In terms of accessibility, will the sidewalk be blocked or will there be a wooden ramp? If so, have they done research on how it will affect those of us with mobility problems?

Public comment for 1750 Broadway - Case File Number: PLN18369

March 20, 2019

Greetings Oakland Planning Commission and Mike Rivera,

I am a resident of Oakland and work in the city of San Francisco. I heard about the proposed building at 1750 Broadway and am concerned about several aspects of the project.

Oakland is vibrant because of the people who live here. It's refreshing to walk down the street and see people you recognize on a daily basis. It's made up of all types of people and I want to see that maintained.

I live at 1770 Broadway has 48 units of affordable, market rate housing. Tenant have lived here from 1 year to over 20 years. Many of us are working class people. There are also several residents who have limited mobility or are on fixed incomes. We all get along very well and often host seasonal neighbor gatherings.

The intersection of 19th and Broadway is a very busy intersection for pedestrians and vehicles throughout the day, especially during commuting hours. I find it difficult to understand how a large scale construction project can take place here.

Concern - Project Communication

For this specific project, I've been very surprised how little notice the tenants have received for both City Planning meetings and communication from the developer, Rubicon. For the Community meeting Rubicon hosted at Oakstop on February 26th, 2019, they posted flyers in our lobby the day before in the afternoon. This gave most tenants less than 24 hours notice but 8 of us were able to attend. Neighbors across the street at 1755 Broadway who are condo owners reported similar short notice as well. I did ask Chris from Rubicon why they had not mailed notices to us about the community meeting but he didn't have an answer. At City Planning Commission meetings in 2018 that I attended it sounds like a nearby organization, AC Paratransit, also had very little communication as well.

Ask #1 -- Have the developer provide ample notice and require they incorporate residents living within 2,000 feet into their planning

Concern - Health and Accessibility

There has been construction at 1640 Broadway (PLN15281) for the last two years. Construction is just starting at 1900 Broadway (PLN15179) and these are the concerns I'd like addressed:

- The shadow study for 1750 Broadway didn't take our building into account
- Has the existing building been evaluated for harmful elements like asbestos?
- What will happen to the BART elevator for people who need it?
- Rubicon's expected 18 months - 36 months of construction is disruptive and harmful

Ask #2 -- Have the developer incorporate our building into the CEQA shadow study with current buildings like 1640 Broadway, analyze existing building at 1750 for harmful elements and provide estimated decibel levels during demo/construction and post build for HVAC systems.

Concern - Building Stability

Our apartment building was built at the turn of the last century. Has the developer explored and validated that the demolition and construction will not structurally damage our building?

Ask #3 -- Have developer work with building owner, Commonwealth Properties, to do what is necessary to evaluate structural stability

Concern - Affordable Housing

Oakland has risen to be on the top 5 most expensive cities to live in for the United States. Despite this, housing availability is scarce. For a similar studio or 1 bedrooms rents are well above \$2,000. This is causing people to share sleeping areas or move further into the East Bay and commute farther to work, leading to more congestion on BART and the highways. Rubicon indicated there will be no affordable units in the new construction.

If our building was damaged during construction of 1750 Broadway and deemed unlivable, it would be very difficult to find similar housing in Oakland and I would consider moving out of the Bay Area which I've called home for almost 10 years.

Ask #4 -- Ask the developer to incorporate affordable units into the plan.

Concern - Oakland Art Vibe

Lastly, the concern of ongoing art that is being covered up by these high rise buildings. This was the one Oakland lost when 1900 Broadway went up
<https://sf.curbed.com/2017/11/10/16634372/vintage-believe-in-people-oakland-high-rise-mural>

Ask #5 -- Ask the develop to consider other designs that will not cover up the existing artwork

Sincerely,

Adria Anderson
1770 Broadway, Oakland, CA 94612

Appendix C

Case File Number: PLN18369, 1750 Broadway

Excerpts from the transcript of the Oakland City
Planning Commission Meeting

March 20, 2019

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CITY OF OAKLAND
PLANNING COMMISSION
HEARING

CASE FILE PLN18369 AT 1750 BROADWAY
MARCH 20, 2019

Audio file: oakland_02358ba5-97ac-484b-9487-a65119068e1c.mp3
Length: 02:31:52

Planning Commissioners In Attendance	Planning Commissioners Absent
Amanda Monchamp, Vice-Chair	Jahmese Myres, Chair
Tom Limon	Nischit Hegde
Jonathan Fearn	Clark Manus
Sahar Shirazi	

Case Planner: Mike Rivera (Project Planner, City Staff)
Applicants: Rubicon Point Partners, LLC
Chris Relf, Construction Management Director
Ani Vartanian-Boladian, Managing Partner
Other: Glenn Resvalvo, Partner, Handel Architects

00:13:15 (Amanda Monchamp) (Roll call)
Good evening. Welcome to the Oakland Planning Commission March 20th, uh, hearing.
Jonathan, could you call the roll?
(Jonathan)
Thank you. Commissioner Fearn?
(Commissioner Fearn)
Here.
(Jonathan)

1 Commissioner Limon?

2 **(Commissioner Limon)**

3 Here.

4 **(Jonathan)**

5 Commissioner Shirazi?

6 **(Commissioner Shirazi)**

7 Here.

8 **(Jonathan)**

9 And Chairman Monchamp?

10 **(Amanda Monchamp)**

11 Present.

12 **(Jonathan)**

13 Thank you we have a quorum.

14 **(Amanda Monchamp)**

15 Thank you.

16 **00:19:01 (Mike Rivera)**

17 These meetings that the Design Review Committee also suggested to the applicant to

18 hold community meetings and engage discussions with commercial tenants of the

19 subject property, and, this is also based on comments received by residents of the 1770

20 ~~Broadway, which is the property to the north, or adjacent to the subject property. The,~~

21 the tenants of the residential complex express concerns about the project and

22 displacement of commercial tenants at 1750 Broadway.

23 **00:21:21 (Ani Vartanian)**

24 Hi, my name is Ani Vartanian, uh, I'm the founding partner of Rubicon Point Partners.

25 We are a local women and minority-owned small business.

26 **00:22:26 (Ani Vartanian)**

27 ...numerous amenities, including gardens and open space. With all of our projects, we

28 try to get involved with the communities we have invested in, and make sure the fabric

1 of our project reflects the neighborhood. 1750 Broadway is no different. Here, we have
2 done our best to enter into a collaborative design process by listening to what people
3 have to say, do our best to incorporate those ideas into building design, look at the
4 context of the neighborhood, work with a design team that has similar sensitivities, and
5 provide a product visually appealing for all members of the community, irrespective
6 whether or not you live in the unit, in the project or not. Glen from Handel Architects will
7 speak to how we use the context of the neighborhood to influence our design, describe
8 why we use some of the elements that we have. In terms of our outreach, uh, we met
9 with several members of the community, hosted community meetings, spoke with local
10 business and property owners, met with surrounding building and business owners, to
11 find out what they think about the project, and what we should put on the ground floor,
12 local artists, community organizations, economic development groups, BART. We've
13 had many meetings with BART, working with their real estate and design teams, and
14 these meetings will continue, given that we plan to integrate the elevator into the
15 project.

16 **00:30:03 (Glenn Resvalvo)**

17 We purposely did not build on the 19th Street side of the building because one of the
18 reasons for that is 1770 is a corner site and it has 3 main exposures. We tried to, we
19 kept our massing away from 1770 so that the three primary elevations of that building
20 ~~continue to have light in there and are not shadowed. On the second story, we, we~~
21 have, we have a 1 story, uh, level on 19th Street, which is a dog run and park, uh, and
22 then the garage, uh, comes up along, uh, Broadway, as well as the, uh, the north side of
23 the site. Uh, one of the th-, obvious, one of the things that we wanted to also address, if
24 you're on page, uh, 18, I believe, is, on the, on the, uh, 4th side of 1770, there are a, a
25 series of property-line windows, uh, and a courtyard. We set our construction back 3
26 feet, away from that, uh, property line, in order for those windows to be maintained as
27 non-protected windows.

28 **01:12:00 (Amanda Monchamp)**

1 I would like to start off with just asking a question, uh, of the developer about community
2 engagement. I know we had three DRC meetings about this project, uh, at one, you
3 continued the item, but we heard it at two other meetings, I think, or maybe there was
4 an additional meeting, but I'm recalling three. Uh, those were all noticed, 10 days is the
5 notice, uh, that's required by state law, and it is the notice that, uh, the city provides. I
6 actually think longer notice than state law. Uh, in addition to that, if you could address
7 whether or not there were community meetings or if you met with neighbors.

8 **01:12:49 (Chris Relf)**

9 Yeah. So regarding the community meetings, uh, they're right. We posted notice 14
10 days in advance on community boards to address their specific comment. The notices
11 did not go to their building posted on the b-, on the board until the day before. So I
12 actually reached out to one of the tenants there and said, hey, listen I want to make
13 sure you've seen this. He said, yeah, we just got it this morning. We'll be there. Wish
14 we were, we had more notice. We did too. So, that was the mix up on our part.

15 **01:13:21 (Amanda Monchamp)**

16 I know the prior meetings were also noticed because residents from that building also
17 attended those meetings. Did you have any community dialogue, community meeting,
18 uh, outside of this room?

19 **01:13:34 (Chris Relf)**

20 So, *community dialogue, yes, but formal community meetings was, we had it on*
21 February 28th, so we had, like they had mentioned we had members of the community
22 come up, come to the meeting mostly from 1770 Broadway. Other members of co-,
23 local community groups or groups.

24 **01:13:52 (Unknown female - Developer)**

25 Folks, uh, we also spoke with neighbors across the street from the site, so various
26 neighbors there, uh, business owners on the other side as well.

27 **01:14:00 (Amanda Monchamp)**

28 Okay, thank you.

1 **01:17:01 (Jonathan Fearn)**

2 Wha-, what evidence was submitted, and, you know, if it's not a condition of approval to
3 use Tier 4 Requirements, how is that, how, how, how do we assure ourselves that does
4 occur, per the EIR?

5 **01:17:12 (Mike Rivera)**

6 Uh, that currently, or practice, in practice, the, the applicant's, uh, uh, engineer, would
7 submit a letter to the city determining that the type of, uh, uh, uh, use they're going to
8 use for mitigating anything that needs to be mitigated through their construction
9 process.

10 **01:17:35 (Jonathan Fearn)**

11 Okay, and that occurs before a building permit is, is per-, is issued?

12 **01:17:41 (Mike Rivera)**

13 Correct. So, that documentation would need to be filed with a city for a staff to review,
14 and prior to any issuance of a building permit.

15 **01:17:51 (Jonathan Fearn)**

16 Okay. Uh, and I just had a couple of questions for the applicant, if, uh, I could call the
17 applicant up, uh, first question, uh, thank you for, for coming up. Uh, first question I had
18 is one of the commenters talked about a artist's hall or a portal, uh, that is being
19 requested, or suggested. Is that something that is en-, envisioned to be part of the
20 project? Is that the, in the retail space, or?

21 **01:18:22 (Chris Relf)**

22 Yeah, so that's in the grand floor commercial space, the 5,000 square feet.

23 **01:19:06 (Jonathan Fearn)**

24 So we want something that's part of the community that is, you know, integral to the
25 fabric of the city.

26 **01:19:13 (Jonathan Fearn)**

27 So if I can ask, what, what are what are the modifications that you are making to the
28 space that allow for this particular use to, to occur, or is there, uh, just, just curious.

1 **01:19:24 (Unknown female - Developer)**
2 It's going to be a different form of TI's and costs, uh, associated with that. I mean, we
3 have to get into the details on the specs of how does that work and every, I would
4 imagine, every different group needs something different, you know for their own
5 specific space, but...
6 **01:19:40 (Jonathan Fearn)**
7 Got it.
8 **01:19:40 (Unknown female - Developer)**
9 ...so it's going to translate into TI costs for us.
10 **01:19:43 (Jonathan Fearn)**
11 Okay, uh, and then can you talk a little about the concern around the HVAC system and
12 where it's pulling air from...
13 **01:19:49 (Chris Relf) (Over talk)**
14 Yeah.
15 **01:19:49 (Jonathan Fearn)**
16 ...where it's going...
17 **01:19:49 (Chris Relf)**
18 So, if you actually go back to one of the slides on the parking levels, I believe it's
19 parking level 2 and 3.
20 **01:20:29 (Jonathan Fearn)**
21 Okay, doesn't show up on the screen, but, so, the, are the arrows on there? On the
22 sheet?
23 **01:20:38 (Unknown male)**
24 Yeah, it should be.
25 **01:20:40 (Chris Relf)**
26 So, in the community meeting, we talked a lot about...
27 **01:20:42 (Amanda Monchamp)**
28 So, you're on page 19, just for everybody to follow along.

1 **01:20:46 (Chris Relf)**

2 So, we talked about ventilation and mechanical units. So, we actually are drawing in air
3 from Broadway. I think it, that came up at a community meeting. I think I misspoke, so,
4 after that I went back, checked their mechanical engineers, had them walk through the
5 garage, how we were venting, ventilating it, uh, it's a mechanically assisted garage, so
6 we're drawing air in from Broadway, transfer fans and all of it's going out, sort of in this
7 top corner, up right here, adjacent to the existing parking garage. So all the air is going
8 out from right up here.

9 **01:21:26 (Jonathan Fearn)**

10 Okay, and, and do those fans operate 24 hours a day, is that...

11 **01:21:31 (Chris Relf)**

12 Most likely, yes, so...

13 **01:21:34 (Jonathan Fearn)**

14 Uh, and I see that you have the electrical room in the, uh...

15 **01:21:41 (Chris Relf)**

16 So they won't operate 24/7. It's going to be, it's, uh, depends on outside air, and once
17 you get above a certain threshold, they'll kick on, so.

18 **01:21:52 (Jonathan Fearn)**

19 Have you looked at, or studied, uh, potentially putting the mechanical room in another
20 corner of the building, uh, that's not adjacent to the existing 5 story building?

21 **01:22:03 (Chris Relf)**

22 So, we have, in terms of outside air, we have our stairwell and this bottom right corner.
23 So, this is our emergency stairwell going down and out the building. We looked at
24 putting it in this location, something that could be considered, and most of this
25 ventilation here, we need, uh, this is our outside air to draw in fresh air in here, push out
26 in this corner, so.

27 **01:22:34 (Jonathan Fearn)**

28 Okay. Thank you.

1 **01:22:37 (Tom Limon)**

2 If I could just add onto that, uh, one of the, it was, I believe, it was one of the residents,
3 uh, Miss Anderson, that mentioned about what would be coming out of those, uh, out of
4 the, uh, the HVAC, uh, and so it, out of the exhausts, if you could talk a little bit about,
5 it's my understanding that there'd be some sort of filtration system, as part of that. Could
6 you describe that?

7 **01:23:00 (Unknown female - Developer)**

8 Can, can I a-, actually ask the architect to come up and speak? I think he's, yes sir.

9 **01:23:05 (Glenn Resvalvo)**

10 Yes, so with respect to the exhaust system, uh, as, as Chris pointed out we're drawing
11 air from Broadway and we're taking it out off of 19th. The fans will only kick on when the
12 exhaust in the garage gets at a certain level. That primarily means it takes a while, it
13 takes a lot of cars moving, uh, which we don't anticipate, I mean, being that we're on a
14 transit oriented site, we think this, this is more of car storage than it is a parking lot. It's
15 not going to be open to the public. It's going to be residential parking. Uh, the air will be
16 filtrated in those systems. Uh, there is possibility that, that we can, uh, instead of
17 drawing straight out, we could start to look at drawing straight up, uh, over the over the
18 garage. That's another possibility that we can work through with our mechanical
19 engineers as well. Uh, but, that, we felt that, given the, the direction of the air, that, you,
20 we felt that that was the better location than to put exhaust onto Broadway and then
21 filtering it back to the other neighboring buildings, that would be the problem there. Here
22 it's adjacent to an open air garage which already has continuous, uh, exhaust so where
23 we think that putting in that corner of the building was the most appropriate. And again I
24 think we could probably work through a way of taking that air, uh, vertical as opposed to
25 horizontally out.

26 **01:30:40 (Sahar Shirazi)**

27 Uh, sorry, just, uh, a couple other questions of things that came up in that discussion
28 uh, the, there were a couple different, uh, things noted about the distance between the

1 building and the adjacent building. I, I think I heard 3 feet a few times, uh, and then
2 I heard 20 inches and I also wasn't clear on whether that's with the existing structure or
3 with the planned structure. So I'm just, I just want some clarification, please.

4 **01:31:08.640 (Amanda Monchamp)**

5 Uh, if I may, or, I just want to address the issue about the bundle parking. Uh, uh, it is
6 required, now, with the bundle of parking, so I just wanted to correct that or address
7 that, and as far as the proximity of the buildings, I think the north, the, the building that
8 faces north, uh, it has, uh, two different setbacks. One is 1.5, and the other one is
9 3-point feet, and that's, uh, adjacent to the uh, uh, five story residential unit at 1770
10 Broadway.

11 **1:32:32 (Amanda Monchamp)**

12 Uh, the, uh, the comment about asbestos, all asbestos, if you do find any, will be
13 remediated prior to demolition.

14 **01:32:39 (Chris Relf)**

15 Absolutely.

16 **01:32:40 (Amanda Monchamp)**

17 Okay, uh, the, this is more of a comment, I guess, but a-, affordable housing, uh, you're
18 not providing affordable housing at the project site? You're paying in-lieu fees, or did
19 this, the way this project got in, in any way, shape or form, to be here in advance of our,
20 uh, fee program, so they will be paying fees.

21 **01:33:37.040 (Mike Rivera)**

22 Yes, so we do have as part of the conditions a, uh, construction management plan that,
23 uh, we require the applicant to submit a, a plan that shows how their plan to, uh,
24 minimize any potential, uh, noises coming out of the construction site.

25 **01:33:57 (Amanda Monchamp)**

26 Okay.

27 **01:33:58 (Mike Rivera)**

28 And that's also, uh, review and monitor by the Building Department.

1 **01:34:01 (Amanda Monchamp)**

2 Okay, and then in terms of the setbacks, uh, from the adjacent building, what are our
3 minimum, I think I read our minimum setbacks...

4 **01:34:11 (Mike Rivera)**

5 Yeah.

6 **01:34:12 (Amanda Monchamp)**

7 ...the project does exceed it, it's not seeking a variance for the setback, correct?

8 **01:34:15 (Mike Rivera)**

9 Correct, uh, yes. The project meets all the standards, and in terms of the, uh, setbacks
10 for the property, uh, the Staff Report on page 6, uh, ta-, it talks about the, uh, setback
11 requirements. So, for instance, uh, the side yard setback for, uh, this property, would
12 be, uh, let's see, let's just take a look, yeah, so, zero setback as required, so there's no,
13 there's zero, but the project itself is proposing, uh, 1.5 and also 3, 3 feet.

14 **01:34:46 (Amanda Monchamp)**

15 Okay, thank you.

16 **01:34:47 (Mike Rivera)**

17 Hmm-hmm.

18 **01:34:47 (Amanda Monchamp)**

19 Uh, question for the applicant, uh, and I know you went through design review
20 extensively, and I, I know that I participated in that, uh, design review. The, the building
21 is a podium, and then a tower.

22 **01:35:01 [Unknown voice]**

23 Hmm-hmm.

24 **01:35:02 (Amanda Monchamp)**

25 Uh, in light of Commissioner Shirazi's comments, uh, which I agree with, in terms of
26 parking, uh, would it be possible to make that setback on the residential building side
27 bigger and reduce the amount of parking, or, from a construction standpoint, I don't
28 know if, that it doesn't even work, uh, to have that building essentially notched back as

1 to the podium, and I re-, and I realize it's only 2 stores, 2 stories, of the adjacent building
2 that's not already right next to the existing building, uh, and it looks like you have 4
3 stories on the bottom.

4 **01:35:38 (Unknown voices)**
5 [Unintelligible].

6 **01:35:42 (Chris Relf)**
7 So, you're saying where the building butts up against 1770?

8 **01:35:45 (Amanda Monchamp)**
9 Hmm-hmm.

10 **01:35:46 (Chris Relf)**
11 And it's currently set back 3 feet.

12 **01:35:48 (Amanda Monchamp)**
13 Right. It would be like a series of notches, which I get, might be not structurally sound to
14 do it that way.

15 **01:35:55 (Glenn Resvalvo)**
16 Yeah, so, uh, part of our structural system is using those side walls as shear, so...

17 **01:36:00 (Amanda Monchamp)**
18 Hmm-hmm.

19 **01:36:01 (Glenn Resvalvo)**
20 ...we do have that, uh, we did have discussions, that, you know, again, these windows,
21 that are, I think there's uh, maybe 6 windows that face off the...

22 **01:36:11 (Amanda Monchamp)**
23 Yeah.

24 **01:36:11 (Glenn Resvalvo)**
25 ...those are property line windows, they shouldn't be there to begin with, uh, but what we
26 intended to do was pull back, I think, uh, we could definitely look at other options, uh,
27 where, uh, one of the things that would be more common, is where the light well is...

28 **01:36:29 (Amanda Monchamp)**

1 Hmm-hmm.

2 **01:36:29 (Glenn Resvalvo)**

3 ...is to actually maybe create a mirroring situation there, where you have light well to

4 light well...

5 **01:36:36 (Amanda Monchamp)**

6 Hmm-hmm.

7 **01:36:36 (Glenn Resvalvo)**

8 ...type of, as opposed to setting the, the primary walls back, as to create these light

9 wells. I think the light well is really where the primary space is...

10 **01:36:46 (Amanda Monchamp)**

11 Hmm-hmm.

12 **01:36:46 (Glenn Resvalvo)**

13 ...and the windows on the property line are secondary spaces. We don't know enough

14 about these units, but that would be, from an architectural standpoint, that would be

15 what I would imagine, is that the light wells are the primary windows of those spaces,

16 so, by creating some type of recess there, I think, what, that would create a better

17 environment, into, with respect to light and air, as...

18 **01:37:08 (Amanda Monchamp)**

19 Hmm-hmm.

20 **01:37:08 (Glenn Resvalvo)**

21 ...opposed to structurally pushing our, our, our, our major walls back in.

22 **01:37:13 (Amanda Monchamp)**

23 Hmm-hmm, hmm-hmm. Do you have a further comment or...

24 **01:38:02 (Unknown female - Developer)**

25 Right...a podium...We did tighten it in, in a bit, uh, but this was like...

26 **01:38:09 (Amanda Monchamp)**

27 Right. But to the extent and I recognize also that those windows are property line

28 windows and would not typically be allowed, uh, and I, for my count, there's like four of

1 them. Uh, so if light walls are something that you could incorporate instead of moving
2 the building walls, uh, that might be something that's amenable and helpful in terms of
3 addressing the impacts on the adjacent neighbors which I recognize have windows that
4 should not have been placed there, but they are there. So, okay, thank you. Uh, I have
5 no further questions. Does anyone else? Thank you, uh, does anyone, instead of
6 questions, have any comments before we, our deliberation to discuss?

7 **01:38:55 (Tom Limon)**

8 Uh, just to address the neighbors, and thank you all for, for coming out, uh, one thing as
9 a commission that's been important to us is to really activate community engagement
10 especially when a property like the, the applicant is proposing is going next to an
11 apartment building or adjacent to, or nearby, uh, you know, under the current
12 requirements they're required to call to con-, to notify the property owner. One thing
13 we're, we're working on changing is that they contact each resident, what, 'cause you as
14 renters are not, are not property owners. So that's something that we've been working
15 on, it's been, we've been discussing this for several years, uh, but things do not move
16 as quickly as we'd like. Uh, we're actually planning on meeting next month in April to
17 discuss that, as well as, uh, really clarifying to staff and to encourage applicants to, you
18 know do better at community engagement because, uh, this is, you know this is
19 continuous, this is a continuous problem, uh, and so, uh, you know, full disclosure, I met
20 with the applicant to go over this project a few weeks ago and my feedback was to
21 provide more community engagement. It's just, uh, you know the way, the way it's
22 currently written, th-, they are following the rules, but it's just, we're working on doing a
23 better job of that for, for the residents. So, thank you.

24 **01:40:23 (Amanda Monchamp)**

25 Thank you, any other commentary?

26 **01:40:26 (Sahar Shirazi)**

27 Yeah, just a, a couple quick points, uh, I do. I, I believe that there has been a lot of work
28 put into this pro-, project and I think, uh, elements of the design are really quite

1 stunning, uh, uh, and, and I think there's some really good faith effort, uh, happening.
2 I'm a little concerned about the engagement process, just because, uh, it is a huge
3 project and hearing so many people next door say that they barely knew about it, uh, is,
4 is a little worrisome to me, and I'm, I'm having a really hard time getting over the parking
5 uh, provision, simply because, you know, the average cost of building a parking spot is
6 around eight thousand dollars. Uh, and I think there's some real opportunities to
7 incorporate that into this building. So I would just urge you guys to take another look at
8 that, uh, again recognizing that that's been something you've talked about a lot already,
9 I'm sure.

10 **01:41:53 (Amanda Monchamp)**

11 Thank you. Commissioner Fearn?

12 **01:41:55 (Commissioner Fearn)**

13 Yeah, I mean, I guess I'll se-, second what my fellow commissioners have said,
14 especially uh, Commissioner Limon. You know, I, I'm in full support of really trying to get
15 a, uh, a transparent community engagement process that's very clear to every applicant
16 and is very clear to the community, and, uh, when folks come in front of us, uh, there's,
17 uh, everybody knows what's expected and if they've gone through the process, then,
18 uh, that should have engaged the community, uh, to, to the proper extent, so, uh, you
19 know hopefully in, in April we will get some, uh, traction in, in trying to get that, uh,
20 ~~process put on paper, so, uh, it's clear to everybody, uh, but, you know, from my~~
21 perspective, they have followed the rules. Uh, this is, uh, a location where we want this
22 kind of intensity and this kind of housing. Uh, again, maybe not with as much parking,
23 uh, but to the affordable housing, uh, issue as well, uh, that was also a very debated
24 process. Our current affordable housing ordinance, our affordable housing impact fee,
25 and they are doing, whether or not we like it or not, they're doing what the city has
26 asked them to do, so I can't necessarily fault them for not, uh, putting it in their building
27 if the city is saying that they don't have to. Uh, so, I-, I'll just leave it at that.

28 **01:43:17 (Amanda Monchamp)**

1 Thank you. Uh, yeah, to pick up on, on that point, uh, the 7.5 million in paying are in lieu
2 or in lieu impact affordable housing fee, uh, the city uses those resources to, either
3 maintain or improve or acquire affordable housing, uh, and we are in, in the process of,
4 of doing just that and I think making good use of those funds, uh, so the project by
5 paying a contribution towards that is instead of putting housing here at this particular
6 location, which I agree on top of BART, would be a good location, uh, for
7 affordable housing, but we do need to collect money into that fund so that we can move
8 forward with city sponsored projects and use those dollars effectively. Uh, I, I do also
9 hear the point that we have market rate housing, uh, but if we don't build more market
10 rate housing, our affordability crisis will only get worse. Uh, I think, you know, the
11 concern from the neighbors, we did hear from neighbors at both design review hearings,
12 uh, so I know some amount of community notice went out because we did hear from
13 people, uh, at both of those meetings, uh, and I do think there was actually a lot of
14 dialogue with the existing tenant, and I know there's a lot of discussions with the existing
15 tenant, uh, that was a very engaged process, uh, which I note that they are not here in
16 opposition to the project this evening, so I assume that means you have worked out
17 your differences, so thank you for that. It was an important piece for the city.

18 **01:44:48 (Background voices)**

19 [Unintelligible].

20 **01:44:51 (Amanda Monchamp)**

21 Thank you, for maintaining decorum in the chamber, thank you. Uh, so, I do think that
22 adding light wells, which the developer is amenable to doing, would address the
23 existing, while possibly nonconforming, windows. Uh, I think, a-, adding that in would
24 make those units remain a, a more, uh, attractive place for residents to remain in
25 Oakland, and in their existing housing, so I think I would like to amend that as a
26 condition, uh for light wells to be incorporated into the design, to the extent feasible,
27 given seismic constraints, but otherwise incorporate light wells into the, into the project,
28 uh, at those windows on the, on that side of the building.

1 **01:49:50 (Unknown female - City of Oakland)**

2 And I will remind everyone that the decision is appealable to council within 10 days, for
3 item number 1, 1750 Broadway.

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1770 Broadway Speakers

Adria Anderson
Brett Nichols
Rory Ross
Christy Booth
Joe Hornof

Community Speakers

Nancy Morosohk, LCSW (TIPS)
Christina Caro, Esq., (EBRRD)

00:37:35 (Adria Anderson)

Good evening, commissioners. My name is Adria Anderson. I have also submitted written comment. I live in the building next door to this proposed project and I want to raise a couple of items. I really appreciate that the building I live in has a variety of people, different ages, and some tenants have lived there year, some have lived there over 20 years, uh, seasonally we get together and do neighborly things and I think that's a very important part of what Oakland is. I enjoy being able to walk down the street and see people I know. It's different than when I lived in San Francisco. So these are just a couple of the core concerns that I have, uh, in the proposed project. There'll be four levels of parking right next to people's windows and I, I can't see them as being healthy. We learned at the community meeting last week hosted by Rubicon, that the HVAC systems will also be there and there's not really a determined decibel level. They couldn't answer that. So, not only car exhaust, but noise, that just doesn't seem reasonable. Uh, the next is the lack of communication from the developer. They bought this building two years ago, but as tenants, we didn't hear anything until a year ago, and even for last month's meeting they put up posters the day before. Uh, so people came back from work and had to make a decision if they were gonna go the next day to this, and eight of us showed up, which was great. Uh, and finally exhaust from the building. Also at the community meeting last month, we learned that they'll be taking an air from the back of the building and then pushing it onto Broadway. Uh, and that I think, will be from HVAC systems, but also from the units, and my, my question to the developers is, uh, what's coming out of the exhaust. Thank you.

00:39:22 (Brett Nichols)

1 Hello, uh, my name is Brett Nichols. I am also a resident at 1770 Broadway, next to the
2 proposed project. Uh, I've been living here for about seven years. It's also the place that
3 I work right down the street, uh, and this is my home. I've got a wall. I'm one of the
4 tenants that actually is in that center sort of breezeway of the building, so I have a wall
5 being built, uh, three feet from my window, and then I'll be closed into the actual, uh,
6 center breezeway, uh, lose all access to sunlight. I, I right now have a view, but my
7 view's not really my concern, it's just getting sunlight, and I love my home, and I love
8 where I live, and, you know, I'm just really concerned for this project. Uh, you know we
9 had a, a building go up at 1640 Broadway, and there was construction noise at all
10 hours, you know, they say that the cutoff time is 7 p.m. Uh, we were hearing
11 construction as late as 11 p.m. Uh, they say they start time at 7:00 a.m. We were
12 hearing construction as early as 5:00 a.m. Uh, we made complaints to the Planning
13 Department, uh, and got no results from it and the off-hour construction just continued.
14 So, that was 1640 Broadway, and now this sort of construction is going on 3 feet from
15 my window for three years, so I'm obviously a little disturbed here. Uh, I have a seven
16 year old lease, rent controlled. Uh, I also work in the area, so, uh, I don't have a lot of
17 opportunities just move, uh, not a lot of resources to just find a new place in the
18 community. Uh, and then to the point of Rubicon's engagement. They say that they
19 spoke to the community, spoke to residents. Uh, I actually made a comment at the
20 ~~Planning Commission about the design and having a building going up three feet from~~
21 my window, but there was no engagement, uh, at that Planning Commission meeting.
22 They also mentioned engagement with other residents in our building, and, in speaking
23 to those people that were named, uh, by name, they had no such engagement. So, I,
24 I'm just concerned at this moment that they're not actually going to fill their promises of
25 fitting to that actual construction time, uh, and I, I'd like to see at least some ability to
26 take recourse for noise issues because that's certainly not worked in there, in the
27 neighborhood with some of these big projects.

28 **00:41:35 (Amanda Monchamp)**

1 Thank you.

2 **00:41:39 (Brett Nichols)**

3 And, uh, you know, also consider having more space than three feet, that'd be great.

4 **00:44:05 (Rory Ross)**

5 My name's Rory Ross. Uh, I also live at 1770 Broadway. Uh, uh, it has no central
6 ventilation or air filtration systems, nor there's a cooling system, so we rely on outside
7 air, uh, for ventilation and cooling. Uh, so, not only does this mean we'll be exposed
8 airborne dust particulate matter from years of demolition and construction, but formerly
9 routine use of our outside air will increase our exposure to noise pollution. Additionally,
10 this means the building is often warm even during the cold months, we'll have to choose
11 between baking in our units or exposing ourselves to elevated particulate and noise
12 pollution. I worked in residential commercial and industrial construction for years,
13 including here in Oakland, and I noted that, and observed through hard truth, that dust
14 fume and noise restrictions are simply ink on so many pieces of paper to be honored
15 when it doesn't impact production too much and when inspectors, or inspections are
16 scheduled. Uh, it's an old building again, and, what assurances do we have the
17 significant excavations, hundred fifty foot pilings, along with massive crane picks will not
18 damage our building, threatening our safety and literal housing stability. Who will be
19 responsible for monitoring the effects of construction on surrounding structures, and
20 ~~what type of schedule, in what reporting and resident notification requirements?~~ If our
21 foundation or structural integrity of adjacent buildings is compromised, will we even
22 know, if caught in time, how we will be made whole for long-term relocation, personal
23 property loss, or structural, structural rectification and possible permanent relocation if
24 the structures become condemned? There have been horrific crane and bridge
25 collapses, structure fires, high pressure gas pipeline explosions associated with
26 construction in this country in the past few years. These are the results of poor planning
27 and design, lax inspections and constant pressure for faster production. Taken in
28 aggregate, they're not accidents, they're statistical inevitabilities that result from poorly

1 funded education, industrial training programs, increased workload, and reduced
2 workforce that some people call grinding speed up, but MBA's and economists blithely
3 call worker productivity. If construction companies can't be trusted not to drop massive
4 cranes on the world renowned New York City skyline, what oversights and corner
5 cutting can old rent controlled buildings in Oakland expect?

6 **00:48:15 (Nancy Morosohk)**

7 Hi, my name is Nancy Morosohk. I have lived in Oakland for 30 years. I do not live in
8 the building next door to this, uh, although I feel for the people who do. Uh, I also work,
9 uh, for the past 18 years, worked at a non-profit in Uptown called Family Paths, so, I'm
10 in the community a lot. And I want to express my strong objection to the continued
11 development of expensive luxury apartments in Oakland. I raised my daughter here and
12 as she was getting ready to graduate college a few years ago, I was so excited to
13 see all the apartment buildings being built, and now she's back here, and they're out on
14 the market, and they're all too expensive to live in, and market rate is kind of a joke.
15 Market rate means what you can get for it, and the more luxury apartments you build,
16 the higher market rate is, and it is not affordable. I see teachers, my daughter works at a
17 school. I work at a non-profit. I see people doing great things who cannot afford to live in
18 Oakland anymore. And part of Oakland, what makes it great is the diverse, the genuine
19 diversity of people and not like whether people can afford a studio or a two bedroom or
20 a three bedroom in a luxury apartment. Uh, I really encourage you to think, we need
21 affordable housing, we don't need more luxury apartments. It's a lovely building I just
22 saw. Uh, maybe if all the other luxury apartments hadn't been built, I might say yeah,
23 okay, but Oakland needs places that people who live in Oakland and work in Oakland
24 and make Oakland what it is, that's the, we need those people to be able to afford to live
25 here, and this apartment building is not that, so I encourage you to please find
26 affordable housing a priority for your commission.

27 **00:51:24.159 (Christina Caro)**

28 Good evening, Commissioners. My name is Christina Caro. Uh, I'm here on behalf of

1 East Bay Residents for Responsible Development. Uh, my clients are a group of local
2 Oakland residents, labor organizations, their members, and families. Uh, we've
3 commented to this commission before on various projects in the city, uh, and are very
4 active in supporting development in the city, particularly infill development, uh, but are
5 very concerned about the impacts, uh, of projects like this one, particularly cumulative
6 impacts that, uh, are not being adequately mitigated, uh, by the CEQA analysis that are
7 being prepared by the city. Uh, so, I wanted to just briefly mention that we submitted
8 written comments, uh, right before the meeting today. I would encourage the
9 commission to, uh, pause to review our comments, as well as our expert comments, uh,
10 and also reserve the right to submit supplemental comments, uh, after this hearing. Uh,
11 just to sum up briefly, we would like to urge the commission to continue this hearing in
12 order to prepare an Environmental Impact Report for the project. Uh, the city is again
13 relying on a series of CEQA exemptions, uh, that are not applicable to this project, uh,
14 that are not supported by substantial evidence, and are in fact, contradicted by
15 substantial evidence demonstrating that the project has significant impacts that have not
16 been adequately disclosed or mitigated, and that's actually evidenced in the city's own
17 CEQA analysis. Uh, so the one issue I wanted to briefly address, uh, is health risk
18 posed during construction from construction emissions. Uh, so the CEQA analysis
19 prepared by the city, uh, acknowledges that the project will have significant, uh, TAC, or
20 Toxic Air Contaminant emissions, uh, during project construction on both children and
21 infants, uh, that exceed the Bay Area Air District's significance threshold for both
22 individual and cumulative impacts. So, on children, the significant, the, uh, cancer risk is
23 23 in a million, for infants it's 114 in a million. Uh, the air district's thresholds are 10 in a
24 million for project impacts, and 100 in a million for significant cumulative impacts. Uh,
25 these are not addressed by the standard conditions of approval which do not expressly
26 require the Tier 4 mitigation that the CEQA analysis relies on. Same for that reason we
27 request the city prepare an EIR to address these and other impacts that we identified in
28 our letter.

1 **00:57:54 (Christy Booth)**

2 Hi, my name is Christy, and I am a resident at 1770 Broadway. I also submitted a, uh,
3 comment via email. Uh, I'm basically here tonight to say help. Uh, there's lots of people
4 with their own agenda advocating for something, and, uh, I will literally be one of the
5 people who can reach out my window and touch the concrete that's now covering it. I
6 am absolutely all for new housing developments. I completely believe that's part of the
7 solution. However, I ask that you not approve any construction that would in any way
8 jeopardize my well-being, or my ability to live. Uh, you know, I live in a rent control
9 apartment. I've lived there since 2013, and I work at a nonprofit, serving some of
10 Oakland's most needy families. There's not exactly a lineup of people behind me trying
11 to take my job, so, when I lose my housing, be it due to unhealthy living si-, uh,
12 unhealthy living situation, or God forbid, some kind of damage to the building that I live
13 in, I don't get to work in Oakland anymore, and I don't get to keep doing the work I've
14 been trying to do to support this community. So I'm here to ask for you to advocate for
15 me a little bit, for the people that currently live in downtown Oakland on Broadway, and
16 consider how to foster the community that we've already begun to create, and how to
17 support, uh, housing that's going to help current residents and continue to ensure the
18 future prosperity of low and moderate income individuals living in Oakland. Thank you.

19 **01:07:00 (Joe Hornof)**

20 Hi, my name's, uh, Joe Hornof. I'm from 1770 Broadway. I'd like to thank all my
21 residents that turned up to, uh, talk about this project which probably is going to mean
22 we will need to be relocated, and it's been really stressful for the last year having these
23 meetings sprung on us with only two weeks' notice, and then, here we are. I've listed a
24 report with a number of the CEQA problems we have with the construction of the
25 building and the most significant one is going to be noise. We're talking 59 days or
26 something of circular saws. They don't list jack hammers. Our windows are literally 20
27 inches from the thick cement walls. They're gonna need to be cutting. A circular saw is
28 110 dB at the source of sound. It's like having a jackhammer, and there'll probably be

1 jack hammers. So they weren't listed, 20 inches from our windows for 59 days of
2 construction. They're gonna be putting cement mixers in the back of our building which
3 will be far above tolerated noise levels and there's one line in the CEQA report: The
4 building may contain asbestos. May contain asbestos? Can we get an answer to that
5 before they start tearing it apart? It was built in 1972, so chances it does, and we are
6 inches away from this current building. At least half of our building is going to need to
7 relocate, and the problem is not everybody in our building is here. There's some elderly
8 people and some handicapped people who we've tried to inform as best as we can, but
9 it's difficult and we've been living under a state of fear for like over a year now. Uh, if
10 you guys approved this building, we're fully prepared to go to the City Council, where
11 we'll appeal it. Apparently, it costs 1800 dollars. We have ten days to file it. It's a
12 mystery amount of money. It's not listed anywhere on the city website. It's only been
13 quoted to me. We're gonna have to get crowdfunding to support that. It's gonna be a
14 problem. And, if they, if we fail there, when the circular saws come outside our window,
15 we'll have to file whatever noise things or whatever, I mean this building can't go
16 forward without relocating us. There's been one community meeting with no notice. The
17 developers got a little angry with us at the end because we didn't like what we were
18 hearing. If you guys are gonna bring this up again at another meeting could we please
19 have 28 days' notice to prepare, because it's just really not fair living under the threat of
20 this thing. If I have a little time left maybe you can just read through the, uh, the report I
21 submitted, because I think these are real serious considerations, and, uh, I hate public
22 speaking, but, I sort of had to do it. Thanks

23
24
25
26
27
28

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Appendix D

Case File Number: PLN18369, 1750 Broadway

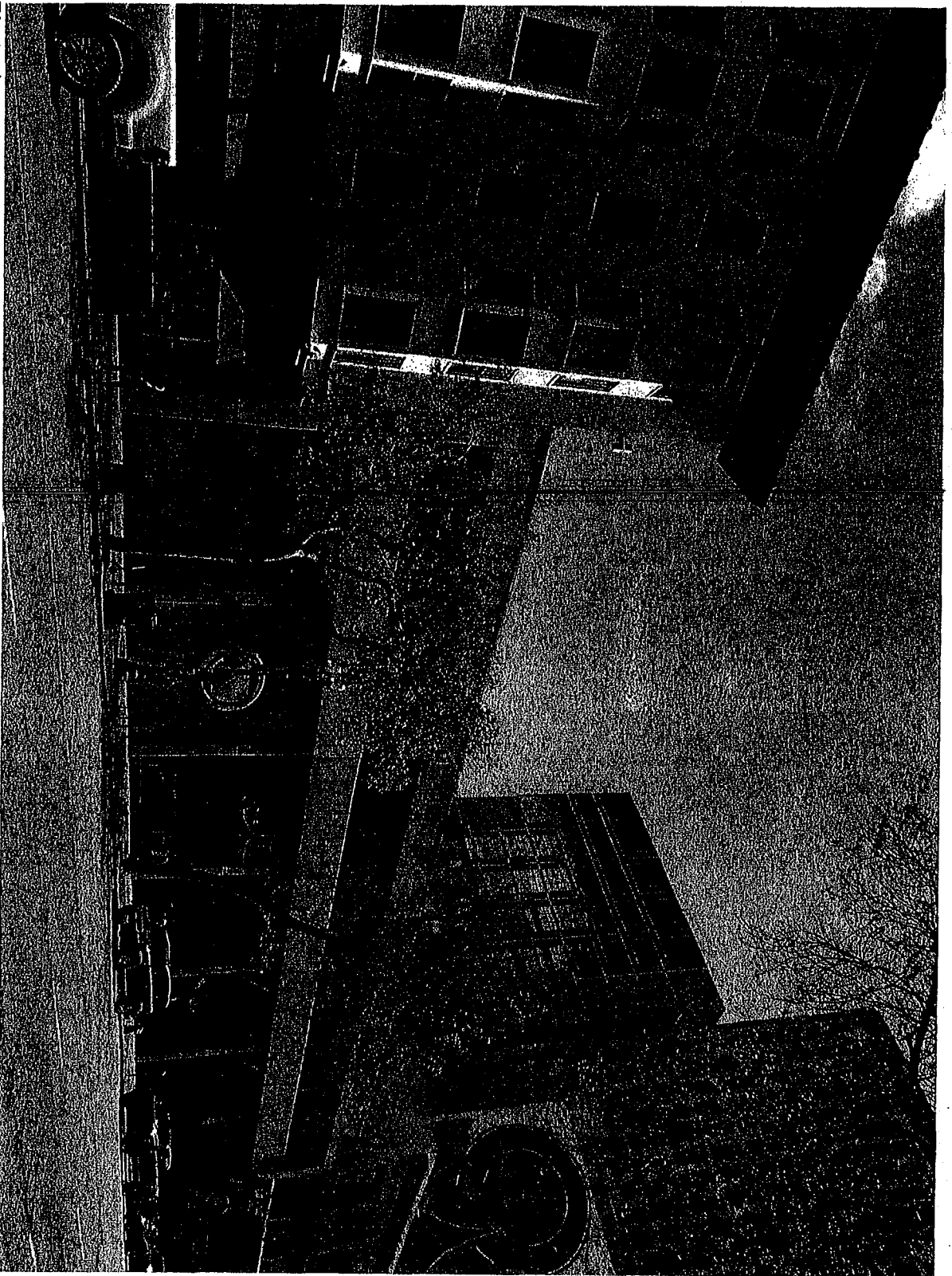
Photos of 1770 Broadway / 1750 Broadway

Photographed March 29, 2019

To respect the Council's time, we are providing some photos of our apartment building, 1770 Broadway, and its relation to our neighboring building at 1750 Broadway. These represent the physical evidence that supports many of our claims. The Planning Department staff and Commission have had access to this evidence, which can be verified by Council Members or their staff upon visit.

- 1) Left to right: 1770 Broadway, 1750 Broadway. The buildings on our block are well related in their setting, scale, bulk, height, materials and textures. 1640 Broadway is in the background.
- 2) 1750 Broadway is constructed of thick concrete pillars. The demolition of this building will create significant impact on our residents. Excavation of its foundation will be required. Impacts will include noise, vibration and airborne contaminants.
- 3) 1770 Broadway windows adjacent to 1750 Broadway walls. These are primary windows for four apartments.
- 4) The gap between the buildings. Visual inspection indicates it is filled with plywood and other material. Vibration will be transmitted through this material.
- 5) Rear of buildings. This is where the construction would be staged. Trucks will load and unload from location of this photo. The primary windows of 12 apartments face this narrow staging area.
- 6) 1750 Broadway rooftop, from the edge of 1770 Broadway. This should provide a sense of the mass of 1750 Broadway and the extent of the demolition that will be entailed.
- 7) Foreground: 1770 Broadway light well; background: 1750 Broadway. The primary windows of 16 apartments face this light well.
- 8) Base of light well. The primary windows of 8 apartments are adjacent to the 1750 Broadway wall.
- 9) Base of light well. A visible gap has been cut into 1770 Broadway to accommodate a 1750 Broadway beam.
- 10) Base of light well, where our buildings adjoin.

Photo 1



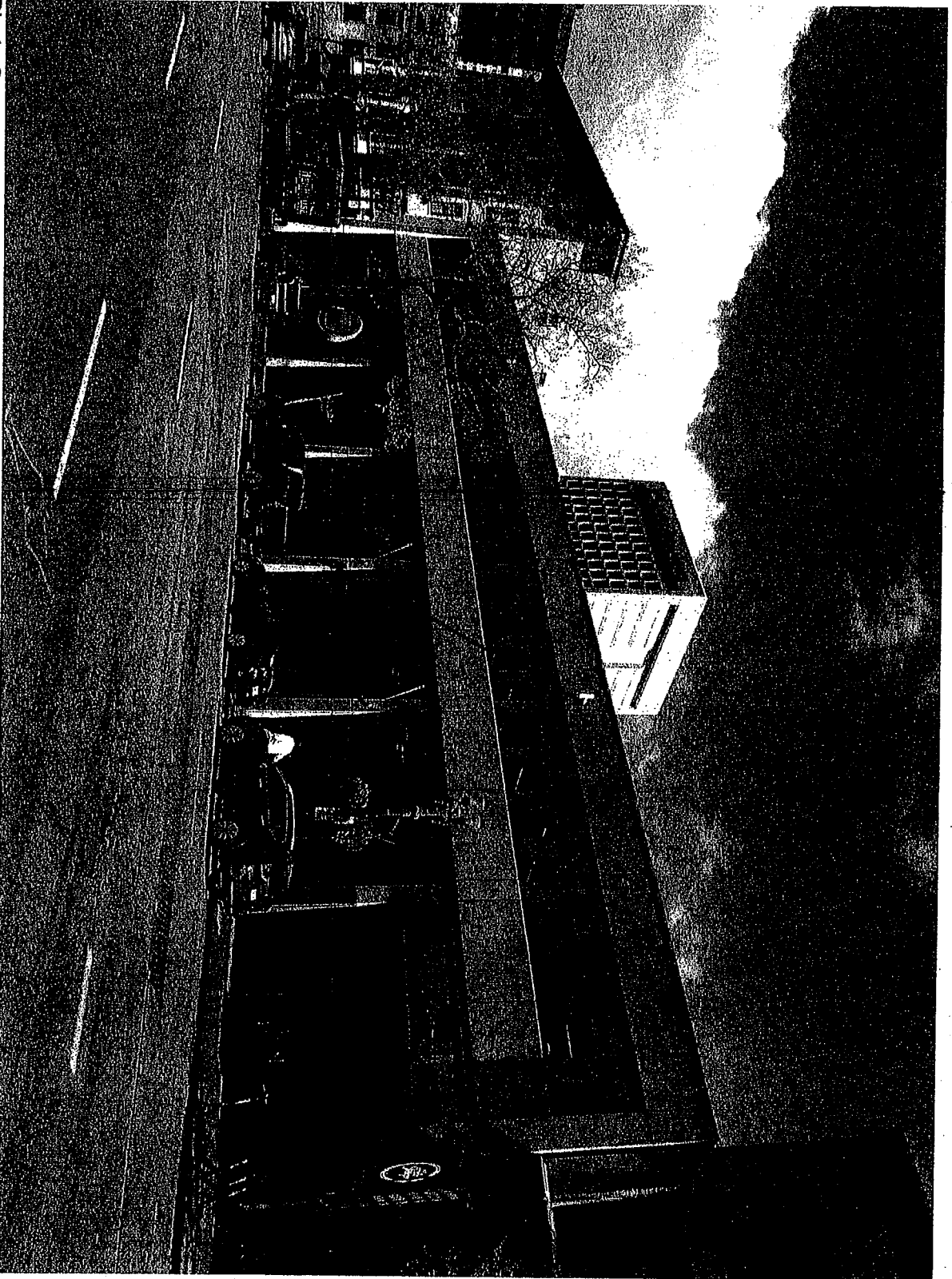


Photo 2

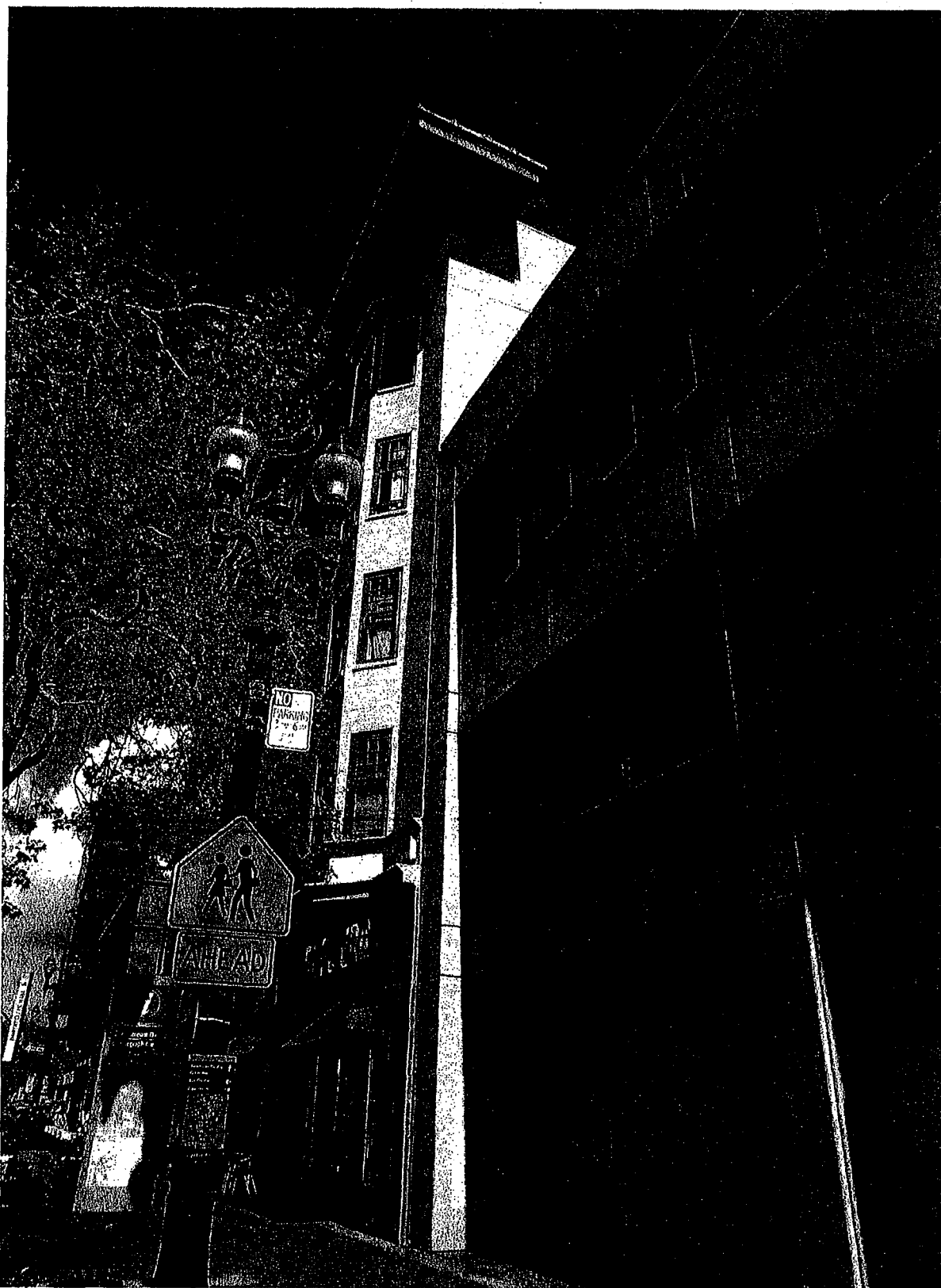


Photo 3

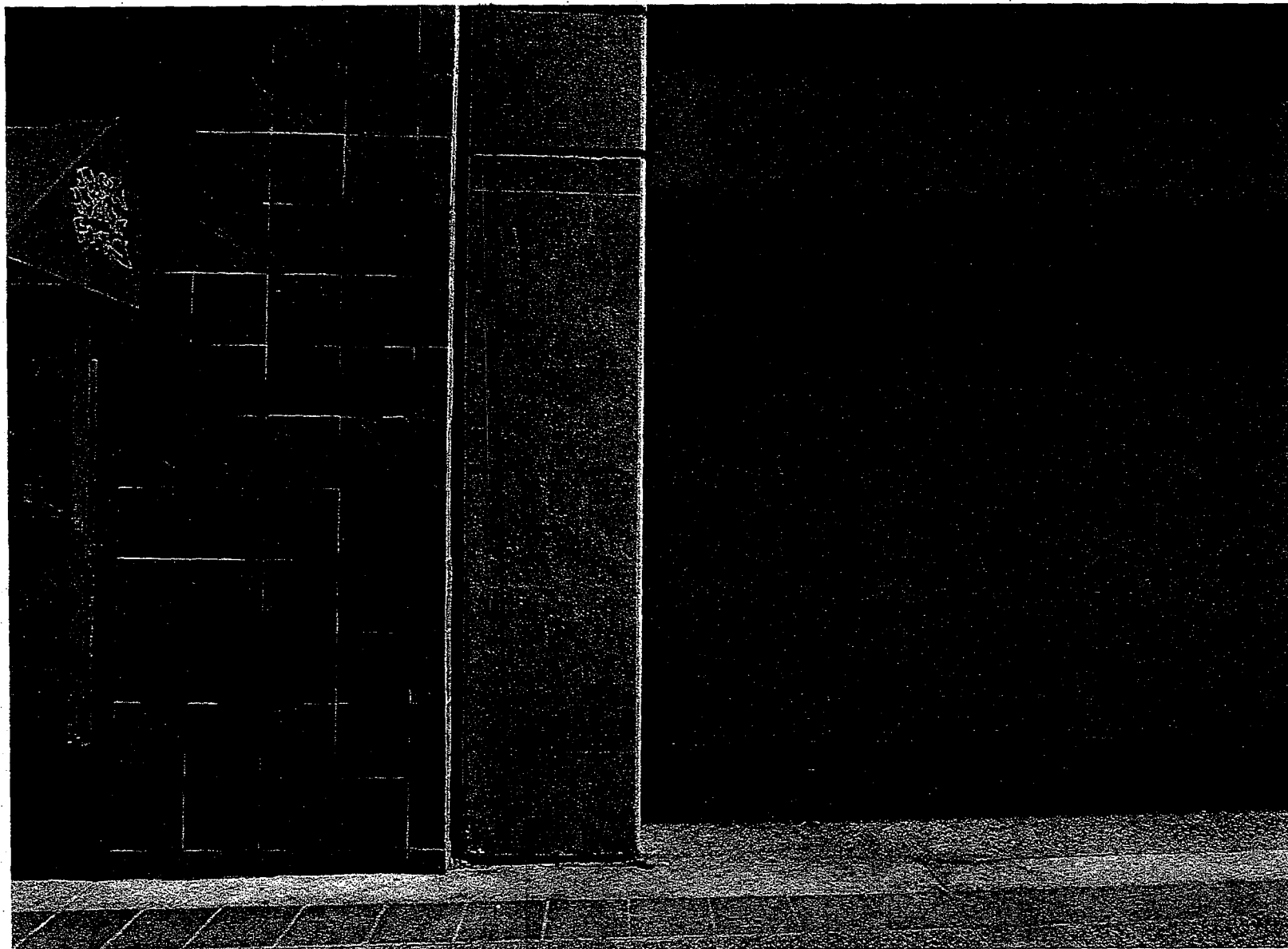


Photo 4



Photo 5

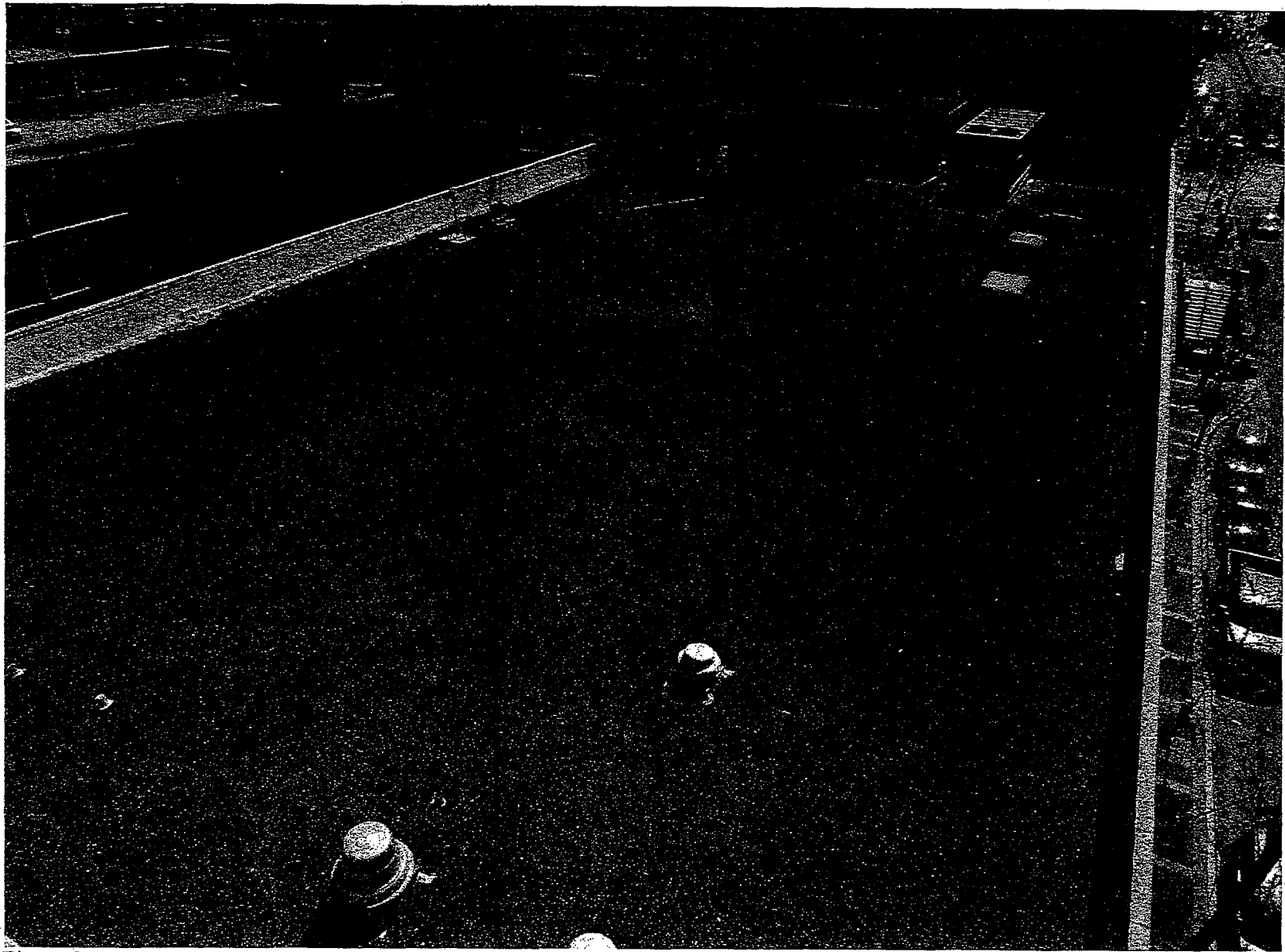


Photo 6

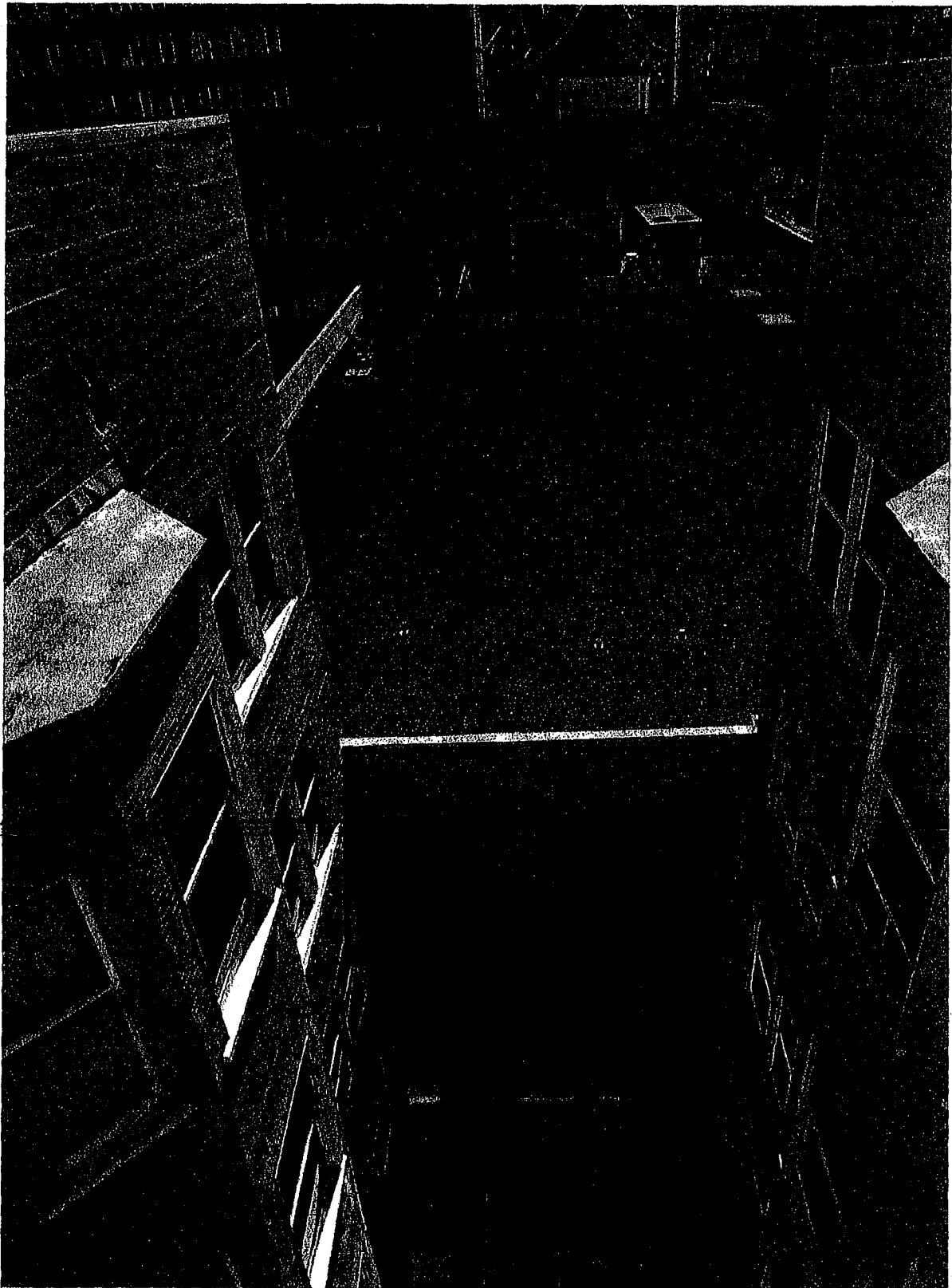


Photo 7.

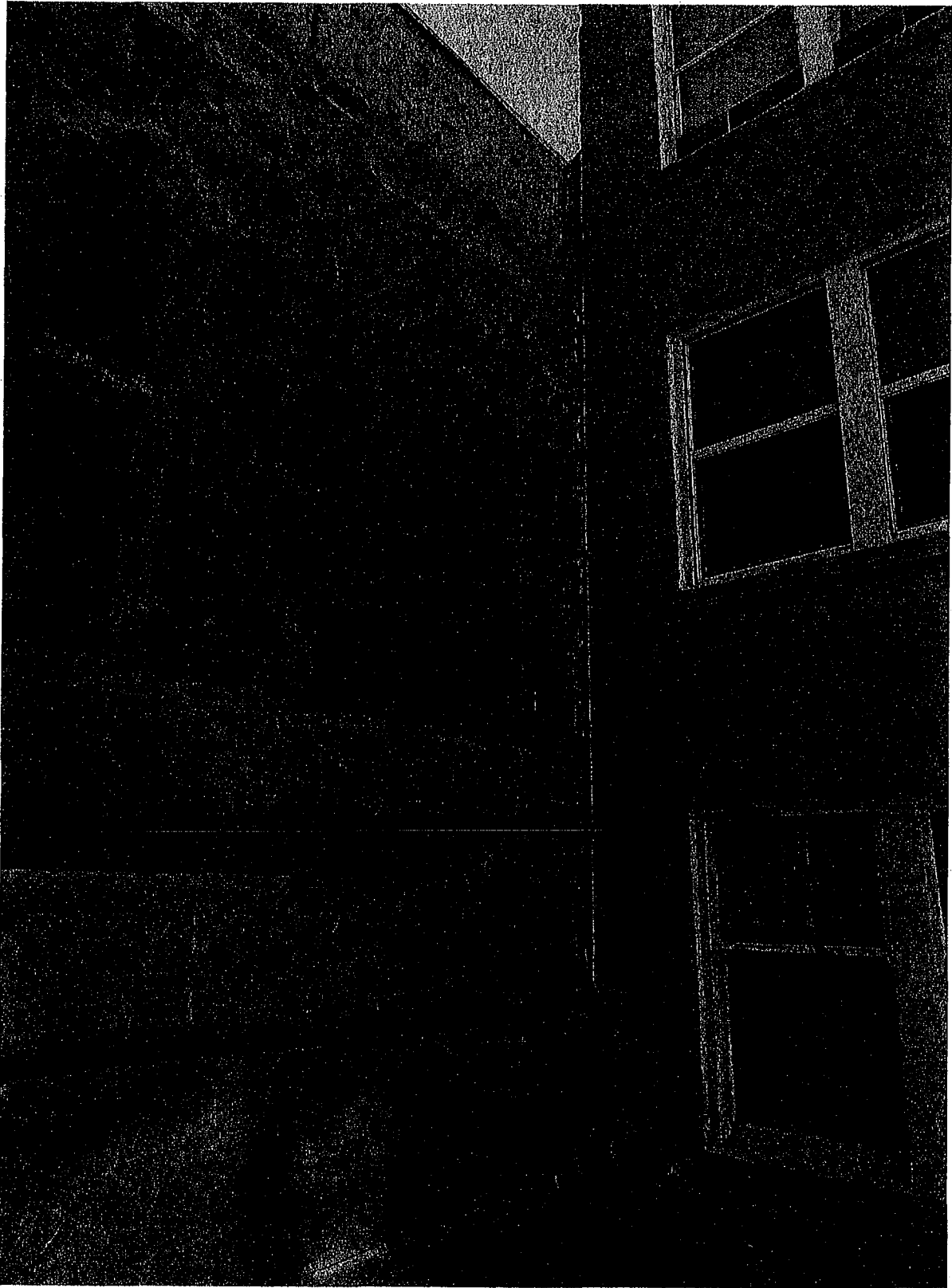


Photo8

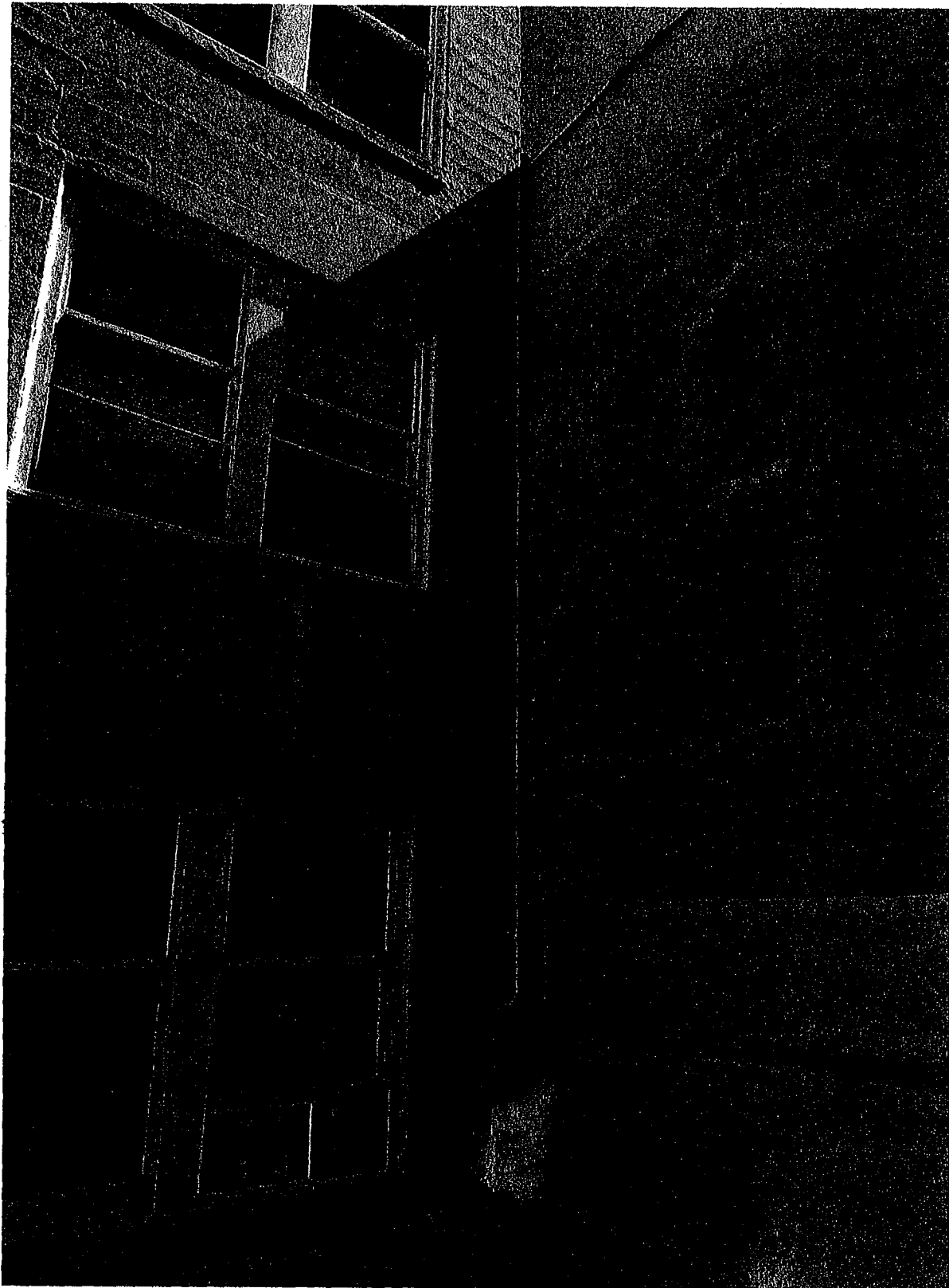


Photo 9

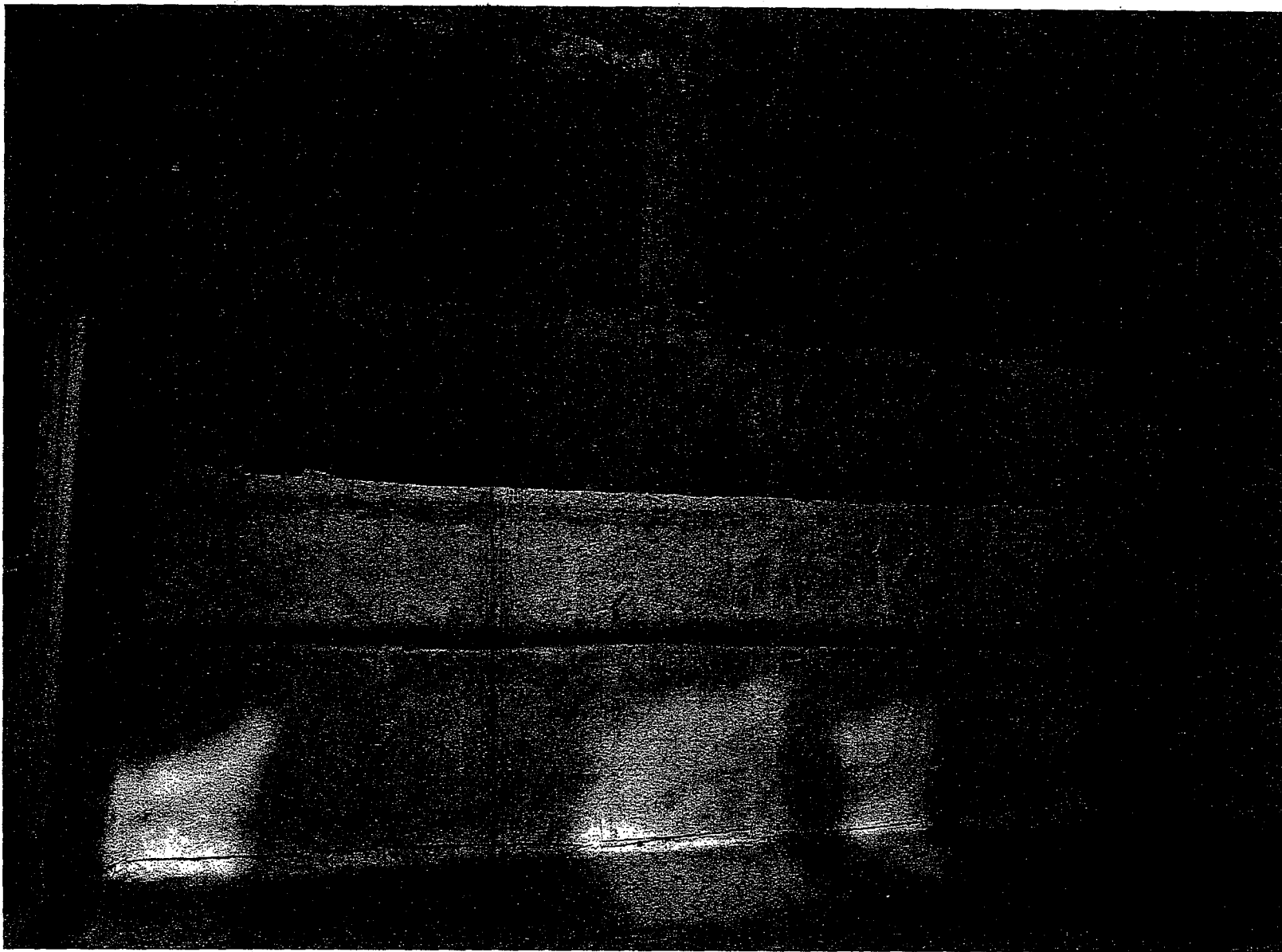


Photo 10

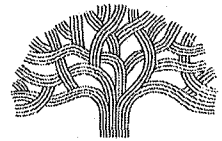
NOT FOR PUBLIC DISTRIBUTION

First Name	Last Name	Apartment	Email	Phone
Brendan	Friedrich	101	bfree4xh@gmail.com	
Dominique	Jones	102	dominiquejones92@gmail.com	
Mac	Battle	105	macbattle91@yahoo.com	
Joy	Ou	106	joyou9k@gmail.com	
Stan	O'Neill	107	stangoneill@gmail.com	
Joseph	Hornof	112	hornof@earcom.com	510-710-6352
Pauline	Luppert	202	pauline.luppert@gmail.com	
Scott	Goff	203	scott.c.goff@gmail.com	
Angela	Roberts	203		
Matt	Perry	208	mcp514@gmail.com	415-638-1092
Chad	Abbley	209	chad.abbley@gmail.com	
Roberto	Abiog	303		
Kishira	Caldwell	305	kicaldwell412@gmail.com	
Vikki	Panchal	305	vikkipanchal96@icloud.com	
Adria	Anderson	306	geekygirl@gmail.com	415-409-9557
Velta	Savelis	307	veltamara@gmail.com	510-940-5123
Clay	Kilby	310	clay@creativeforthepeople.org	
Stephen	Merjavy	311	merjavy.stephen@gmail.com	
Jwlhyfer	de Winter	312		
Chao-Yi Joy	Meng	401	joychaoyim@yahoo.com	510-219-4901
Christy	Booth	402	christybooth@gmail.com	
Andre	Owens	402	AndreAceHigh@yahoo.com	
Manar	Harb	403	manar.harb@gmail.com	
Misheel	Munkherdene	405	misheelmunkherdene@gmail.com	
Tsolmonbaatar	Sergelen	405	mngtvcom@gmail.com	
Vernie	Yong Tim	407	sueyongtim@yahoo.com	
Brendan	Kuklok	408		
Charles	Barrett	409		
Rory	Ross	411	rordonk@yahoo.com	
Brett	Nichols	412	brettnchls@gmail.com	

ATTACHMENT C

Planning Commission Decision Letter

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2032

Department of Planning and Building
Zoning Division

(510) 238-3911
FAX (510) 238-4730
TDD (510) 238-3254

PLANNING COMMISSION DECISION LETTER

Sent via U.S. Mail and Electronic Mail

March 22, 2019

Rubicon Point Partners, LLC
Attn: Chris Relf
55 2nd Street, Suite 1900
San Francisco, CA 94105

RE: Application Number: PLN18369; Property Location: 1750 Broadway; APN: 008 062301300

Dear Mr. Relf:

The above application was **APPROVED** at the City Planning Commission meeting (by a (4-0) vote) on March 20, 2019. The Commission's action is indicated below. This action becomes final ten (10) days after the date of the announcement of the decision unless an appeal to the City Council is filed by **4:00 pm on Monday, April 1, 2019**.


1. Adoption/approval of the CEQA Findings.
2. Approval of the project, including Major Conditional Use Permit and Regular Design Review, subject to the attached Findings, Conditions of Approval, Mitigation Monitoring and Reporting Program.
3. This includes an additional Condition of Approval (#24) imposed at the Planning Commission hearing to consider the feasibility of adding a new lightwell on the northside of the new building.

If you, or any interested party, seeks to challenge this decision, an appeal must be filed by no later than ten (10) calendar days from the announcement of the decision (by 4:00 pm on Monday, April 1, 2019). An appeal shall be on a form provided by the Bureau of Planning, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of Mike Rivera, Project Planner. 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 \$1,891.08 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the City Planning

Commission prior to the close of the City Planning Commission's public hearing on the matter. Project conditions of approval, are set forth in Attachments A and B.

If you have any questions, please contact the project case Planner, Mike Rivera at (510) 238-6417 or by email mriviera@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,


CATHERINE PAYNE
Acting Development Planning Manager
Bureau of Planning

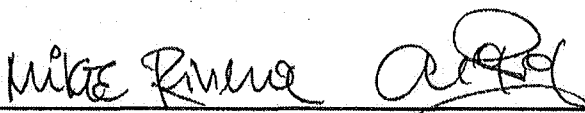
Attachments:

- Approved Plans
- Findings
- Conditions
- SCAMMRP (Standard Conditions of Approval Mitigation Monitoring Reporting Program)

Cc: City Surveyor, DOT City Engineer, DOT City Fire Bureau City Public Works

Interested Parties:

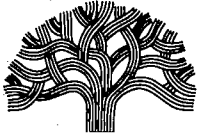
BART-Val Memotti	Mallory Nestor	Chantal Reynolds	Michael Hursh
Joseph Hornof	Michael R. Lozeau	Stephen Merjavy	Manar Harb
Chao-Yi Meng	Scott Goff	Velta Savelis	Andre Owens
Matt Perry	Nancy Morosohk	Clay Kilby	Christy Booth
Adria Anderson	Jwlhyfer de Winter	Janet Laurain	Rory Ross
Christina Caro			


(NAME & SIGNATURE OF PERSON PLACING IN MAIL)

3/22/19
(DATE)

ATTACHMENT D

*Public Notice for the February 4, 2020
City Council Meeting*



CITY OF OAKLAND

Bureau of Planning

Frank H. Ogawa Plaza, Suite 2114, Oakland, California, 94612-2032

CITY OF OAKLAND NOTICE OF PUBLIC HEARING

APPEAL TO THE CITY COUNCIL OF THE PLANNING COMMISSION APPROVAL FOR A NEW 37-STORY BUILDING WITH 5,000 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE, 307 RESIDENTIAL UNITS ABOVE, AND A 170-SPACE PARKING GARAGE, LOCATED AT 1750 BROADWAY, AND RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS (CASE NUMBER PLN18369).

Notice is hereby given that on **Tuesday, February 4, 2020, at 5:30 p.m. (or as soon thereafter as possible) in the City Council Chambers, City Hall, 1 Frank H. Ogawa Plaza**, the Oakland City Council (decision body) will conduct a public hearing to consider two separate appeals of the March 20, 2019 Planning Commission approval of a Major Conditional Use Permit, Regular Design Review, and adoption of the California Environmental Quality Act (CEQA) Findings for the project located at 1750 Broadway, Oakland, California (“Appeals”) by:

- 1) “Residents of 1770 Broadway” led by Joseph Hornof (case file APL19010); and
- 2) “East Bay Residents for Responsible Development” led by Adams Broadwell Joseph Cardozo (case file APL19013).

Members of the public are welcome to attend the City Council hearing, and provide either written or oral comments regarding these Appeals. Comments can also be directed to the City Council at the following link: <https://www.oaklandca.gov/departments/oakland-city-council>. If you seek to challenge this Planning Commission approval, as appealed, in court, you may be limited to raising only those issues raised at the public hearing described above.

On Friday, January 17, 2020, the City Council agenda report will be available to the public for review at the City of Oakland Permit Center, 250 Frank H. Ogawa Plaza, and online here:

APL19010:

<https://aca.accela.com/OAKLAND/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=19CAP&capID2=00000&capID3=09123&agencyCode=OAKLAND&IsToShowInspection=>

APL19013:

<https://aca.accela.com/OAKLAND/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=19CAP&capID2=00000&capID3=09133&agencyCode=OAKLAND&IsToShowInspection=>

On Friday, January 24, 2020, the City Council agenda report will also be available by visiting the Oakland City Council link here: <https://oakland.legistar.com/calendar.aspx>

If you have any questions regarding this Appeal, please contact the Project Case Planner, Mike Rivera at (510) 238-6417 or mrivera@oaklandca.gov.

ATTACHMENT E

Report by Charles Salter Associates, Inc., October 22, 2019

1750 Broadway Residences

Oakland, CA

Construction Noise Management Plan

October 22, 2019

Prepared for:

Alexis Pelosi
Pelosi Law Group
12 Geary Street, Floor 8
San Francisco, CA 94108
Email: alexis@pelosilawgroup.com

Prepared by:

Charles M. Salter Associates, Inc.
Blake M. Wells, LEED® Green Associate – Senior Consultant
Eric Mori, PE – Senior Vice President
130 Sutter Street, Floor 5
San Francisco, CA 94104
Email: blake.wells@cmsalter.com
eric.mori@cmsalter.com

Salter Project Number: 19-0297

INTRODUCTION

This report provides a site-specific construction noise reduction plan for the 1750 Broadway Residences project. The project is located along Broadway, between 17th Street and 19th Street in Oakland. We have reviewed the proposed construction noise equipment and schedule and predicted the noise levels expected at the nearby buildings.

Construction is estimated to begin early-2021 and be completed within approximately 26 months thereafter. Construction will occur on weekdays between the hours of 7 am and 7 pm.

The project is in the Central Business District (CBD-P & CBD-C) Zone. The adjacent buildings are residences to the north (1770 Broadway), a parking garage to the east, and a commercial building to the south. The residences to the north are the closest noise-sensitive receivers.

This report summarizes the results of our analysis and provides recommendations for construction noise reduction measures. The report consists of the following sections:

- 1.0 Executive Summary
- 2.0 Applicable Criteria
- 3.0 Construction Noise Analysis
- 4.0 Noise Reduction Measures
- Appendix A – Site Logistics Plan
- Appendix B – Noise Monitoring Equipment

1.0 EXECUTIVE SUMMARY

1. Construction noise levels and duration of noise will vary depending on the type and location of the construction activities. We expect that noise levels could temporarily exceed the ordinance criteria without noise reduction measures at the nearest properties when construction is occurring close to the properties. However, noise levels are expected to meet the City noise limit criteria with the noise reduction measures recommended in this report.
2. The recommended noise-reduction measures are expected to reduce construction noise to meet the City noise limits. We will be implementing the noise-reduction measures provided in the construction noise analysis conducted by the acoustical consultant retained by the residents of 1770 Broadway. Additional noise-reduction measures, such as equipment relocation away from residential receivers and additional barriers, should be considered to further reduce the construction noise levels. This is discussed in Section 4.0.

2.0 APPLICABLE CRITERIA

2.1 Oakland Municipal Code

The City of Oakland Noise Ordinance¹ provides provisions for construction noise levels. These provisions are as follows:

The daytime noise level received by any residential, commercial, or industrial land use which is produced by any non-scheduled, intermittent, short-term construction or demolition operation (less than ten days) or by any repetitively scheduled and relatively long-term construction or demolition operation (ten days or more) shall not exceed:

Table 1: Maximum Allowable Receiving Noise Level Standards, dBA

	Weekdays 7 am to 7 pm	Weekends 9 am to 8 pm
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

Additionally, Section 17.120.050 Part D of the Municipal Code states:

In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level.

Construction of the project is considered long-term. This report includes recommendations to reduce noise from construction activities that exceed these long-term noise criteria.

2.2 Existing Noise Environment

Table 2 shows the existing noise environment at the project site during the proposed construction hours (i.e., weekdays from 7 am to 7 pm). Measurements were conducted in May 2019. Noise levels are shown as the range of hourly L_{eq}^2 in dBA³. See **Figure 1** for the measurement locations, which included a monitor on the roof of the adjacent residential building at 1770 Broadway. See **Figures 2 to 4** for a graphical representation of the measured noise levels during the entire measurement period.

1 City of Oakland Municipal Code, Chapter 17 "Noise"

2 L_{eq} – The equivalent steady-state A-weighted sound level that, in a stated period of time, would contain the same acoustic energy as the time-varying sound level during the same period.

3 A-Weighted Sound Level – The A-weighted sound pressure level, expressed in decibels (dB). Sometimes the unit of sound level is written as dB(A). A weighting is a standard weighting that accounts for the sensitivity of human hearing to the range of audible frequencies. People perceive a 10 dB increase in sound level to be twice as loud.

Although the construction site will be closer to 19th Street, our measurements were conducted on 17th Street due to the current construction activity on 19th Street. The measured levels represent typical conditions on 19th Street without construction activity. Future monitoring would occur on 19th Street (see Appendix A). All adjacent land uses are zoned for Central Business District (CBD-P & CBD-C).

Table 2: Range of Existing Noise Environment During Construction Hours

Location	Measured Hourly (7 am to 7 pm) L_{eq} (dBA)	Noise Ordinance Prescribed Noise Limit (dBA)
Broadway (L1)	68 to 76	70
17th Street (L2)	63 to 77	70
North Property Line (L3)	63 to 72	65

As shown, the existing noise levels exceed the maximum allowable receiving noise level standards at the adjacent properties for long-term construction. Therefore, the existing ambient noise levels are the applicable daytime long-term construction noise standard for all three locations.

Figure 1: Existing Noise Environment Measurement Locations

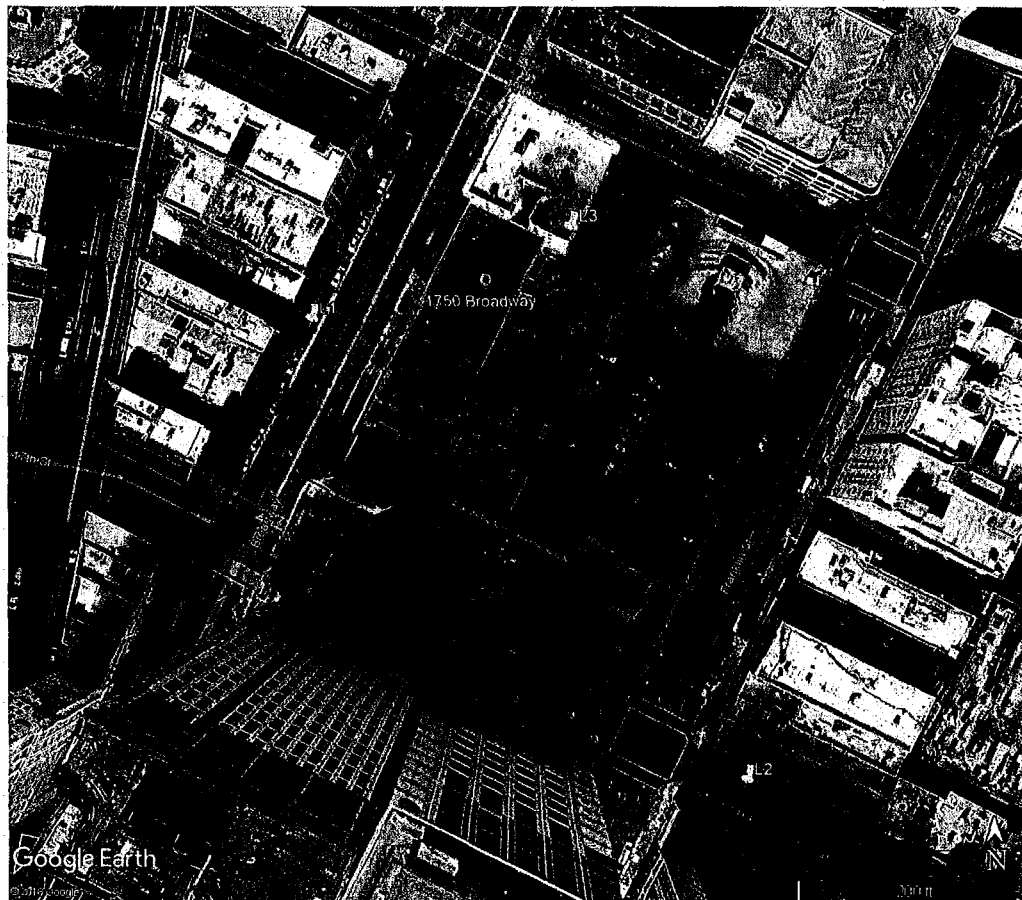


Figure 2: Measured Hourly Noise Levels (dBA) at Broadway (L1)

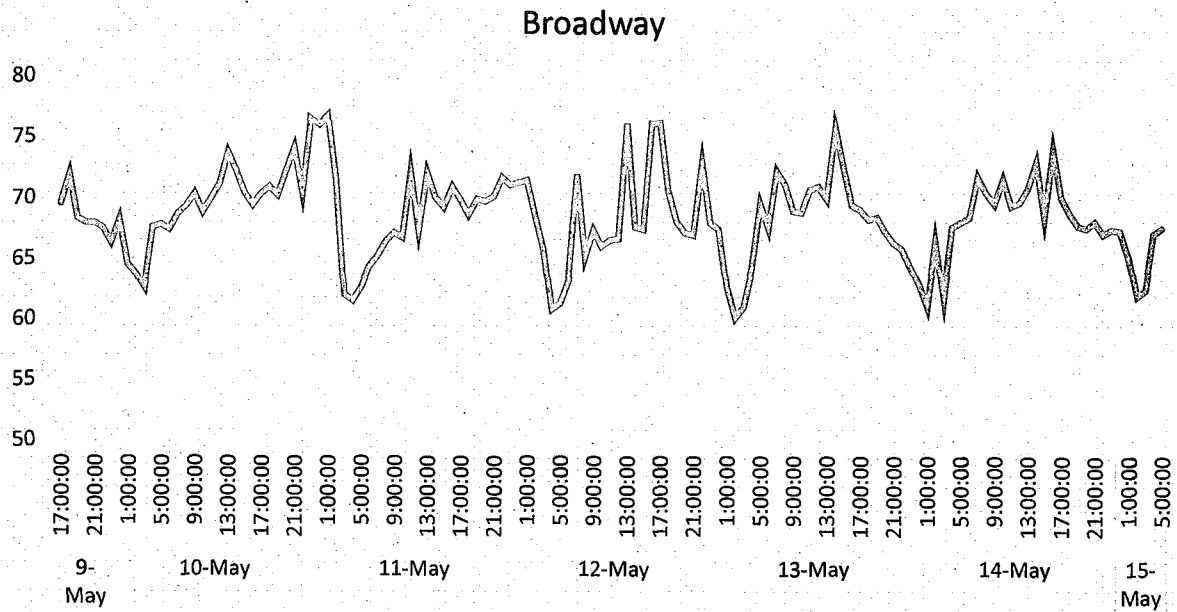
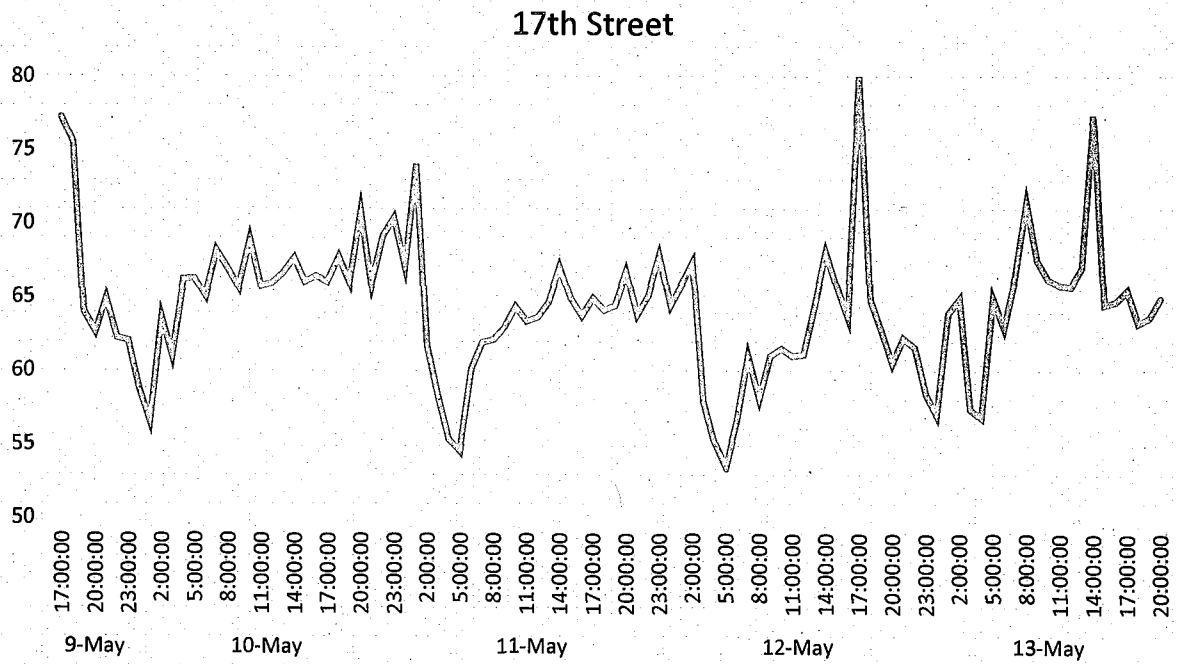


Figure 3: Measured Hourly Noise Levels (dBA) at 17th Street (L2)



A general description of the phases and potential tools and activities that might happen on site during construction is listed below. This does not constitute a comprehensive list of activities, tools, and potential impacts. Actual tools used, activities completed, suggested areas of noise, and durations described might vary depending on site conditions, subcontractor techniques, and general sequencing of the project's schedule.

Phase 1: Demolition, Excavation, and Subgrade

Scheduled Dates: Month 1 to Month 7

Activities: Phase 1 includes (but is not limited to):

- Demolition of the existing structure (Month 1 only)
- Structural and mass excavation
- Installation of foundations, temporary power lighting, utilities/facilities, and shoring
- Erection of site fencing
- Construction of concrete garage
- Site preparation and improvements

Tools and Noise: During this phase, air compressors, backhoes, concrete pumps, dewatering pumps, dozers, drill rig, excavators, forklifts, hand tools, loaders, rollers, and welding machines (with generator) will be used. Most noise during Phase 1 will be focused on or near grade.

Phase 2: Foundation and Structure Erection

Scheduled Dates: Month 7 to Month 20

Activities: Phase 2 includes (but is not limited to):

- Site improvements
- Installation of temporary shoring and PG&E meters
- Mechanical, electrical, and plumbing rough-in and routing
- Installation of elevator
- Masonry installation
- Installation of exterior envelope
- Use of mobile crane
- Framing of the structure

Tools and Noise: During this phase, air compressors, concrete pumps, cranes, forklifts, hand tools, personnel hoists, scissor lifts, and welding machines (with generator) will be used. Most noise during Phase 2 will be located at grade (for deliveries and staging) as well as on and/or around the structural decks where concrete is being poured and framing is installed.

Phase 3: Exterior Finishing, Interior Framing and Finishes

Scheduled Dates: Month 10 to Month 26

Activities: Phase 3 includes (but is not limited to):

- Concrete pours
- Hand tools for interior work and finishes
- Drywall, framing, tile, and painting
- Cabinet installation
- Elevator work
- Site work and landscaping
- Mobile crane demobilization
- Personnel hoist demobilization
- Mechanical, electrical, and plumbing system installation
- Fire life-safety testing
- Fire alarm testing

Tools and Noise: During this phase, the air compressors, concrete pumps, cranes, forklifts, hand tools, personnel hoists, scissor lift, and welding machines (with generator) will be used. Most noise during Phase 3 will be located at grade (for deliveries and staging). However, the building will have the exterior envelope installed. Therefore, much of the construction activity will be in the interior of the building.

3.2 Predicted Construction Equipment Noise Levels

Per the proposed construction equipment list, Table 4 indicates the expected equipment noise levels and usage factors. Concrete saws will not be used. These noise levels are the basis of our analysis.

Table 4: Typical Noise Levels Used for the Analysis⁴

Equipment	Usage Factor (%)	Hourly Average Noise Level (dBA) @ 50 Feet per Usage Factor
<i>Earthmoving</i>		
Front Loader	40	76
Backhoe	40	76
Dewatering Pump	50*	77
Dozer	40	81
Grader	40	81
Excavator	40	77
Forklift	40	79
<i>Materials Handling</i>		
Concrete Mixer	40	75
Concrete Pump	40	78
Tower Crane	50*	80
<i>Impact</i>		

⁴ Sources: U.S. Environmental Protection Agency (1971), FHWA Construction Noise Handbook Tables 9.1 and 9.9

Compressor (pneumatic tools)	40	77
<i>Stationary</i>		
Generator	50	78
Personnel Hoist	50*	72
Scissor Lift	50*	71
Welding Machine	50*	71
<i>Other</i>		
Drill Rig (Auger)	20	77
Roller	20	67

*Usage factor estimated

Based on our review of the phasing and equipment plan, as well as these equipment noise levels provided in the FHWA Construction Noise Handbook and our experience with similar equipment, we have used our own proprietary spreadsheet⁵ to calculate the expected maximum noise levels at nearby receiver locations (see Tables 5 to 7).

The equipment was identified for each phase of construction and was assumed to be operating simultaneously at the nearest (worst-case) and furthest (best-case) positions from potential receivers. Since the measured ambient noise levels exceed the City's criterion, the applicable criterion shall be equal to the measured ambient noise level (see Section 2.1). For the purposes of this report, we analyzed noise levels at the proposed long-term monitoring locations (see Appendix A).

Location 1

This location is on the west side of Broadway between 17th Street and 19th Street. It is approximately 80 feet west from the construction site. Based on the construction phasing and equipment information provided, we estimate that construction noise levels without reduction measures could be up to those shown in Table 5.

Phase	Estimated Maximum Construction Noise Levels	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	82 dBA	Ambient of 68 to 76 dBA ⁶
2	80 dBA	
3	80 dBA	

⁵ Our model uses distance and accompanying decibel drop-off for each piece of equipment and then sums the noise levels.

⁶ "In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level."

Location 2

This location is on the north side of 19th Street, between Broadway and Franklin Street. It is approximately 130 feet from the construction site. Based on the construction phasing and equipment information provided, we estimate that construction noise levels without reduction measures at this location could be up to those shown in Table 6.

Table 6: Construction Noise Analysis for Location 2 (Hourly Leq)		
Phase	Estimated Maximum Construction Noise Levels	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	80 dBA	Ambient of 63 to 77 dBA
2	78 dBA	
3	77 dBA	

Location 3

This location is on the roof of the adjacent residential property at 1770 Broadway. It is at the north property line of the project site. Based on the construction phasing and equipment information provided, we estimate that construction noise levels without reduction measures at this location could be up to those shown in Table 7.

Table 7: Construction Noise Analysis for Location 3 (Hourly Leq)		
Phase	Estimated Maximum Construction Noise Levels	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	86 dBA	Ambient of 63 to 72 dBA
2	84 dBA	
3	84 dBA	

3.3 Analysis

Although the estimated noise levels exceed the construction noise thresholds set out in the Municipal Code, the levels will vary as the project progresses around the construction site and moves to the interior of the building. Additionally, measured construction noise levels will be compared to the pre-construction ambient noise levels, as described in Section 17.120.050 Part D of the Municipal Code.

Some construction activities could result in instantaneous noise levels above 90 dBA. Based on our experience, these might include air horns, material handling, air brakes, back-up beepers, and other impact-generating activities. Noise levels will be monitored during the noisiest phases of construction to refine these estimates and corresponding noise reduction measures, as necessary. All feasible techniques prescribed in Section 4.3 shall be implemented to reduce the noise impacts.

4.0 NOISE REDUCTION MEASURES

4.1 Standard Conditions of Approval

The following noise reduction measures are set forth and required by the City's Standard Conditions of Approval (SCA). These measures will be implemented throughout the project.

SCA Item	Requirement	Response
62	Construction Days/Hours. The project applicant shall comply with the following restrictions concerning construction days and hours:	
a	Construction activities are limited to between 7 am and 7 pm, Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8 am and 4 pm Monday through Friday.	Will comply
b	Construction activities are limited to between 9 am and 5 pm on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9 am to 5 pm only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.	Will comply
c	No construction is allowed on Sunday or federal holidays.	Will comply
63	Construction Noise. The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:	
a	Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds), wherever feasible. Except as provided herein, impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically-powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.	Will comply
b	Applicant shall use temporary power poles instead of generators where feasible.	Will comply

c	Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.	Will comply
d	The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.	Will comply
64	Extreme Construction Noise. Prior to any extreme noise-generating construction activities (e.g., pier-drilling, pile-driving and other activities generating greater than 90 dB), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:	
a.i	Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings.	Will comply – see Section 4.2.1
a.ii	Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions.	Piles will be drilled, not driven
a.iii	Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site.	Will comply – see Section 4.2.2
a.iv	Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by using sound blankets (for example) and implement such measure if such measures are feasible and would noticeably reduce noise impacts.	Will be provided, as needed – see Section 4.2.3
a.v	Monitor the effectiveness of noise-attenuation measures by taking noise measurements.	Will monitor noise – see Section 4.2.4
b	The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.	Will comply

65	Project-Specific Construction Noise Reduction Measures. The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts. The project applicant shall implement the approved Plan during construction.	
66	Construction Noise Complaints. The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:	
a	Designation of an on-site construction complaint and enforcement manager for the project.	Will comply – see Section 4.2.5
b	A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit.	Will comply – see Section 4.2.5
c	Protocols for receiving, responding to, and tracking received complaints.	Will comply – see Section 4.2.5
d	Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.	Will comply – see Section 4.2.5

4.2 Supplemental Information on Standard Conditions of Approval

The following provides additional information and analysis of certain SCA identified in Section 4.1, including their application and expected noise reduction.

1. **SCA 64-a.i:** The sound fence around the project site should be constructed prior to any site work and erected at the project boundary on the north, south, and west sides. The fence should be 12-feet high and have a minimum surface density of 3 psf (e.g., plywood, sound blanket) with no cracks or gaps. This will help to reduce noise up to 10 dB at the typical pedestrian head-height – depending on the height of the equipment noise source (e.g., drilling is at grade, but equipment engine exhausts are above grade) – where line-of-sight to the construction activity will be broken. Gates will be used for entrances/exits to maintain a solid barrier and shall remain closed when not in use.
2. **SCA 64-a.iii:** The use of sound blankets around the building structure before the exterior facade is installed can provide up to 5 to 10 dB of noise reduction. The sound blankets should cover three floors at a time and be installed without seams or gaps (i.e., they should overlap one another).
3. **SCA 64-a.iv:** If a tenant elects to receive noise barriers at their property to reduce the impacts of the construction noise associated with the project, the project developer will provide and install sound blankets at the tenant's windows at no cost to the tenant. This sound disturbance resolution will be recorded on the neighborhood complaint log. The project developer will proactively and regularly conduct neighborhood outreach to receive feedback on the noise impacts and attenuation measures.

At the adjacent 1770 Broadway residences, use construction noise control blankets along the property line (e.g., Acoustical Surfaces BBC-13X-2) to reduce noise intrusion. Pending approval from the landlord, additional noise reduction can be achieved by installing new sound-rated windows or additional storm windows⁷ in conjunction with the existing windows. These measures would provide 10 to 20 dB of additional noise reduction (depending on how well the existing windows are sealed).

4. **SCA 64-a.v:** During construction, noise will be monitored continuously at three locations with bi-weekly reporting of the noise levels during construction hours. Hourly L_{eq} will be reported and compared to the ambient hourly L_{eq} measured before construction commenced, which varied over time (see **Figures 2 to 4**). If hourly L_{eq} during construction are greater than 3 dB above the previously measured ambient noise levels for that particular hour of the day, the exceedance recordings will be used to identify what activities (e.g., construction, traffic, sirens) caused noise levels to rise.

Additionally, if noise levels exceed 90 dB outside of the approved construction hours, the project developer will be notified to adjust the construction activity accordingly. Reports will be submitted within one week of the measurements being taken. This tool will be used to fine tune the proposed noise reduction measures, as needed. See Appendix B for the noise monitoring equipment.

5. **SCA 66:** The following procedures will be implemented to address construction noise complaints:
 - a. Designation of Enforcement Manager. Any complaints received with respect to construction noise shall be forwarded to the Compliance Manager [TBD]. Contact Number: [TBD].
 - b. Signage. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit. Example signage provided as **Appendix C**.
 - c. Notifications. Notify adjacent property owners and occupants located within 300 feet of the project site at least 14 days prior to commencement of activities. SCA NOI-1 only requires notifications for construction activity outside of standard hours.
 - d. Complaints. The noise and compliance enforcement manager for the project, shall ensure response and corrective action to complaints within the same working day if the complaint is received during the noise-related incident and from sensitive receptors residing within 100 feet of the project site. Otherwise, response and corrective action to complaints shall occur within 48 hours. A complaint log shall be maintained by the Compliance Manager indicating the date and time of each received noise complaint, the noise source of concern, and how the issue was resolved. Example complaint log provided as **Appendix D**.

⁷ Storm windows are an additional operable pane of glass installed in conjunction with the existing window assembly to provide additional noise reduction.

4.3 Site-Specific Noise Reduction Measures (All Phases)

The following are noise reduction measures that will be implemented by the project applicant throughout construction. These techniques are in line with the recommendations in the Construction Noise Analysis report prepared for the neighbors at 1770 Broadway by Wilson Ihrig on April 1, 2019.

All Phases:

- Utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible) for equipment and trucks
- Locate stationary noise sources as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds or incorporate insulation barriers to provide noise reduction
- Use hydraulic or electric-powered impact tools wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools
- Use "quiet" gasoline or electric-powered compressors
- Use electric forklifts
- Manage truck traffic to reduce idling (see the Site Logistics Plan in Appendix A)
- Proactively and regularly evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by using sound blankets
- Use back-up beepers only when required by law. Spotters or flaggers should be used in lieu of back-up beepers to direct backing operations when allowable
- Minimize drop height when loading excavated materials onto trucks
- Minimize drop height when unloading or moving materials on-site
- Sequence the noisiest activities to coincide with the noisiest ambient hours

Phase 1:

- Erect temporary plywood noise barriers around the construction site
- Erect localized barriers around noisy stationary equipment at-grade (e.g., pumps, generator)
- Erect a barrier around the drill rig that is tall enough to block line-of-sight to the adjacent residences with no cracks or gaps. The interior of the barrier should be lined with a sound-absorptive material (e.g., duct liner, black-faced insulation). Actual design of the barrier would be developed in conjunction with the contractor.
- Only operate the drill rig during the noisiest time of the day
- Install noise control blankets to reduce noise intrusion at 1770 Broadway
- Install temporary "storm windows" over existing windows in habitable rooms at 1770 Broadway with direct line-of-sight to the project site

Phase 2:

- Utilize sound blankets around the building structure as construction moves vertically above the plywood noise barriers at-grade

Phase 3:

- Locate noisy equipment within the building structure once the exterior facade is installed

4.4 Estimated Noise Levels with Noise Reduction Measures

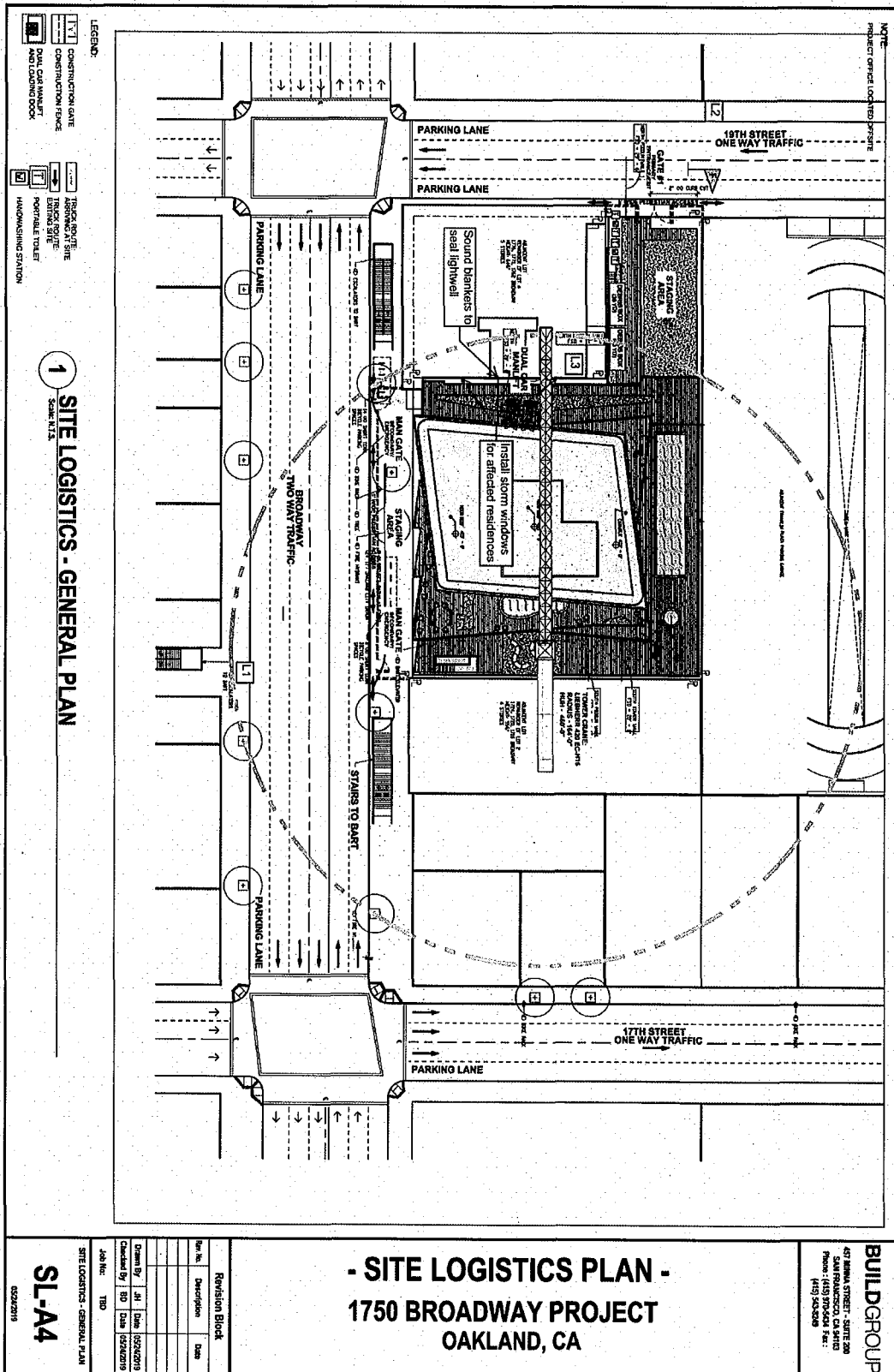
The following tables show the estimated noise levels at each location during each phase with the noise reduction measures prescribed in the SCA and the Noise Reduction Measures in Section 4.3.

Table 8: Construction Noise Analysis for Location 1 (Hourly L_{eq})		
Phase	Estimated Noise Levels with Noise Reduction	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	72 to 76 dBA	Ambient of 68 to 76 dBA
2	70 to 75 dBA	
3	70 to 75 dBA	

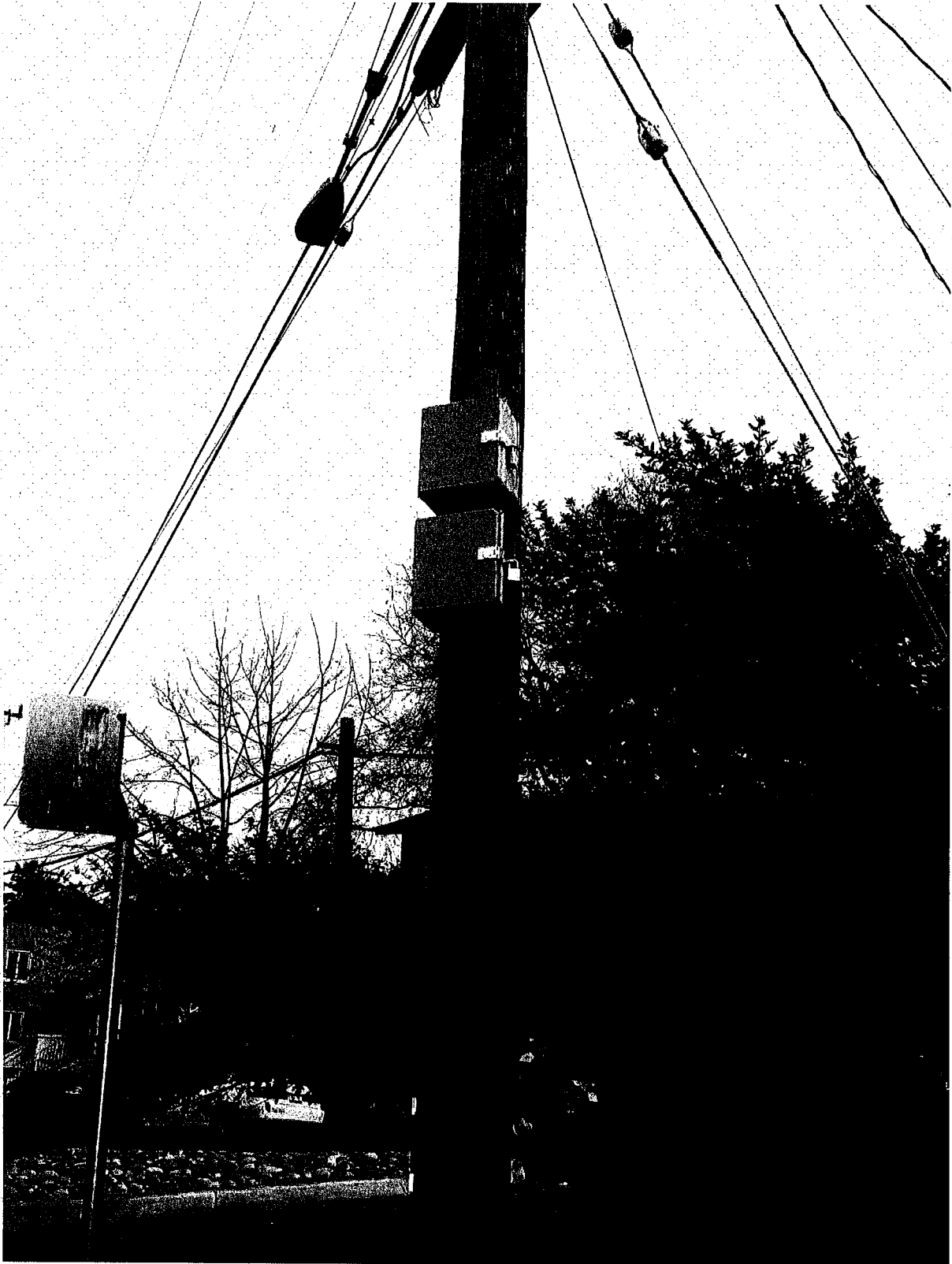
Table 9: Construction Noise Analysis for Location 2 (Hourly L_{eq})		
Phase	Estimated Noise Levels with Noise Reduction	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	70 to 75 dBA	Ambient of 63 to 77 dBA
2	63 to 70 dBA	
3	62 to 69 dBA	

Table 10: Construction Noise Analysis for Location 3 (Hourly L_{eq})		
Phase	Estimated Noise Levels with Noise Reduction	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	69 to 72 dBA	Ambient of 63 to 72 dBA
2	64 to 69 dBA	
3	64 to 69 dBA	

APPENDIX A – SITE LOGISTICS PLAN



APPENDIX B – SOUND MONITORING EQUIPMENT



APPENDIX C - SIGNAGE

SIGN REQUIREMENTS FOR POSTING CONSTRUCTION HOURS

Contractor shall post a sign at all entrances to the construction site upon commencement of construction. Sign(s) shall be posted in a conspicuous place visible from the public right-of-way near the entrance to the job site, at least five (5) feet above ground level, and shall be of a white background, with legible black lettering. Lettering shall be a minimum of one and one-half (1-1/2) inches in height. The sign shall read as follows:

ADDRESS: 1750 Broadway

CONSTRUCTION HOURS (includes any and all deliveries)

MONDAY-FRIDAY 7:00 a.m. to 7:00 p.m.

SATURDAY 9:00 a.m. to 5:00 p.m.

SUNDAY/HOLIDAYS Prohibited

RESPONSIBLE PARTY CONTACT: [NAME TBD] [PHONE NUMBER TBD] [EMAIL ADDRESS TBD]

This sign and construction hours posting requirement is for the purpose of informing all contractors and subcontractors, their employees, agents, material, men and all other persons at the construction site. Construction includes: alteration, demolition, maintenance of construction equipment, deliveries of materials or equipment, or repair activities.

NOISE LIMITS

The construction site noise level at any point outside of the construction property line shall not exceed ninety (90) dBA. Violation of the construction hours and/or noise limits may be enforced as either an infraction or a misdemeanor punishable by fines or jail time or both or by an administrative citation with a fine, or by a civil action with a monetary penalty, injunction and/or other remedies.

ATTACHMENT F

ESA Memorandum-Responses, dated October 22, 2019



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Oakland, CA 94612
510.839.5066 phone
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esassoc.com

memorandum

date October 22, 2019

to Mike Rivera, City Planner
City of Oakland
Bureau of Planning
250 Frank H. Ogawa, Suite 2114
Oakland, CA 94612
510 238-6417
mrivera@oaklandnet.com

from Elizabeth Kanner
Senior Managing Associate ESA
ekanner@esassoc.com

subject Response to 1750 Broadway Project Appeal Letters from Adams Broadwell Joseph & Cardozo / East Bay Residents for Responsible Development (April 1, 2019) and Joseph Hornof / Residents of 1770 Broadway (April 1, 2019)

This memorandum provides responses to the April 1, 2019 appeal letters from Adams Broadwell Joseph & Cardozo (hereafter, "Adams Broadwell Appeal") and Joseph Hornof / Residents of 1770 Broadway (hereafter, "1770 Appeal") containing comments on the CEQA Checklist/Exemption Report (hereafter, "CEQA Analysis") for the 1750 Broadway Mixed-Use Project (Project) that was published in February 2019 (PLN 18369). These responses are limited to the comments relating to the CEQA analysis.

I. Adams Broadwell Appeal

The Adams Broadwell Appeal challenges the City's reliance on the series of CEQA exemptions that were used in the CEQA Analysis to satisfy environmental review of the Project under the California Environmental Quality Act (CEQA). The responses to the Adams Broadwell Appeal are organized into the following topics, which correspond with the topics in the Adams Broadwell Appeal.

A. Response to Comment Regarding Health Risks from Construction Emissions

The Adams Broadwell appeal letter asserts that the CEQA Analysis/Exemption Report did not adequately address construction-related health risk analysis and associated mitigation. This claim assumes the requirement for use of Tier 4 engines in all construction equipment, identified in the Project Health Risk Assessment, is non-binding and that the cumulative scenario neglected to include a nearby project.

RESPONSE:

Requirement to use Tier 4 equipment as binding mitigation

The CEQA Analysis for the Project includes a detailed Construction Health Risk Assessment for the analysis of health risks from exposure to Diesel Particulate Matter (DPM), conducted using standard methodology recommended by the Bay Area Air Quality Management District (BAAQMD) and the Office of Environmental Health and Hazard Assessment (OEHHA) (see 1750 Broadway Project CEQA Checklist/Exemption Report, Appendix C). Emission rates were estimated based on outputs from CalEEMod, the BAAQMD recommended model for estimating emissions from land use development projects such as the Project; dispersion modeling to estimate concentrations was conducted using USEPA approved AERMOD.

The HRA in itself is partial implementation of the requirements of Standard Condition of Approval (SCA) AIR-3a(i) which requires project applicants to complete an HRA to determine the health risk to sensitive receptors exposed to DPM from project construction emissions. As stipulated by the SCA, if a project's estimated health risks exceed acceptable levels, DPM reduction measures are to be identified to reduce the health risk to acceptable levels. The Project HRA found that uncontrolled (unmitigated) health risks from exposure to Project construction emissions would exceed the City's thresholds. The Project HRA identifies use of construction equipment complying with Tier 4 Final standards as the measure to reduce Project health risks to acceptable levels. SCA AIR-3a(ii) validates the use of Tier 4 engines in off-road diesel equipment as one of the most effective Verified Diesel Emission Control Strategies (VDECS) available. Further, SCA AIR-3a(i) requires that all measures identified to reduce health risks be included as part of a Construction Emissions Minimization Plan (EMP) as detailed under SCA AIR-3b. The Construction EMP for the Project will therefore include the requirement for use of Tier 4 engines in all construction equipment and shall be submitted to the City for review and approval prior to the issuance of building permits. As required by SCA AIR-3b, the EMP will provide a detailed inventory of off-road equipment used for each phase of construction with details of the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number and include a Certification Statement that the Contractor agrees to comply fully with the EMP. The Project HRA and the EMP are both submitted to the City for review as part of SCA AIR-3 (see the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program in the 1750 Broadway Project CEQA Checklist/Exemption Report, Attachment A). This ensures that the Project HRA's requirement to use Tier 4 engines in all construction equipment to reduce health risks to acceptable levels becomes a binding contract, contingent upon which building permits will be issued.

The Adams Broadwell Appeal, in Exhibit A, incorrectly states that SCA AIR-3 (City SCA 23) requires *either* an HRA or a Construction EMP and that the plan does not expressly require Tier 4. As explained above, as part of implementation of SCA AIR-3a(i), when an HRA determines the need for additional control measures to reduce risks to acceptable levels, implementation of SCA AIR-3b requiring preparation and submission of a Construction EMP becomes mandatory. The requirement to use Tier 4 construction equipment, as determined necessary by the HRA, becomes part of the Construction EMP and hence binding conditions for approval of building permits.

Availability of Tier 4 Final Equipment

Regarding the availability of off-road construction equipment that meet the Tier 4 Final standards, the California Air Resources Board has gathered statewide data summary as part of compliance with the In-Use Off-Road Diesel Regulation. The data indicate the available construction equipment at various engine tier levels and show

that in 2017, 19 percent of the total construction equipment fleet statewide met the Tier 4 Final standards.¹ Within the Bay Area specifically, Tier 4 Final equipment constituted 16 percent of the total vehicle fleet, up from 4 percent in 2014.² The percentages are expected to have increased further by 2019. Several jurisdictions such as San Francisco, have adopted Clean Construction Ordinances requiring use of off-road equipment that operate with the most effective VDECS as certified by ARB, while acknowledging Tier 4 equipment to automatically meet this requirement. As a result, it can be concluded that requiring the use of construction equipment that meet the Tier 4 Final standards is feasible mitigation to reduce uncontrolled health risk impacts to acceptable levels.

Cumulative Impacts of nearby projects

The Adams Broadwell appeal letter asserts that the CEQA analysis for the project does not take into account the cumulative impacts of construction of the 1750 Broadway project with the nearby 1900 Broadway project, which is already under construction.

The Project's individual impacts from construction are estimated in the Project HRA in the form of incremental cancer risk to occupants of 1770 Broadway, the Maximum Exposed Individual Receptor (MEIR) for the Project as determined by dispersion modeling. Though uncontrolled risks at the MEIR were found to exceed thresholds, with the use of Tier 4 Final construction equipment, which will be required as part of implementation of SCA AIR-3 during the permitting process as explained above, health risks at the MEIR would reduce to acceptable levels. The emission reductions associated with the use of construction equipment meeting the Tier 4 Final standards is based on default emission factors embedded in CalEEMod. CalEEMod is a statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects and is recommended by the BAAQMD as the preferred model to estimate project emissions. Therefore, emission reductions associated with the use of construction equipment meeting the Tier 4 Final standards used in the Project HRA are not an unsupported assumption as claimed in the Adams Broadwell Appeal.

For the analysis of cumulative impacts, BAAQMD guidance considers past, existing and proposed projects within a 1,000-foot radius from the project site be included as part of the cumulative scenario.³ However, due to the temporary nature of construction projects and the change in risk exposure with age of the receptors, including past construction projects would unrealistically elevate risks as explained below and are therefore typically not included as part of the cumulative analysis. When analyzing health risks to the most sensitive segment of the population (an unborn child in the 3rd trimester) as required by the current methodology used for HRAs, it is not possible to determine effects of construction of past projects on the MEIR for a current project, which is considered to be an unborn child in the 3rd trimester at the start of construction and hence that theoretical person may not have even been conceived when those past projects were being constructed.

Consistent with BAAQMD guidance, the Project HRA includes health risks from existing permitted stationary sources (derived from the BAAQMD database), major roadways and proposed stationary sources (primarily backup generators at proposed projects including the Project and the 1900 Broadway project). As noted in the Clark & Associates comment letter (Exhibit D to the Adams Broadwell Appeal), although not certain, the Project

¹ California Air Resources Board, "In-Use, Off-Road Equipment, 2017 Inventory Model," April 2018.

² Ibid.

³ Bay Area Air Quality Management District, "California Environmental Quality Act Air Quality Guidelines," May 2017.

has the potential to begin construction prior to completion of the 1900 Broadway project construction. In addition, the 1770 Broadway residents were also identified as the MEIR for the 1900 Broadway project based on its own construction health risk analysis. However, the Clark & Associates erroneously combines the unmitigated emissions results from each HRA and claims that the residents of 1770 Broadway would be exposed to risks greater than the project level and cumulative thresholds adopted by the City.

This is incorrect because the HRAs for both projects require the use of Tier 4 construction equipment to reduce health risks to acceptable levels. As explained above, this requirement is imposed as part of a binding contract through the implementation of SCA AIR-3, contingent upon which building permits are issued. Therefore, both projects are required to commit to use construction equipment that meet the Tier 4 Final standards. As a result, adding unmitigated risks from the two projects would be an unrealistic scenario as construction related permits would not be issued to either project. Further, it should be noted that the combined risks/concentrations from the two projects at the common MEIR is more than the simple addition of the two estimated health risk values/concentrations. Due to the temporal distribution of construction activities associated with the two projects, concentrations from the two projects affecting the common MEIR (1770 Broadway) would fluctuate each year and would affect the MEIR in different ways. As explained earlier, the MEIR is most conservatively assumed to be an unborn child in the 3rd trimester and depending on the construction schedules of the two projects, the exposure and hence associated cancer risk to this child varies as it gets older. Simplistically combining health risks (or DPM concentrations) produces an overly conservative estimate of total risk because construction schedules of the two projects would not be simultaneous and may only overlap. Having said that, even if we were to simplistically add the mitigated construction health risk at the MEIR from the 1900 Broadway Project to the cumulative scenario, the total risk would be 52.5 in a million, well below the 100 in a million threshold for cumulative impacts.

Further, the Project HRA's cumulative scenario shown in Table 9.6-5 of the CEQA Analysis includes health risk from the operation of emergency generators at the 1900 Broadway project. As project-specific risk for these generators was not available, cancer risk from the generators was conservatively assumed to be 10 in a million (the maximum allowable for BAAQMD permitted sources) and adjusted for distance to the MEIR. If we were to include construction health risks from 1900 Broadway into the Project's cumulative scenario as proposed by the Appeal, the operational health risk will need to be removed from the cumulative scenario as construction and operation of a project could not possibly happen simultaneously. As the conservatively assumed operational health risk from the 1900 Broadway generators is much higher than the construction health risk estimated for 1900 Broadway project, including construction risk (and not operational risk) as proposed in the appeal letter would in fact reduce the cumulative health risk shown in Table 9.6-5 of the CEQA Analysis/Exemption Report from 48 to 41 in a million and hence not represent the most conservative scenario.

B. Response to Comment Regarding Construction Noise

The Adams Broadwell Appeal letter asserts that compliance with the City's Standard Conditions of Approval (SCA) do not constitute substantial evidence supporting the conclusion of no significant impact with respect to construction noise.

RESPONSE:

The CEQA Analysis disclosed potential impacts from construction noise and identified the City's required SCAs (specifically SCA NOI-1 through SCA NOI-8) that would reduce these potential impacts to a less-than-significant level. To further support this conclusion, the Project Applicant engaged Charles M. Salter Associates, Inc. to prepare a Construction Noise Management Plan (CNMP) in compliance with SCA NOI-3a (also referred to as SCA 64-a) (see Attachment B). The CNMP clearly illustrates how compliance with the City's SCAs would adequately mitigate these potential impacts. The noise reduction measures identified and evaluated in the CNMP are considered SCA implementation measures. They are not considered additional mitigation as they are already required as a part of the City's SCAs.

The CNMP identifies SCA implementation measures customized to Project and project site. Noise measurements conducted for the CNMP show that the existing noise levels exceed the maximum allowable receiving noise level standards at the adjacent properties for long-term construction. Therefore, the existing ambient noise levels become the applicable daytime long-term construction noise standard. Note, the CNMP selected noise measurement locations to capture the existing noise environment as it would be without construction noise from the 1900 Broadway Project. This establishes the correct and more conservative threshold. The CNMP specifically calculates the Project's maximum construction noise levels at these nearby receiver locations and measures them against the compliance standard.

As required by applicable SCAs, the CNMP identifies the specific noise-reduction measures necessary to reduce construction noise to meet the City's Noise Ordinance noise limit criteria. Further, the CNMP establishes the feasibility and effectiveness of these SCA implementation measures. Consistent with the conclusions of the CEQA Analysis, existing SCAs are determined to adequately mitigate potential construction noise impacts to less-than-significant levels. Therefore, there are no exceptions that apply to the Project or its site, and the Project would not have a significant effect on the environment related to construction noise.

C. Response to Comment Regarding Public Transit

The Adams Broadwell Appeal letter asserts that the Project CEQA Analysis/Exemption Report should have evaluated the impacts of the Project on transit ridership.

RESPONSE:

A response to this claim is provided in Attachment A.

II. 1770 Appeal

This memorandum responds only to the CEQA-related comments from the 1770 Appeal which are organized into the following topics.

A. Response to Comment Regarding CEQA Exemptions

The 1770 Appeal letter asserts the Project is not eligible for a CEQA exemption and thus cumulative impacts were not adequately disclosed or mitigated.

RESPONSE:

The analysis presented in the CEQA Exemption Report provides substantial evidence that the Project properly qualifies for an exemption under CEQA Guidelines Section 15332 as a Class 32 urban in-fill development, that there are no exceptions that apply to the Project or its site, and that the Project would not have a significant effect on the environment.

B. Response to Comment Regarding a Unique or Peculiar Project

The 1770 Appeal letter asserts the Project shall be considered “unusual” because it is dissimilar in size and/or scale from adjacent structures and would require a long construction timeline.

RESPONSE:

A project that is larger than adjacent buildings and that requires a two- to three-year construction schedule does not, in and of itself, constitute a peculiar project or unusual circumstances under CEQA.

As described in Section 7 of the CEQA Analysis, under specific circumstances, exceptions would apply to classes of projects categorically exempt under CEQA Guidelines Section 15332 (Class 32), such as the Project. The exceptions are defined in Guideline Section 15300.2, and include an exception titled “significant effect” (15300.2(c)). This exception precludes a project from an exemption if there is substantial evidence that, a) there is a reasonable possibility the activity or project will have a significant effect on the environment, and b) that effect is the result of unusual circumstances. Some examples of unusual circumstances are provided on the State’s website (<http://resources.ca.gov/ceqa/guidelines/art19.html>) and include inconsistencies in zoning. While the development of high-rise towers in this particular part of Oakland is relatively new, it is not unusual or peculiar and does not represent an unusual circumstance.

The Project’s consistency with the City’s land use designation and zoning is detailed in Attachment B to the CEQA Analysis. The site is located along one of the City’s major commercial corridors (Broadway) and is within the City’s Central Business District (CBD) and Central Business District Commercial and Pedestrian Retail Commercial Zones (CBD-C and CBD-P). The Project is consistent with the specific intent of the land use designation and zoning for the site and fulfills the land use and zoning goals stated in the General Plan and Municipal Code. This includes the type and density of uses as well as the building height. The CEQA Analysis correctly concluded that there are no unusual circumstances specific to the Project, compared to its surroundings and similar projects (high-rise, mixed use, in-fill development downtown) that would pose a reasonable possibility of it having a significant effect on the environment.

C. Response to Comment Regarding construction noise

The 1770 Appeal letter asserts the proximity of 1770 Broadway to the Project site render SCAs infeasible. The 1770 Appeal letter also expresses concern regarding noise from Concrete/Industrial Saws during demolition and grading.

RESPONSE:

Please see response to 1750 Broadway Project Appeal Letters from Adams Broadwell Appeal item I.B above. Specifically, the CNMP selected noise measurement locations to capture the existing noise environment as it

would be without construction noise from the 1900 Broadway Project thereby establishing the correct and more conservative daytime long-term construction noise standard. Note these SCAs also apply to cumulative projects including the 1900 Broadway Project. To estimate construction noise, the CNMP calculates the Project's maximum construction noise levels at these nearby receiver locations and measures them against the compliance standard. The CNMP concluded that compliance with the City's SCAs would adequately mitigate potential impacts from construction noise.

Note that the Health Risk Assessment prepared for the Project evaluated a preliminary construction equipment list determined to be conservative as it relates to emissions. However, the Project Applicant would not employ concrete/industrial saws during demolition or at any phase of construction. For this reason, maximum construction noise levels from these saws was not included in the CNMP.

D. Response to Comment Regarding Shadow Analysis

The 1770 Appeal letter asserts that, "The Bauer Apartments are historic not just for their facade, but their purpose." This statement implies that the building's residential use constitutes part of the building's historic significance. Further the appellant implies that access to sunlight is a critical feature of the residential use.

RESPONSE:

The assertion above is not supported in the City's records or thresholds of significance. In 1984, the City prepared Department of Parks and Recreation (DPR) 523 forms for the 1770 Broadway building to consider its eligibility as a contributor to the potential Uptown Historic District.⁴ The narrative and form selections indicate the building architecture, as well as the architect, engineer, and owner are the characteristics holding the building's potential significance. While the building is described as an apartment building, residential use is not listed as relevant to 1770 Broadway's historic significance.

In terms shade on historic resources, the City of Oakland's CEQA thresholds of significance state that a significant impact would occur if a project were to shade designated historic resources such that the new shadow would "materially impair" the resource's historic significance. While access to light is not typically an important characteristic of most historic buildings, it may be of historic resources that possess identified historically significant features that are sunlight-sensitive such as stained glass, elaborately carved ornamentation, or design elements that depend on the contrast between light and dark (e.g., open galleries, arcades, or recessed balconies). For example, a prolonged blockage of direct sunlight, throughout the day and year and specifically during times of worship, could materially impair the historic significance of historic places of worship where the light through stained glass windows contributes to its architectural historical significance.

The 1770 Broadway building does not possess any sunlight-sensitive features such as those described above and access to natural light is not a material character defining element of building's eligibility as a contributor to the Uptown Historic District. New shadow on the building would not materially impair the buildings historic significance by materially altering those physical characteristic that convey its historical significance and that justify its eligibility for listing in the National Register of Historic Places, California Register of Historical

⁴ DPR 523 forms are the State's Office of Historic Preservation form used for recording and evaluating historic resources.

Resources, Local Register of historical resources, or a historical resource survey form. Therefore, the Project's shadow would not result in significant adverse impacts with respect to historic resources.

III. Conclusion

As outlined in exhausting detail, the assumptions and conclusions in the Project's CEQA Analysis are supported by substantial evidence in accordance with CEQA, while none of the assertions presented by Adams Broadwell Appeal or 1770 Appeal provides credible, persuasive, or substantial evidence that the Project would result in a new, peculiar, significant environmental impact.

Significant impacts also are not "peculiar" to a project or property where uniform policies or standards apply that would mitigate the impact. Site specific analysis is not required where, like here, Standard Conditions of Approval (SCA) apply to mitigate the impact identified and where, as indicated under Appendix M to the CEQA Guidelines, recommendations established by a qualified consultant are implemented.





ATTACHMENT G

Updated Shadow Diagrams by PreVision Design

1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Summer Solstice

C.1-1

-  Proposed Project
-  Existing (current) Shadows
-  New Shading by Proposed Project
-  New Shading from Cumulative Projects

- Historic Resource Sites**
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- Solar Collector Sites**
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SUMMER SOLSTICE
JUNE 21

9:00 AM

1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Summer Solstice

C.1-2

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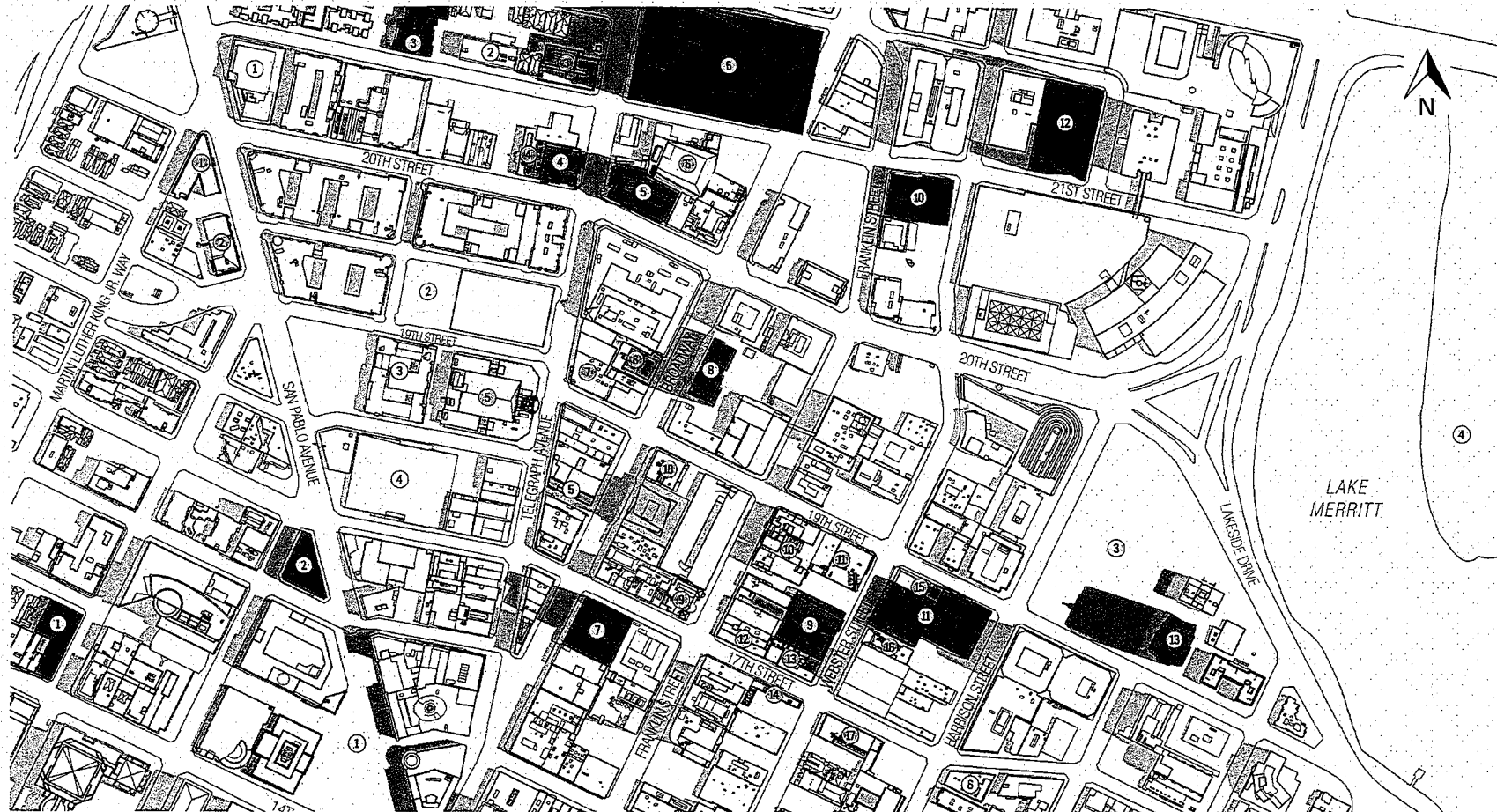
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- Proposed Project
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- New Shading by Proposed Project
- New Shading from Cumulative Projects



SUMMER SOLSTICE
JUNE 21

12:00 PM

1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Summer Solstice

C.1-3

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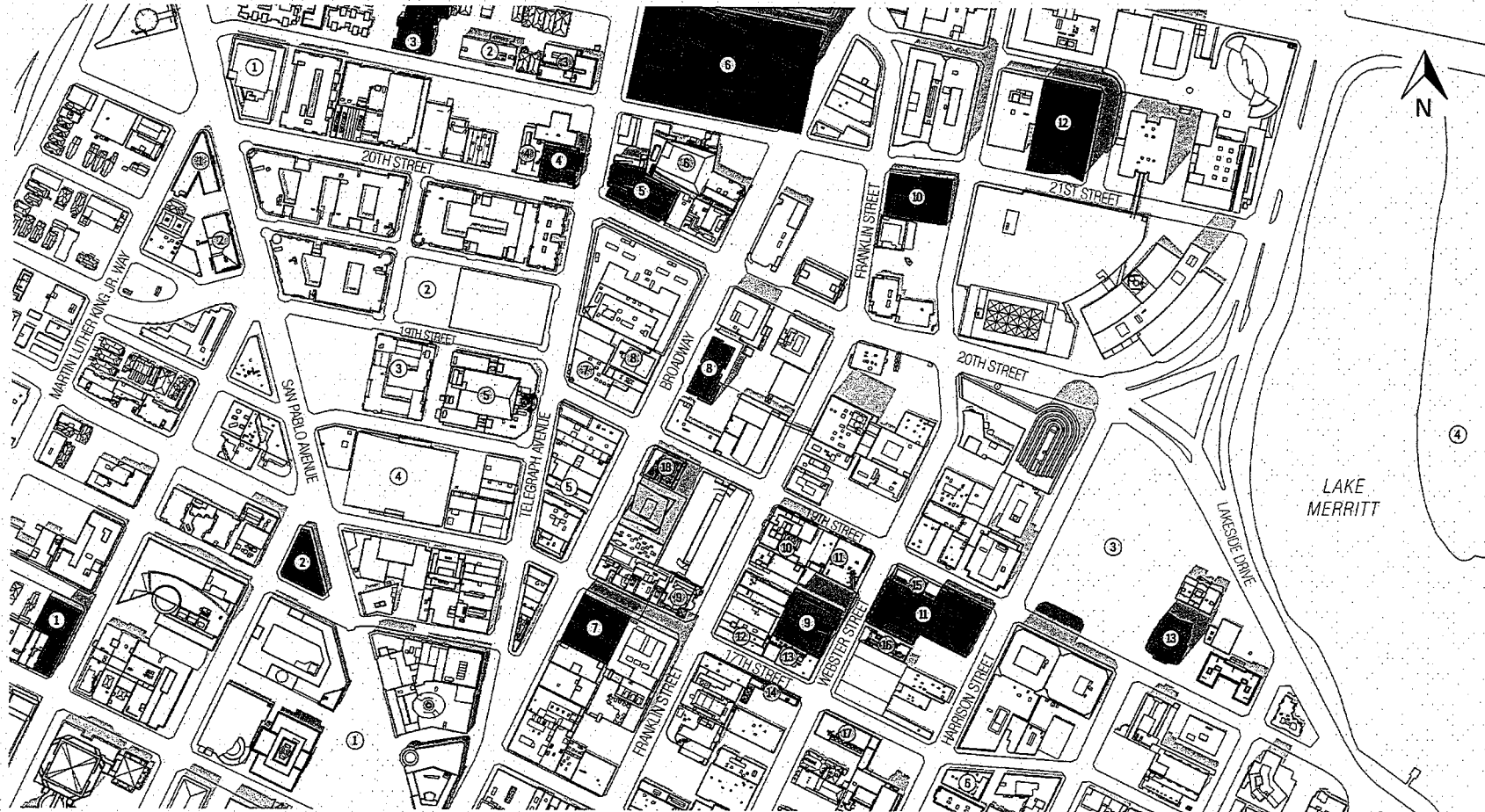
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SUMMER SOLSTICE
JUNE 21

3:00 PM

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1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Vernal/Autumnal Equinoxes

C.2-1

Historic Resource Sites

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


VERNAL/AUTUMNAL EQUINOX
MARCH 20 & SEPTEMBER 22

9:00 AM

1750 BROADWAY + CUMULATIVE

C.2-2

Cumulative shading diagrams on the Vernal/Autumnal Equinoxes

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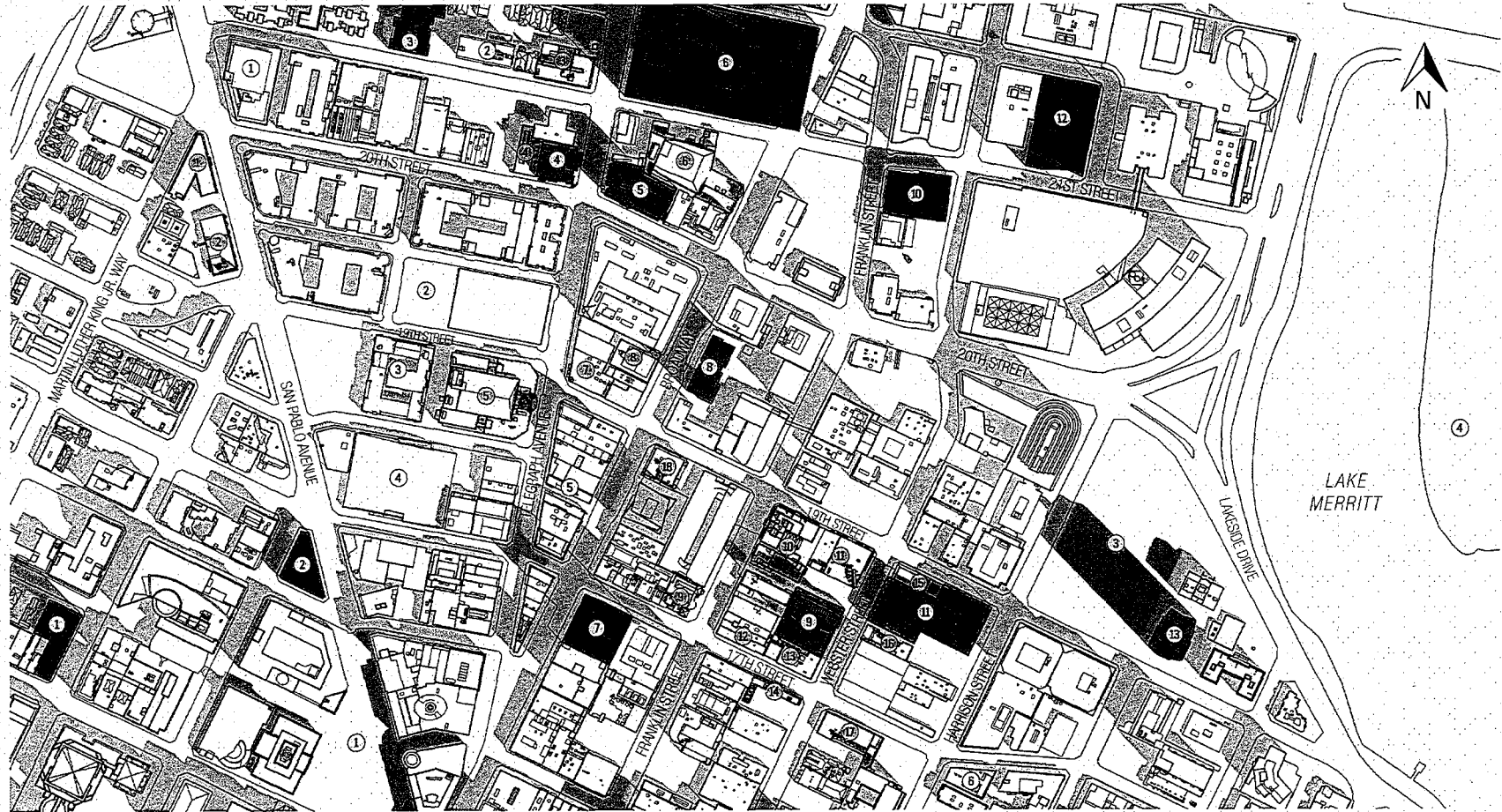
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


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VERNAL/AUTUMNAL EQUINOX
MARCH 20 & SEPTEMBER 22

12:00 PM

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1750 BROADWAY + CUMULATIVE

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C.2-3

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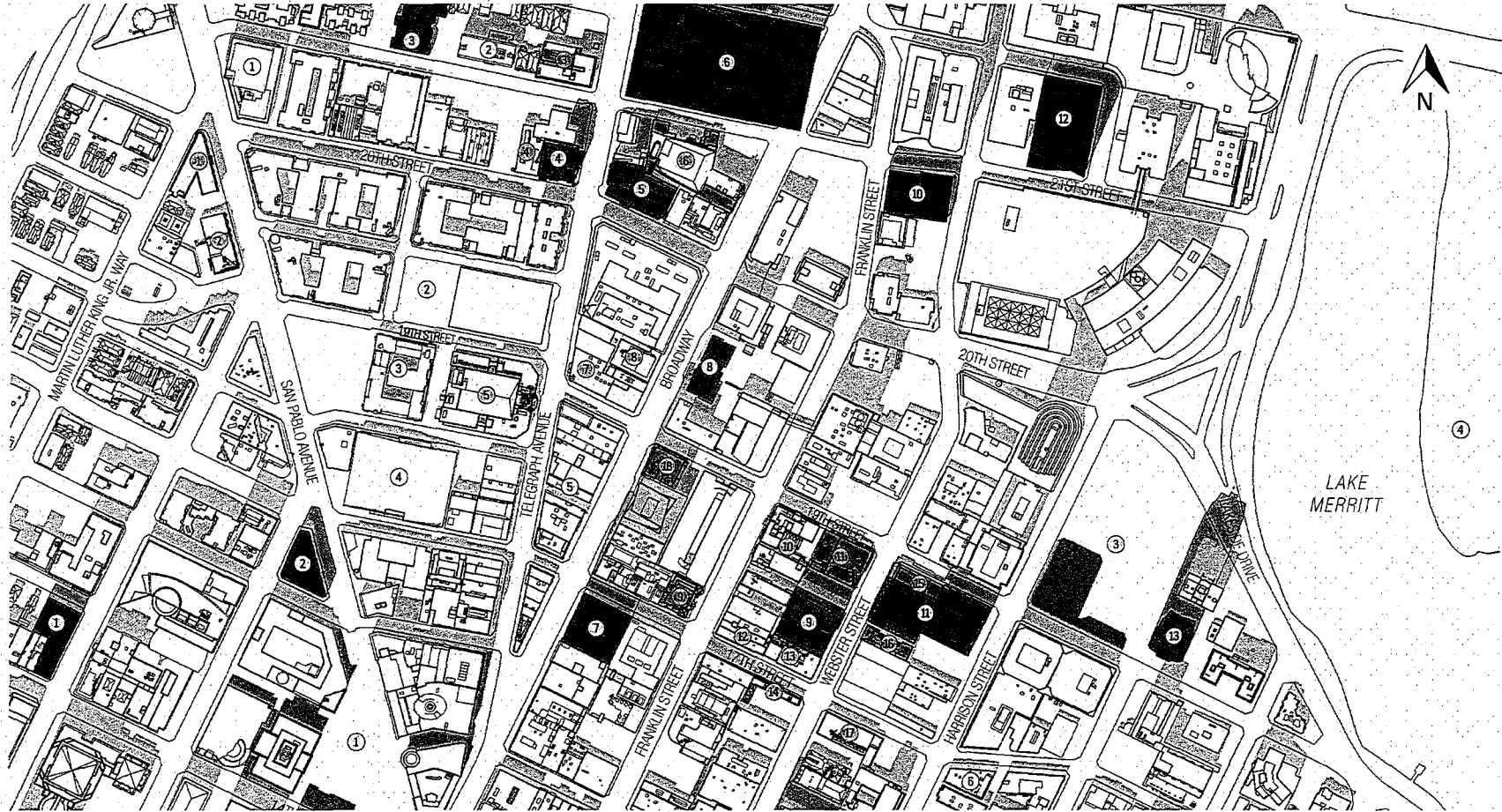
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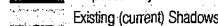
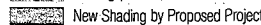
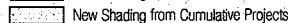
VERNAL/AUTUMNAL EQUINOX
MARCH 20 & SEPTEMBER 22

3:00 PM

1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Winter Solstice

C.3-1

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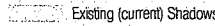
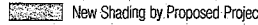

WINTER SOLSTICE
DECEMBER 21

9:00 AM

1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Winter Solstice

C.3-2

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WINTER SOLSTICE
DECEMBER 21

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1750 BROADWAY + CUMULATIVE

Cumulative shading diagrams on the Winter Solstice

C.3-3

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- New Shading by Proposed Project
- New Shading from Cumulative Projects



WINTER SOLSTICE
DECEMBER 21

3:00 PM

ATTACHMENT H

Pelosi Law Group, letter received on November 15, 2019



November 14, 2019

Mike Rivera
Planner II
City of Oakland Planning & Building Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Appeal of PLN18369 (1750 Broadway)

Dear Mr. Rivera:

I am writing on behalf of my client, Rubicon Point Partners (“Rubicon”), the project sponsor for the proposed development at 1750 Broadway (“Project”).

As you are aware, in the near future, the City Council will consider two appeals to the Planning Commission’s March 20, 2019, unanimous adoption/approval of a California Environmental Quality Act (“CEQA”) analysis and related findings, and approval of a Major Conditional Use Permit and Regular Design Review (collectively referred to herein as “Entitlements”) for the Project. The appeals were filed by Adams, Broadwell, Joseph & Cardozo on behalf of East Bay Residents for Responsible Development (“Adams Broadwell Appeal”) and by the Residents of 1770 Broadway on behalf of multiple residents residing at 1770 Broadway (“1770 Broadway Appeal”) (collectively referred to as the “Appeals” and the “Appellants”). The Adams Broadwell Appeal focuses on the Planning Commission’s use of three (3) streamlining provisions under CEQA, claiming that the streamlining provisions are legally inappropriate or inadequate and that a higher level of CEQA review is required. The 1770 Broadway Appeal focuses on the potential impact of the Project on adjacent residents, raising concerns regarding displacement, community engagement, transparency, shadow, noise and other issues.

As detailed below, neither of the Appeals establishes that the Planning Commission committed an error or abused its discretion in approving the Entitlements or that the Planning Commission’s decision is not supported by substantial evidence.¹ The claims raised by the Appellants do not meet the legal standard to overturn the Planning Commission’s decision, but Rubicon takes its neighbor’s concerns very seriously. Rubicon has been working diligently in recent months to meet with the residents of 1770 Broadway to hear their concerns and to develop construction policies and procedures that go above and beyond City requirements to address those concerns. Rubicon will be submitting a separate letter summarizing these efforts and the resulting policies that will be put in place. Rubicon is committed to working with the residents of 1770

¹ This is the standard established under Planning Code Sections 17.134.070(A) and 17.136.090



Broadway regarding their concerns. For all these reasons, we therefore respectfully request that the City Council deny the Appeals and uphold the decision of the Planning Commission.

SUMMARY

The Project is a 36-story mixed-use building at Broadway and 17th Street in the Central Business District Commercial and Pedestrian (CBD-C and CBD-P) zones. It includes 307 residential units, 5,000 square feet of ground floor retail and 170 parking spaces in a high quality 418-foot tower. The Project has had three public hearings including two before the Design Review Committee (January 31, 2018 and December 5, 2018) and one hearing before the Planning Commission (March 20, 2019) during which the Project was unanimously approved. On March 20, 2019, the Planning Commission approved the Project and on April 1, 2019, the Appeals were filed. While both Appeals challenge the Planning Commission's decision, they focus on different issues.

The Adams Broadwell Appeal focuses on the Project's CEQA compliance. Specifically, it alleges that the Planning Commission's reliance on a CEQA exemption and two streamlining provisions was legally inappropriate and not supported by substantial evidence. As discussed below, we disagree. The administrative record before the Planning Commission included substantial evidence supporting the determination that the Project would not result in significant air quality, noise or public transit impacts and establishing that there are no unusual circumstances that would create the possibility of significant cumulative cancer risk to local sensitive receptors. The appeal raises a variety of issues including that the Project's potential shadow impacts have not been adequately analyzed and that the imposition of standard conditions of approval on the Project by the City is mitigation that prevents the Project from using an exemption or streamlining provision under CEQA. The claims raised by the Adams Broadwell Appeal are without merit and do not meet the legal standards or requirements to establish either an abuse of discretion by the Planning Commission or that substantial evidence does not exist in the record to support the Planning Commission's decision on the Project.

The 1770 Broadway Appeal generally focuses on issues and concerns raised by neighbors regarding the Project's potential impact on them during construction, the impact of a tower adjacent to their building, the entitlement process and general concerns regarding changes in the City. Some of the issues raised also pertain to the Project's CEQA compliance. While we understand and appreciate the concerns of the 1770 Broadway Appeal, Rubicon and fully intends to work closely with its neighbors to address their concerns throughout construction, the issues raised do not render the decision by the Planning Commission legally inadequate. Construction at any time and at any scale can be disruptive and inconvenient to adjacent property owners, but that does not mean it should not occur or that the Planning Commission in approving that construction committed an error or abused its discretion or made a decision that is not supported by substantial evidence.

The Project is in the City's downtown core. It is immediately adjacent to the 19th Street BART station and is a high-density, transit-oriented development. It replaces a 3-story former bank with 307 residential units. **It complies with all applicable planning and zoning laws and satisfied all public notice and hearing requirements. It underwent an extensive public process with multiple opportunities for public participation, and the decision by the Planning Commission should be upheld.**



I. PROJECT BACKGROUND

The Project is located on an approximately 0.63-acre parcel at 1750 Broadway, midblock between 17th Street and 19th Street, in Uptown Oakland immediately adjacent to 1770 Broadway. The Project site is currently occupied by a 3-story commercial building and surface parking lot.

The Project proposes to develop the site with a 36-story mixed-use building containing approximately 307 residential units, 5,000 square feet of ground-level retail, 170 vehicle parking stalls on five above-ground levels, and two residential off-street loading spaces. Designed by Handel Architects, the 496,000-square foot, approximately 418-foot-high building would contain a mix of studio, one-bedroom, one plus-bedroom, two-bedroom, and three-bedroom units along with ground floor retail. Units would range from approximately 400 square feet (studio) to 1,670 square feet (three-bedroom), and the intent of Rubicon is to have a local business and neighborhood serving use in the ground floor retail space.

At approximately 418 feet tall, the residential tower is Type 1 construction (high rise). Rubicon has executed an agreement with the Northern California Carpenters Regional Council and is committed to using union carpenters on the Project, which means a minimum of 70% of the project will be constructed with union labor. Rubicon is also continuing to work with and discuss options with the other trades, requesting the names of 3-4 union sub-contractors per specialty trade from which it can request bids for the work.

Finally, as detailed in a report prepared by Linda Hausrath and Rubicon Point Partners, which is attached as Attachment 1, in addition to approximately \$13 million in impact fees and one-time funding, the Project will generate approximately \$2 million per year in new property tax revenue to the City of Oakland and approximately \$8.5 million in annual spending at local retailers and business services, as well as create 22 new on-site retail and management jobs and 3,600 worker-months of construction labor over 26 months, averaging approximately 128 workers per month, including union construction jobs.

II. CEQA ANALYSIS

The City has certified three Environmental Impact Reports (“EIRs”) in the past that are applicable to the Project. Specifically, in 1998, the City certified the EIR for its General Plan Land Use and Transportation Element (“LUTE”). Subsequently, in 2010, the City certified an EIR for the 2007-2014 Housing Element.² Then, in 2011, The City prepared and certified an EIR for proposed amendments to the Central District Urban Renewal Plan.

All three EIRs were designated as Program EIRs under CEQA Guidelines Section 15168 and, in the case of the EIR for the Central District Urban Renewal Plan, CEQA Guidelines Section 15180.³ As set forth in Section 15168(b)(5), one of the advantages of a Program EIR is to allow reduction in paperwork. Section 15168(c)(5) further provides:

² In 2014, the City adopted an Addendum to that 2010 EIR for the 2015-2023 Housing Element.

³ Unless otherwise noted, all future section references are to the CEQA Guidelines.



A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and **no further environmental documents would be required.** (Emphasis added.)

Given this statutory guidance and the fact that not one but three Program EIRs are applicable to the site, the City could have undertaken an analysis to show that the Project was within the scopes of the Program EIRs, and, therefore, no further environmental document was required. However, the City opted to go above and beyond and prepare a detailed “CEQA Analysis” to evaluate whether the Project could utilize a CEQA exemption and/or a CEQA streamlining provision.

The Adams Broadwell Appeal and the 1770 Broadway Appeal both raise claims under CEQA. The Adams Broadwell Appeal includes very detailed and specific legal and technical arguments, while the 1770 Broadway Appeal is more general in nature. The information provided below responds to claims raised by both Appeals with specific aspects of each noted, as appropriate.

A. The City’s Reliance on the CEQA Exemption and Streamlining Provisions is Appropriate and Supported by Substantial Evidence

ESA, a leading CEQA consulting firm, was hired to prepare the CEQA Analysis for the Project. Under the City’s direction, ESA, in collaboration with other technical experts in noise, air quality, traffic, etc., prepared technical studies to analyze whether the Project would have a peculiar or new significant environmental impact that was not identified in the prior Program EIRs. Based on that analysis and evidence, the Project, which is consistent with the Central District Urban Renewal Plan, was determined to qualify for streamlined review under Projects Consistent with a Community Plan, General Plan, or Zoning (Section 15183). In addition, the Project was also determined to qualify for a Class 32 In-Fill Development Projects exemption (Section 15332) and for streamlined review under Streamlining for Infill Projects (Section 15183.3).⁴ A CEQA Analysis was then prepared, documenting the analyses and findings, including reference to and inclusion of the various technical studies and reports. Based on this substantial evidence in the record, the Planning Commission appropriately determined that the CEQA exemption and streamlining provisions applied, as discussed below.

1. Class 32 In-Fill Development Projects (CEQA Guidelines Section 15332)

Categorical exemptions are descriptions of types of projects which the Secretary of the Resources Agency has determined do not usually have a significant effect on the environment. There are approximately 30 “classes” or types of categorical exemptions. Class 32 is the categorical exemption for In-Fill Development Projects set forth in CEQA Guidelines Section 15332 (hereafter referred to as “the Class 32 Exemption”) that exempts infill development within urbanized areas if it meets certain criteria. The Class 32 Exemption consists of environmentally benign infill projects that are consistent

⁴ The Adams Broadwell Appeal also contends that the City inappropriately relied on a CEQA Addendum for the Project, but this assertion is misplaced as the City did not rely on an Addendum. We believe this error calls into question the overall accuracy of the Adams Broadwell Appeal and whether it is simply a regurgitation of the many other appeals filed by Adams Broadwell against similar documents.



with the general plan and zoning requirements. This class is not intended for projects that would result in any significant traffic, noise, air quality, or water quality impacts. The exemption is not limited to any use type and may apply to residential, commercial, industrial, public facility, and/or mixed-use projects.

Categorical exemptions are not absolute. There are exceptions to the exemptions depending on the nature or location of the project. For a proposed project to qualify, none of the following exceptions (set forth in Section 15300.2) can apply to the project:

- a. The project and successive projects of the same type in the same place will result in cumulative impacts;
- b. There are unusual circumstances creating the reasonable possibility of significant effects;
- c. The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within an officially designated scenic highway;
- d. The project is located on a site that the Department of Toxic Substances Control and the Secretary of the Environmental Protection have identified, pursuant to Government Code section 65962.5, as being affected by hazardous wastes or clean-up problems; or
- e. The project may cause a substantial adverse change in the significance of an historical resource.

The CEQA Analysis conducted an extensive study of the Project and its potential impacts to determine whether the Project would qualify for the Class 32 Exemption. The information on which the determination is based is set forth in two checklists: one for the criteria set forth in Section 15332, and a second for the criteria set forth in Section 15300.2 regarding exceptions to the exemption. In total, the checklists present 57 pages of substantial evidence used by the City to reach the conclusion that the Class 32 Exemption applies and none of the exceptions are present.

Despite the extensive amount of substantial evidence in support of the City's determination, the Adams Broadwell Appeal alleges that the City's reliance on the Class 32 Exemption is unsupported because the Project has significant air quality and noise impacts. The Adams Broadwell Appeal further contends that the Class 32 Exemption is inapplicable because of the alleged significant cancer risk on infants that requires the use of Tier 4 equipment, plus the construction of two 35+ story buildings within a block of each other, are unusual circumstances that create the possibility of significant cumulative cancer risk to local sensitive receptors. Finally, the Adams Broadwell Appeal claims the City's Standard Conditions of Approval ("SCAs") are mitigation measures that prevent the City from relying on a categorical exemption. **For the reasons set forth below, these arguments are without legal merit and the Planning Commission correctly determined, based on substantial evidence in the record, that the Class 32 Exemption was appropriate.**

a. The Project Would Not Result in any Significant Air Quality or Noise Impacts

The CEQA Exemption Checklist in the CEQA Analysis includes thorough discussions on whether approval of the Project would result in any significant effects relating to traffic, noise, air quality, or water quality, pursuant to CEQA Guidelines Section 15332(d) (see pages 23-68). Specifically, the CEQA Exemption Checklist presents technical analyses, significance thresholds, and assumptions for



traffic, noise, shadow, and air quality (including health risk), among other impact areas. In each area, the CEQA Analysis determined that based on the results of the analysis, the Project would not result in any significant impacts. The CEQA analysis then considered, in detail, whether any of the exceptions to the Class 32 Exemption were present and determined that none of the exceptions were present, including the unusual circumstances exception (see pages 69-80).

The Adams Broadwell Appeal disagrees with the CEQA Analysis, alleging that the Project would have significant, unmitigated health risks from construction emissions and is likely to have significant, unmitigated noise impacts on local receptors during Project construction.

With respect to health risks, the crux of the Adam Broadwell Appeal's argument is that there is no evidence in the record demonstrating that the Project will use Tier 4 equipment during construction. The Appeal takes umbrage with language in SCA AIR-3 and Conditions of Approval No. 13, claiming that neither expressly requires the use of Tier 4 equipment and, therefore, its use cannot be guaranteed. We disagree with the Adams Broadwell Appeal's interpretation as it relates to the bottom-line impact. As noted in the Adams Broadwell Appeal, SCA AIR-3 requires the project applicant to either prepare a health risk assessment or agree to use Verified Diesel Emission Control Strategies ("VDECS") for construction equipment, which may include Tier 4 engines. Indeed, SCA AIR-3 does not expressly require the use of Tier 4 equipment, but that is because it requires the use of the "most effective VDECS" available. At this current time, that is Tier 4 equipment. However, by the time the Project goes into construction, it is possible that more effective VDECS will be available that would reduce emissions even more than Tier 4 equipment. The purpose of providing flexibility in the language is to allow the City to "force" the applicant to use whatever best measures are available – be it Tier 4 or some new technology. Regardless of which technology is used in the end, it will be at least as effective in reducing the maximum health risks from Project construction as Tier 4 equipment, thereby ensuring the impact results documented in the CEQA Analysis will hold (and possibly be improved).

In addition, the Project has agreed and will use VDECS, which will include the use of Tier 4 equipment or the most effective VDECS available. Based upon this information, the claims raised by the Adams Broadwell Appeal are without merit and substantial evidence exists in the record to support a determination that the Project will not have a significant air quality impact.

Regarding noise, the Adam Broadwell Appeal raises essentially three arguments contending the CEQA Analysis' conclusions were incorrect: (1) the CEQA Analysis' reliance on local and State noise regulations is insufficient to conclude that the Project will not have significant noise impacts; (2) the SCAs will not adequately reduce potential noise impacts during construction and additional mitigation is necessary; and (3) additional feasible mitigation measures would reduce noise impacts for the residents of 1770 Broadway during demolition and construction. These same issues are also generally raised by the 1770 Broadway Appeal.

These allegations are without merit and not supported by any substantial evidence. However, there is substantial evidence to support a conclusion that the Project will not have significant noise impacts. This evidence is set forth in the CEQA Analysis, which documents that the Project will not have a significant noise impact, not only because of compliance with local and State regulations, but also because of implementation of the City's SCAs, one of which requires the Project to prepare a



Construction Noise Management Plan. While typically this plan is prepared prior to construction, Rubicon retained Salter Noise Consultants to prepare it now. The Construction Noise Management Plan concludes that the Project will meet the City's regulatory standards related to construction noise with the implementation of appropriate noise reduction measures. A copy of the plan is included as Attachment 2.

As shown in the plan, even without the Project, the existing noise levels exceed maximum allowable receiving noise level standards at residential properties for long-term construction. The plan then calculated the expected maximum noise levels from Project construction at three nearby receiver locations. Based upon these noise levels, the plan set forth noise reduction measures that the Project must implement to reduce the noise impacts. These measures included noise reduction measures required by the City's SCAs, specifically SCAs 62-66. In addition, under the plan, the Project will implement site-specific noise reduction measures throughout construction that are consistent with the recommendations in the Construction Noise Analysis report prepared for 1770 Broadway by Wilson Ihrigh. The numerous techniques include measures that will be implemented during all phases of construction, as well as techniques that will be implemented during specific phases. For example, during the first phase of construction, the Project will erect temporary plywood noise barriers around the construction site and localized barriers around noisy stationary equipment at-grade, among other measures. During the second phase, the Project will utilize sound blankets around the building structure as construction moves vertically above the plywood noise barriers at-grade. Finally, in the third and final phase of construction, the Project will locate noise equipment within the building structure once the exterior façade is installed. Implementation of these and other measures will reduce noise impacts to within the noise limit/typical ambient noise level during construction hours at all measured locations, as evidenced by the Construction Noise Management Plan prepared by Salter Noise Consultants.

b. There are No Unusual Circumstances that Create the Possibility of Significant Cumulative Cancer Risk to Local Sensitive Receptions

The Adams Broadwell Appeal alleges that unusual circumstances prohibit the City from using the Class 32 Exemption. However, the Adams Broadwell Appeal conveniently fails to set forth any of the legal standards that apply when claiming that exception to an exemption applies – presumably because once the legal standards are examined, the unusual circumstances exception does **not** apply.

Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086 is a seminal case providing key guidance on the unusual circumstances exception. In that case, the Supreme Court concluded that a potentially significant effect on the environment is not itself sufficient to constitute unusual circumstances, but that the impact on the environment must be **due to unusual circumstances**. (*Berkeley Hillside*, 60 Cal.4th at 1098.) Without unusual circumstances, the exemption stands and no additional CEQA analysis is required.

Here, the City has concluded, based on substantial evidence, that the Project does not present any unusual circumstances. As discussed throughout the CEQA Analysis and expressly addressed in the discussion regarding unusual circumstances, “there are no unusual circumstances specific to the Proposed Project, compared to its surroundings and similar projects (high-rise, mixed-use, in-fill



development downtown) that would pose a reasonable possibility of it having a significant effect on the environment.” (CEQA Analysis, page 70.)

The Adams Broadwell Appeal contends that the required use of Tier 4 equipment and the construction of two 35+ story buildings within a block of each other are “unusual circumstances,” but provides no evidence establishing how those situations are “unusual.” In fact, it would be nonsensical to conclude that the construction of two 35+ story buildings within a block of each other in an urban setting where construction is frequent and the underlying zoning allows that size is an unusual circumstance that requires CEQA review. More importantly, the Adams Broadwell Appeal fails to show that the record contains no substantial evidence to support the City’s determination that the Project presents no unusual circumstances – likely because there is, in fact, such substantial evidence in the record.

c. The SCAs are not Mitigation Measures and Therefore the City May Rely on a Categorical Exemption

The Adams Broadwell Appeal alleges that the SCAs applied to the Project are mitigation measures designed to reduce the Project’s potentially significant impacts. Because categorical exemptions cannot require the imposition of mitigation measures, the Adams Broadwell Appeal therefore contends the City could not have relied on the Class 32 Exemption.

It is well established that a condition of approval is not taken to mitigate any significant effect of a project and, therefore, is not a mitigation measure that would prevent reliance on an exemption.

For example, in *Protect Telegraph Hill v. City and County of San Francisco* (2017) 16 Cal.App.5th 261, the First District Court of Appeal rejected an argument that conditions imposed by the City of San Francisco on the project’s conditional use approval to mitigate pedestrian and traffic safety disruption effects during and after construction were CEQA mitigation measures demonstrating that the project would have significant environmental effects. The court found that the conditions were not the basis for the City’s conclusion that the project qualified for a categorical exemption and, therefore, did not constitute CEQA mitigation.

Similarly, here, the SCAs do not mitigate any significant effect caused by the Project. The SCAs incorporate policies and standards from various adopted plans, policies, and ordinances, which have been found to substantially mitigate environmental effects. They are adopted as requirements of an individual project when it is approved by the City. The SCAs address situations that may arise when construction activity occurs and impose requirements for project sponsors to obey all laws. Moreover, the City did not rely on the SCAs in determining that the Project falls within the Class 32 Exemption – that determination was based on evidence that the Project would not result in any significant impacts due to unusual circumstances. Therefore, the City may rely on the Class 32 Exemption.

2. Projects Consistent with a Community Plan, General Plan, or Zoning (CEQA Guidelines Section 15183)

While the City could rely exclusively on the Class 32 Exemption, CEQA streamlining provisions were also analyzed as part of the CEQA Analysis to determine if they apply. This layering of CEQA



exemptions and streamlining provisions is legally appropriate where each exemption or streamlining provision wholly applies and is supported by substantial evidence in the record.

Section 15183 **mandates** a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies with a certified EIR, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that:

- a. Are peculiar to the project or the parcel on which the project would be located,
- b. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent,
- c. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
- d. Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

Section 15183(c) provides that “**[i]f an impact is not peculiar to the parcel or to the project**, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, **then an additional EIR need not be prepared for the project solely** on the basis of that impact.” (Emphasis added.) Section 15183(f) then explains that “[a]n effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence which need not include an EIR.”

As detailed in Attachment B to the CEQA Analysis, the Project is consistent with the existing CBD-P (Central Business District Pedestrian Retail) and CBD-C (Central Business District General Commercial) zoning and the General Plan. Attachment B further demonstrates how there are no impacts peculiar to the Project or Project site that were not disclosed in the Program EIRs, and how there is no new information that was not known at the time the Program EIRs were certified that would cause more severe adverse impacts than discussed in the Program EIRs. Substantial evidence therefore exists and is in the record to support this determination. Thus, further CEQA review is not required.

The Adams Broadwell Appeal alleges that the City could not rely on Section 15183 because the Project has impacts peculiar to the Project that are new or more significant than previously analyzed.⁵ The Adams Broadwell Appeal asserts the Project will result in significant health risk, construction noise,

⁵ The 1770 Broadway Appeal also raises issues regarding the Project being peculiar and unique, but those issues were not specifically related to CEQA.



and public transit impacts. As addressed above, the Project will not result in air quality or noise impacts.

With respect to public transit impacts, for purposes of CEQA, the applicable threshold in determining if a project will have a significant impact is whether the project would conflict with a plan, ordinance, or policy addressing the safety or performance of the circulation system, including transit. Here, the CEQA Analysis determined that the Project is consistent with applicable plans, ordinances, and policies, and therefore would not cause a significant impact on the circulation system, including transit. In support, the CEQA Analysis discusses how the Project is consistent with the LUTE, as well as the City's Public Transit and Alternative Mode and Complete Streets policies.

The Adams Broadway Appeal alleges that there is "abundant evidence" demonstrating that public transit in the City is already at or above existing capacity; however, in support of this allegation, it provides only two references, which can hardly be classified as "abundant evidence."

In sum, the Adam Broadwell Appeal fails to provide the required substantial evidence documenting how the alleged air quality, noise and public transit impacts are peculiar to the Project or the site, or how they were not analyzed in the Program EIRs, or how the SCAs, which are uniformly applied development policies/standards, fail to address the alleged impacts. As a result, even if the alleged impacts could occur (which we contend is not the case), the Adams Broadwell Appeal's claim that the City's reliance on Section 15183 is misplaced must be rejected.

3. Streamlining for Infill Projects (CEQA Guidelines Section 15183.3)

The CEQA Analysis indicates that the Project also qualifies for streamlined environmental under Section 15183.3. To be eligible for the streamlining procedures prescribed in Section 15183.3, an infill project must:

- a. Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter. For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way;
- b. Satisfy the performance standards provided in Appendix M; and,
- c. Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, except as provided below:
 - o Only where an infill project is proposed within the boundaries of a metropolitan planning organization for which a sustainable communities strategy or an alternative planning strategy will be, but is not yet in effect, a residential infill project must have a density of at least 20 units per acre, and a retail or commercial infill project must have a floor area ratio of at least 0.75.



- Where an infill project is proposed outside of the boundaries of a metropolitan planning organization, the infill project must meet the definition of a small walkable community project.

The performance standards in Appendix M for Residential Projects provide that a project must satisfy **one** of the following:

- Projects achieving below average regional per capita vehicle miles traveled (VMT). A residential project is eligible if it is located in a “low vehicle travel area” within the region.
- Projects located within ½ mile of an Existing Major Transit Stop or High-Quality Transit Corridor. A residential project is eligible if it is located within ½ mile of an existing major transit stop or an existing stop along a high-quality transit corridor.
- Low-Income Housing. A residential or mixed-use project consisting of 300 or fewer residential units all of which are affordable to low income households is eligible if the developer of the development project provides sufficient legal commitments to the lead agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.

Section 15183.3(c) makes it clear that “CEQA does not apply to the effects of an eligible infill project under two circumstances.” These circumstances are:

- First, if an effect was addressed as a significant effect in a prior EIR for a planning-level decision, then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR.
- Second, an effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect.

As stated in Section 15183.3(d)(2)(A), “[n]o additional environmental review is required if the infill project would not cause any new specific effects or more significant effects, or if uniformly applicable development policies or standards would substantially mitigate such effects.”

The CEQA Analysis presents substantial evidence showing that the Project satisfies the In-Fill Performance Standards per CEQA Guidelines Section 15183.3. Specifically, as detailed in Attachment C to the CEQA Analysis, the Project is within an urban area, on a previously developed site, has been shown to satisfy the performances standards of Appendix M to the CEQA Guidelines (for example, the Project is located within ½ mile of a BART station and several bus stops), and is consistent with the general plan designation and density and building intensity for the Project site.



Further, the effects of the Project were adequately addressed in the Program EIRs. Moreover, as shown by the CEQA Analysis, the Project would not cause any new specific effects or more significant effects. As such, the Project qualifies for an exemption pursuant to 15183.3 and no further environmental review is required.

As with Section 15183, the Adams Broadwell Appeal alleges that the City could not rely on Section 15183.3 because the Project has health risk, construction noise, and public transit impacts peculiar to the Project that are new or more significant than previously analyzed. As discussed above, the Adams Broadwell Appeal fails to provide the required substantial evidence documenting how these alleged impacts are peculiar to the Project or the site, or how they were not analyzed in the Program EIRs, or how the SCAs fail to address the alleged impacts. As a result, the Adams Broadwell Appeal's claim that the City's reliance on Section 15183.3 is misplaced must also be rejected.

For all these reasons, the City has determined that the Project is not required to prepare an additional environmental document, including an EIR, based upon not one, **but three** CEQA Guideline sections. The City has presented substantial evidence in support of its findings regarding each of these sections, any of which would be sufficient to support the determination **on its own**. The claims raised by Adams Broadwell in the Appeal are without merit. The CEQA Analysis prepared and relied upon by the Planning Commission in unanimously approving the Project was legally adequate and is supported by substantial evidence in the record.

B. The Project's Shadow Impacts were Adequately Analyzed

A shadow analysis was prepared by Adam Phillips of PreVision to evaluate the potential impact of shadow from the Project on surrounding historic resources, parks and solar collectors. As detailed in the shadow analysis, a Project is determined to have a shadow impact if it would cast substantial shadow on existing solar collectors; substantially impact the function of a building using passive solar heat collection; substantially impair the beneficial use of any public or quasi-public park, lawn, garden, or open space; or cast shadow on an historic resource such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its designation as an historic resource.

1770 Broadway appears to be a historic resource. As shown on the California Department of Parks and Recreation (DPR) Form, it is a contributor to the Uptown Historic District and may be individually significant as an early 20th century commercial structure with renaissance and baroque ornamentation. 1770 Broadway is, however, not significant for any characteristic related to light. For this reason, any shadow cast by the Project on 1770 Broadway could not have a significant impact.

The Planning Commission adequately considered the impact of shadow from the Project under the standards established by the City and correctly concluded the Project would not have a shadow impact.

III. Planning and Zoning

The Appeals also raised issues and concerns regarding the planning and entitlement process for the Project. None of claims support or indicate an error or abuse of discretion by the Planning



Commission in approving the Project. As discussed below, the Planning Commission acted within its legal authority and in compliance with the law when it unanimously approved the Project. The issues, concerns and claims raised in the Appeals do not render the Planning Commission's action legally inadequate.

A. The Planning Process Complied with All Legal Standards

In the 1770 Broadway Appeal, several concerns were raised regarding the planning process, its transparency and the community engagement undertaken by Rubicon. The concerns expressed frustration with the process but failed to raise any substantive issues related to legal non-compliance or irregularities that indicate an abuse of discretion on the part of the Planning Commission.

As required, the Project was reviewed by the Design Review Committee ("DRC") of the Planning Commission before being heard by the full Planning Commission. In fact, the Project was heard twice by DRC (January 31, 2018 and November 28, 2018) and once by the Planning Commission (March 20, 2019). Each hearing was properly noticed in compliance with the City's legal requirements and at each hearing, the public was provided the opportunity to comment. As noted in the 1770 Broadway Appeal, the appellants attended these hearings, submitting comments and oral testimony. While the Planning Commission did not directly respond to each comment that was raised, changes were made to the Project in response to the comments. For example, the building was set back from the 1770 Broadway property line and, as shown in Attachment 3, a new lightwell has been added across from the 1770 Broadway lightwell. Other changes include (1) limiting the height of the building on the 19th Street side to one story, which allows the units on that side of 1770 Broadway to maintain substantially the same views, light, and air; and (2) eliminating a full level of parking, which reduces the overall building height and the height of the podium.

The Project also included the preparation of a detailed and thorough CEQA Analysis that was made available to the public for review more than 17 days before the Planning Commission hearing on the Project. In short, the Project underwent a thorough and detail review and afforded the public ample opportunity for public participation, in full compliance with all applicable legal standards.

The 1770 Broadway Appeal does raise one issue that we believe warrants a response, even though it does not raise a legal concern. Specifically, the appellants assert that the absence of three (3) Planning Commissioners from the March 20, 2019 hearing resulted in the Planning Commission that heard the Project not closely reflecting the "perspectives, identities and interest of downtown Oakland residents." (1770 Broadway Appeal, p. 5.) This comment is inappropriate and disrespectful to the Planning Commissioners in attendance and the Planning Commission as a whole. The Planning Commission is comprised of seven (7) members appointed by the Mayor and confirmed by the City Council. Planning Commissioners reflect a broad and diverse set of interests and experience within the City, and each Commissioner volunteers his/her time and knowledge on behalf of the City. Because of schedules and other obligations, it is not always possible for every Planning Commissioner to attend every Planning Commission meeting. Understanding this, Roberts Rules of Order and City policy establishes that items can be heard and acted upon by the Planning Commission if a quorum is present. On March 20, 2019, a quorum was present. Three (3) Planning Commissioners were absent, but four (4) Planning Commissioners were in attendance, comprising a quorum. The Planning



Commission therefore acted within its legal authority in unanimously approving the Project and, contrary to the concerns raised by the 1770 Broadway Appeal, represented the residents of Oakland.

B. The Project's Design Meets City Standards and Requirements

The Project was reviewed twice by the DRC before being heard by the Planning Commission. During the DRC hearing, careful review was conducted of the Project's compliance with City design standards and Planning Code requirements. Changes were made to the Project both at the DRC hearing and the Planning Commission hearing to address Planning Commissioners' concerns as well as concerns raised by the public, including the 1770 Broadway Appeal appellants.

At the March 20, 2019, hearing, the Planning Commission included a condition in response to the appellant's concerns regarding the lightwell at 1770 Broadway. The new Condition of Approval requests the Project to consider including a lightwell across from the 1770 Broadway in the Project. The addition of such a condition at the hearing is legally appropriate and within the power and authority of the Planning Commission. Following the hearing, Rubicon directed Handel architects to revise the plans to include a lightwell. Images of the revised design with the lightwell are included in Attachment 3.

At the Planning Commission hearing, comments were also raised regarding the garage ventilation and the distance between the 1770 Broadway and 1750 Broadway buildings. While the original design of the garage ventilation met all building code and air quality requirements, Rubicon has elected to revise the garage ventilation to further assuage concerns raised in the 1770 Broadway Appeal. Since the Planning Commission hearing, the ventilation has been relocated to as far away as possible from 1770 Broadway. As shown in Attachment 4, the ventilation now exits the garage over 38 feet away from 1770 Broadway and above the roof line of 1770 Broadway. Note that the garage is continuously ventilated, as shown on Page 2 of Attachment 4, by drawing in outside air from Broadway, directing it through the garage with a set of transfer fans to the 19th Street side of the building, and venting the air above the roof line of 1770 Broadway. The ventilation system was designed by a licensed mechanical engineer to meet all building code and air quality requirements.

Attachment 4 shows an additional voluntary accommodation that Rubicon has made to address concerns raised by the 1770 Broadway Appeal. Pages 2 and 3 of Attachment 4 show that HVAC mechanical equipment has been moved to be over 53 feet away from the south side of 1770 Broadway. The 1770 Broadway Appeal raised concerns about the proximity of the mechanical equipment to 1770 Broadway. Although the previous location of the equipment would have met all building code and noise ordinance requirements, Rubicon elected to move the equipment as an accommodation to the concerns raised by the residents of 1770 Broadway.

The 1770 Broadway Appeal also raised questions regarding the distance between 1770 Broadway and the future building at 1750 Broadway. This distance has not changed and was accurately presented to the Planning Commissioners. Attachment 3, which also shows the new lightwell, clearly shows the buildings are separated by 1.3 to 3 feet, depending on the point of measurement. Because the cornice of 1770 Broadway crosses the property line, Rubicon entered into a separate easement agreement with the owner of 1770 Broadway to allow the encroachment of the cornice.



Regarding the lot line windows in 1770 Broadway, these windows are not protected, as clearly stated by the Planning Commission at the March 20, 2019, hearing. There is no legal right for their continued operation and use, and despite the existence of many such windows downtown, their legal status remains the same. As a result, the windows are not to be taken into consideration when evaluating a project. That said, as noted above, Rubicon voluntarily set the new development back 3 feet from the property line where these windows exist, and Rubicon has revised the podium design to include a lightwell that mirrors the lightwell at 1770 Broadway.

The 1770 Broadway Appeal also raises concerns regarding construction impacts due to the Project being adjacent to 1770 Broadway. The potential impact of construction on 1770 Broadway was studied in the CEQA Analysis, as discussed above. The CEQA Analysis assessed, among other things, the noise, vibration, and air quality impacts during construction, and the Project approvals included multiple SCAs to address construction impacts. In addition, the Project will be required to comply with all applicable legal and regulatory requirements related to construction. With respect to concerns raised by the 1770 Broadway Appeal about crane lifts occurring over 1770 Broadway during construction, Rubicon will require its general contractor to have limit switches on the tower crane to physically prevent anything from being lifted over 1770 Broadway. Moreover, construction in the City is not unique, and the ability to construct a large, complex structure adjacent to existing uses, including residential uses, is feasible and does not by itself create a presumption of harm or damage to buildings, residents, or occupants. In any event, any potential for harm or damage has been evaluated, and the Planning Commission acted within its legal authority based on the evidence before it approved the Project.

The Project also includes 23 Conditions of Approval (“COAs”) and is required to comply with the City’s SCAs, which are approved and incorporated into the Project. These COAs and SCAs cover all aspects of the development of the Project and ensure compliance with the rules, regulations and requirements of the City.

The appellant has raised specific concerns regarding the impact of construction on the 1770 Broadway building. The Project will be required to comply with all City SCAs related to construction including SCA NOI-1, SCA NOI-2, SCA NOI-3, SCA NOI-4 and SCA NOI-5. In addition, the Project will be required to comply with SCA-NOI-8 (Vibration Impacts on Adjacent Historic Structures or Vibration-Sensitive Activities), which will eliminate any potential vibration or structural impact to 1770 Broadway by requiring preparation of a vibration analysis by a technical expert prior to construction, monitoring during construction and implementation of design means and methods during construction. These and other COAs and SCAs specifically address the concerns raised in the 1770 Broadway Appeal. Comments regarding displacement or loss of residential units is not applicable to the Project as it is replacing commercial uses and will construct 307 residential units.

For all these reasons, as we have shown, despite the claims made by the appellants, the Project’s design is consistent the City’s Standards and Requirements.



C. The Project is Consistent with the General Plan and Zoning

The 1770 Broadway Appeal raises several issues concerning the Project's consistency with the General Plan and Zoning and the ability of the Planning Commission to make the necessary findings for approval. As detailed in the staff report and motion acted upon by the Planning Commission on March 20, 2019, the Project is consistent with both the General Plan and the Central Business District zoning. The findings made by the Planning Commission in approving the Project were legally adequate and within the authority of the Planning Commission.

* * * * *

In sum, the City has determined that the Project is not required to prepare an additional environmental document, including an EIR, based upon not one, **but three** CEQA Guideline sections. The City has presented substantial evidence in support of its findings regarding each of these sections, any of which would be sufficient to support the determination **on its own**. The CEQA Analysis prepared and relied upon by the Planning Commission in unanimously approving the Project was therefore legally adequate and is supported by substantial evidence in the record. In addition, the Project has complied with all applicable planning and zoning laws. As a result, the Planning Commission did not commit an error or abuse its discretion in approving the Entitlements, and the claims in the Appeals are without merit.

For all these reasons, we respectfully request that the City Council reject the Appeals and uphold the Planning Commission's decision on the Project.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alexis M. Pelosi', written in a cursive style.

Alexis M. Pelosi

Attachments.

cc: City Council

ATTACHMENT 1

**SUMMARY OF ECONOMIC BENEFITS OF
1750 BROADWAY RESIDENTIAL PROJECT
IN DOWNTOWN OAKLAND**

◆ **The Project**

- 307 new housing units
- 307 additional households with 450 residents
- 5,000 sq. ft. retail space
- 22 jobs on-site plus support for employment by contractors serving the project

◆ **Economic Benefits Upfront and During Construction Period**

- Impact Fees and Other One-Time Funding totaling \$13.002 million
 - \$6.754 million to City of Oakland Housing Trust Fund from affordable housing impact fee. With leveraging Federal, State, and other funding sources, funds could provide approximately 40 new units for very low- and low- income households
 - \$1.441 million to City of Oakland for transportation, capital improvements, and sewer mitigation impact fees, bedroom tax, and public art
 - \$1.268 million for impact fees to Oakland Unified School District
 - \$3.538 million in other fees paid to the City of Oakland related to permitting, inspection, and other services
- Construction Period Employment and Spending
 - 3,600 worker-months of construction labor over 28 months; averaging approximately 128 workers per month
 - Additional employment and spending associated with project spending for materials, supplies, services, etc.; some in Oakland

◆ **Permanent, On-Going Economic Benefits to the City and Oakland Community**
(quantified for stabilized occupancy in 2021 dollars)

- Business Activity, Employment, and Payroll Supported by New Household Spending
 - \$6.0 million in annual household spending for retail goods in Oakland, to support businesses downtown and in the rest of the City
 - \$2.45 million in annual household spending for a variety of services in Oakland including health care, personal services, household and vehicle maintenance and repair services, and recreation/entertainment
- Higher Tax Revenues to City of Oakland
 - \$2.09 million in annual tax revenues; a substantial revenue stream over life of the project
 - Substantial increase over current tax revenues from the site of \$92,532
 - Higher tax revenues are key to addressing projected expenditure growth, improving public services, and providing other public benefits
 - Ongoing property tax allocation for affordable housing to be generated by the project is estimated in the range of \$4 million (NPV over 40 years). This funding is in addition to the project's affordable housing impact fee paid up front and will support production of additional affordable housing units in Oakland over time.

ATTACHMENT 2

1750 Broadway Residences

Oakland, CA

Construction Noise Management Plan

October 22, 2019

Prepared for:

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Salter Project Number: 19-0297

INTRODUCTION

This report provides a site-specific construction noise reduction plan for the 1750 Broadway Residences project. The project is located along Broadway, between 17th Street and 19th Street in Oakland. We have reviewed the proposed construction noise equipment and schedule and predicted the noise levels expected at the nearby buildings.

Construction is estimated to begin early-2021 and be completed within approximately 26 months thereafter. Construction will occur on weekdays between the hours of 7 am and 7 pm.

The project is in the Central Business District (CBD-P & CBD-C) Zone. The adjacent buildings are residences to the north (1770 Broadway), a parking garage to the east, and a commercial building to the south. The residences to the north are the closest noise-sensitive receivers.

This report summarizes the results of our analysis and provides recommendations for construction noise reduction measures. The report consists of the following sections:

- 1.0 Executive Summary
- 2.0 Applicable Criteria
- 3.0 Construction Noise Analysis
- 4.0 Noise Reduction Measures
- Appendix A – Site Logistics Plan
- Appendix B – Noise Monitoring Equipment

1.0 EXECUTIVE SUMMARY

1. Construction noise levels and duration of noise will vary depending on the type and location of the construction activities. We expect that noise levels could temporarily exceed the ordinance criteria without noise reduction measures at the nearest properties when construction is occurring close to the properties. However, noise levels are expected to meet the City noise limit criteria with the noise reduction measures recommended in this report.
2. The recommended noise-reduction measures are expected to reduce construction noise to meet the City noise limits. We will be implementing the noise-reduction measures provided in the construction noise analysis conducted by the acoustical consultant retained by the residents of 1770 Broadway. Additional noise-reduction measures, such as equipment relocation away from residential receivers and additional barriers, should be considered to further reduce the construction noise levels. This is discussed in Section 4.0.

2.0 APPLICABLE CRITERIA

2.1 Oakland Municipal Code

The City of Oakland Noise Ordinance¹ provides provisions for construction noise levels. These provisions are as follows:

The daytime noise level received by any residential, commercial, or industrial land use which is produced by any non-scheduled, intermittent, short-term construction or demolition operation (less than ten days) or by any repetitively scheduled and relatively long-term construction or demolition operation (ten days or more) shall not exceed:

Table 1: Maximum Allowable Receiving Noise Level Standards, dBA

	Weekdays 7 am to 7 pm	Weekends 9 am to 8 pm
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

Additionally, Section 17.120.050 Part D of the Municipal Code states:

In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level.

Construction of the project is considered long-term. This report includes recommendations to reduce noise from construction activities that exceed these long-term noise criteria.

2.2 Existing Noise Environment

Table 2 shows the existing noise environment at the project site during the proposed construction hours (i.e., weekdays from 7 am to 7 pm). Measurements were conducted in May 2019. Noise levels are shown as the range of hourly L_{eq}^2 in dBA³. See **Figure 1** for the measurement locations, which included a monitor on the roof of the adjacent residential building at 1770 Broadway. See **Figures 2 to 4** for a graphical representation of the measured noise levels during the entire measurement period.

1 City of Oakland Municipal Code, Chapter 17 "Noise"

2 L_{eq} – The equivalent steady-state A-weighted sound level that, in a stated period of time, would contain the same acoustic energy as the time-varying sound level during the same period.

3 A-Weighted Sound Level – The A-weighted sound pressure level, expressed in decibels (dB). Sometimes the unit of sound level is written as dB(A). A weighting is a standard weighting that accounts for the sensitivity of human hearing to the range of audible frequencies. People perceive a 10 dB increase in sound level to be twice as loud.

Although the construction site will be closer to 19th Street, our measurements were conducted on 17th Street due to the current construction activity on 19th Street. The measured levels represent typical conditions on 19th Street without construction activity. Future monitoring would occur on 19th Street (see Appendix A). All adjacent land uses are zoned for Central Business District (CBD-P & CBD-C).

Table 2: Range of Existing Noise Environment During Construction Hours

Location	Measured Hourly (7 am to 7 pm) L_{eq} (dBA)	Noise Ordinance Prescribed Noise Limit (dBA)
Broadway (L1)	68 to 76	70
17th Street (L2)	63 to 77	70
North Property Line (L3)	63 to 72	65

As shown, the existing noise levels exceed the maximum allowable receiving noise level standards at the adjacent properties for long-term construction. Therefore, the existing ambient noise levels are the applicable daytime long-term construction noise standard for all three locations.

Figure 1: Existing Noise Environment Measurement Locations

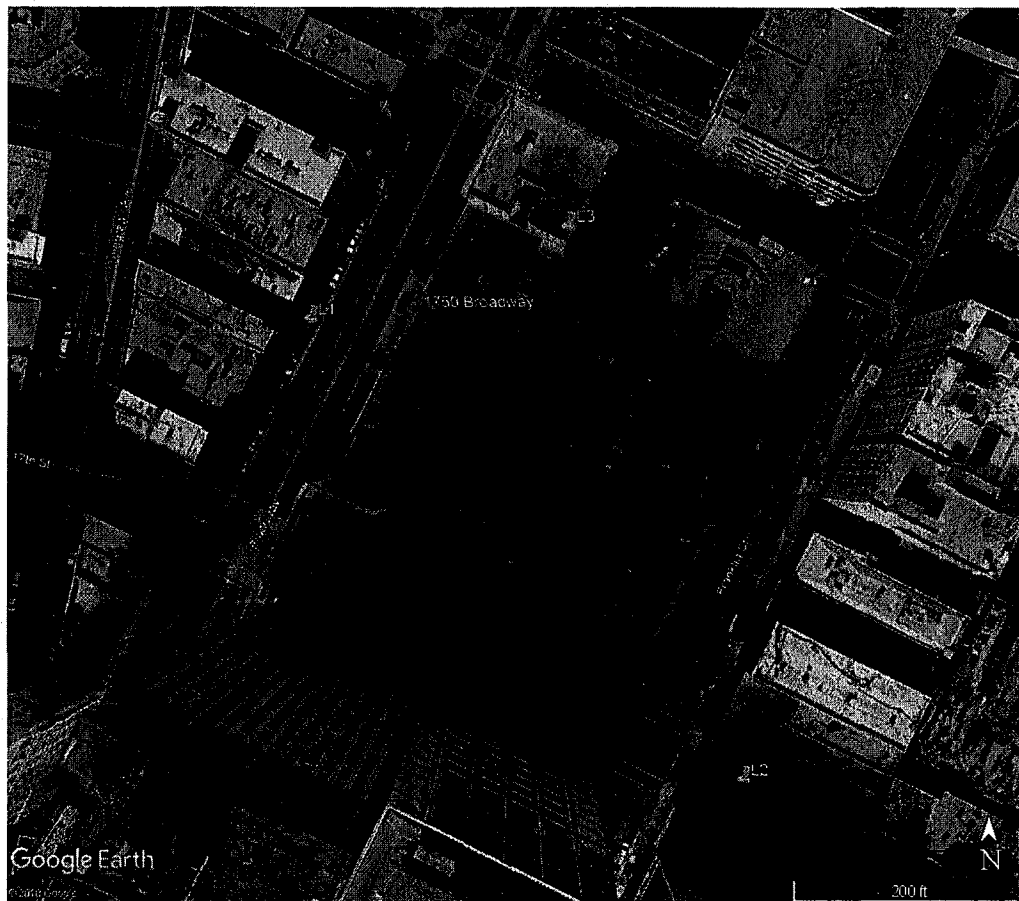


Figure 2: Measured Hourly Noise Levels (dBA) at Broadway (L1)

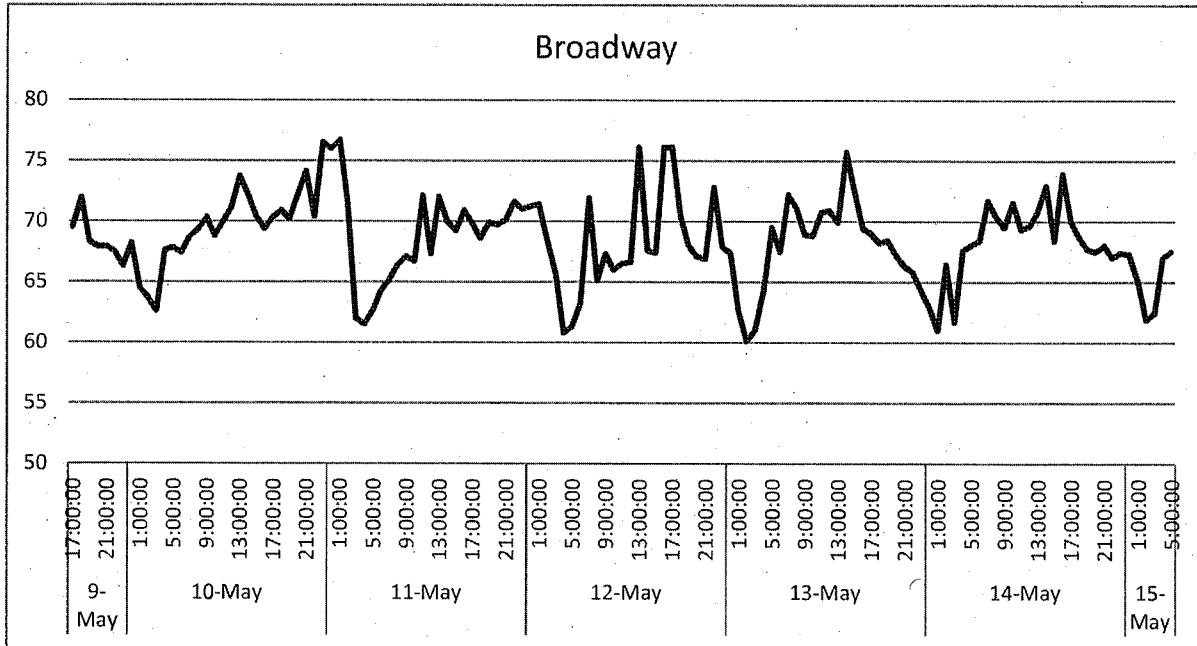
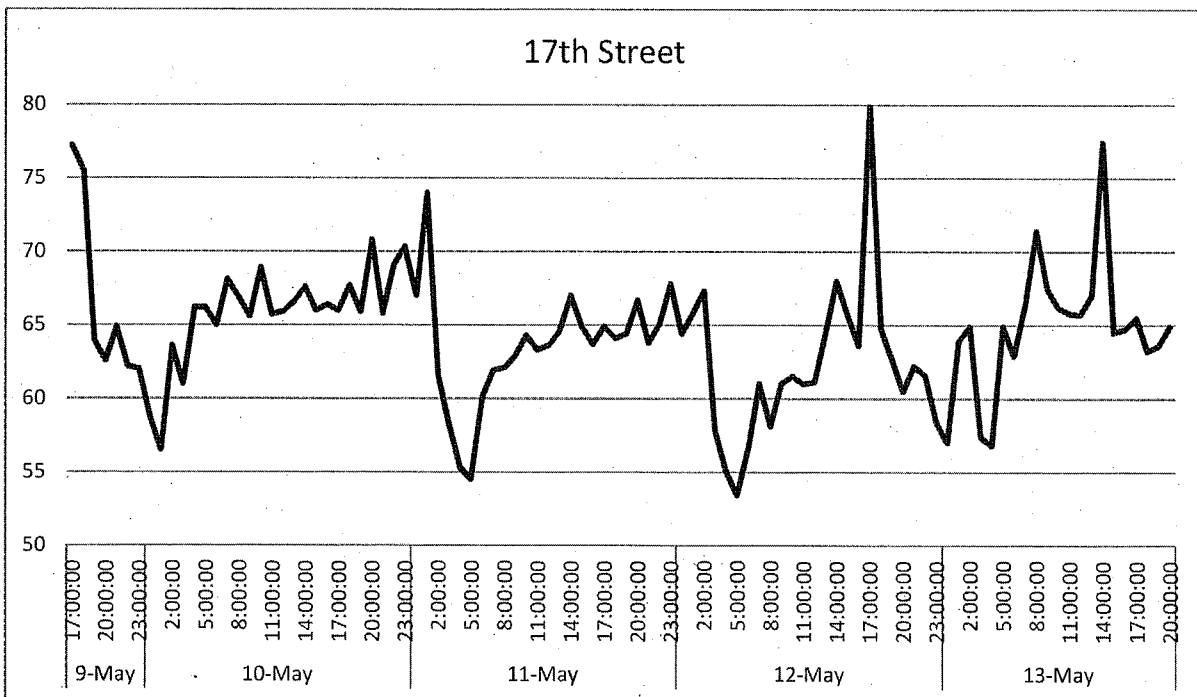


Figure 3: Measured Hourly Noise Levels (dBA) at 17th Street (L2)



A general description of the phases and potential tools and activities that might happen on site during construction is listed below. This does not constitute a comprehensive list of activities, tools, and potential impacts. Actual tools used, activities completed, suggested areas of noise, and durations described might vary depending on site conditions, subcontractor techniques, and general sequencing of the project's schedule.

Phase 1: Demolition, Excavation, and Subgrade

Scheduled Dates: Month 1 to Month 7

Activities: Phase 1 includes (but is not limited to):

- Demolition of the existing structure (Month 1 only)
- Structural and mass excavation
- Installation of foundations, temporary power lighting, utilities/facilities, and shoring
- Erection of site fencing
- Construction of concrete garage
- Site preparation and improvements

Tools and Noise: During this phase, air compressors, backhoes, concrete pumps, dewatering pumps, dozers, drill rig, excavators, forklifts, hand tools, loaders, rollers, and welding machines (with generator) will be used. Most noise during Phase 1 will be focused on or near grade.

Phase 2: Foundation and Structure Erection

Scheduled Dates: Month 7 to Month 20

Activities: Phase 2 includes (but is not limited to):

- Site improvements
- Installation of temporary shoring and PG&E meters
- Mechanical, electrical, and plumbing rough-in and routing
- Installation of elevator
- Masonry installation
- Installation of exterior envelope
- Use of mobile crane
- Framing of the structure

Tools and Noise: During this phase, air compressors, concrete pumps, cranes, forklifts, hand tools, personnel hoists, scissor lifts, and welding machines (with generator) will be used. Most noise during Phase 2 will be located at grade (for deliveries and staging) as well as on and/or around the structural decks where concrete is being poured and framing is installed.

Phase 3: Exterior Finishing, Interior Framing and Finishes

Scheduled Dates: Month 10 to Month 26

Activities: Phase 3 includes (but is not limited to):

- Concrete pours
- Hand tools for interior work and finishes
- Drywall, framing, tile, and painting
- Cabinet installation
- Elevator work
- Site work and landscaping
- Mobile crane demobilization
- Personnel hoist demobilization
- Mechanical, electrical, and plumbing system installation
- Fire life-safety testing
- Fire alarm testing

Tools and Noise: During this phase, the air compressors, concrete pumps, cranes, forklifts, hand tools, personnel hoists, scissor lift, and welding machines (with generator) will be used. Most noise during Phase 3 will be located at grade (for deliveries and staging). However, the building will have the exterior envelope installed. Therefore, much of the construction activity will be in the interior of the building.

3.2 Predicted Construction Equipment Noise Levels

Per the proposed construction equipment list, Table 4 indicates the expected equipment noise levels and usage factors. Concrete saws will not be used. These noise levels are the basis of our analysis.

Table 4: Typical Noise Levels Used for the Analysis⁴

Equipment	Usage Factor (%)	Hourly Average Noise Level (dBA) @ 50 Feet per Usage Factor
<i>Earthmoving</i>		
Front Loader	40	76
Backhoe	40	76
Dewatering Pump	50*	77
Dozer	40	81
Grader	40	81
Excavator	40	77
Forklift	40	79
<i>Materials Handling</i>		
Concrete Mixer	40	75
Concrete Pump	40	78
Tower Crane	50*	80
<i>Impact</i>		

⁴ Sources: U.S. Environmental Protection Agency (1971), FHWA Construction Noise Handbook Tables 9.1 and 9.9

Compressor (pneumatic tools)	40	77
<i>Stationary</i>		
Generator	50	78
Personnel Hoist	50*	72
Scissor Lift	50*	71
Welding Machine	50*	71
<i>Other</i>		
Drill Rig (Auger)	20	77
Roller	20	67

*Usage factor estimated

Based on our review of the phasing and equipment plan, as well as these equipment noise levels provided in the FHWA Construction Noise Handbook and our experience with similar equipment, we have used our own proprietary spreadsheet⁵ to calculate the expected maximum noise levels at nearby receiver locations (see Tables 5 to 7).

The equipment was identified for each phase of construction and was assumed to be operating simultaneously at the nearest (worst-case) and furthest (best-case) positions from potential receivers. Since the measured ambient noise levels exceed the City's criterion, the applicable criterion shall be equal to the measured ambient noise level (see Section 2.1). For the purposes of this report, we analyzed noise levels at the proposed long-term monitoring locations (see Appendix A).

Location 1

This location is on the west side of Broadway between 17th Street and 19th Street. It is approximately 80 feet west from the construction site. Based on the construction phasing and equipment information provided, we estimate that construction noise levels without reduction measures could be up to those shown in Table 5.

Phase	Estimated Maximum Construction Noise Levels	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	82 dBA	Ambient of 68 to 76 dBA ⁶
2	80 dBA	
3	80 dBA	

⁵ Our model uses distance and accompanying decibel drop-off for each piece of equipment and then sums the noise levels.

⁶ "In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level."

Location 2

This location is on the north side of 19th Street, between Broadway and Franklin Street. It is approximately 130 feet from the construction site. Based on the construction phasing and equipment information provided, we estimate that construction noise levels without reduction measures at this location could be up to those shown in Table 6.

Phase	Estimated Maximum Construction Noise Levels	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	80 dBA	Ambient of 63 to 77 dBA
2	78 dBA	
3	77 dBA	

Location 3

This location is on the roof of the adjacent residential property at 1770 Broadway. It is at the north property line of the project site. Based on the construction phasing and equipment information provided, we estimate that construction noise levels without reduction measures at this location could be up to those shown in Table 7.

Phase	Estimated Maximum Construction Noise Levels	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	86 dBA	Ambient of 63 to 72 dBA
2	84 dBA	
3	84 dBA	

3.3 Analysis

Although the estimated noise levels exceed the construction noise thresholds set out in the Municipal Code, the levels will vary as the project progresses around the construction site and moves to the interior of the building. Additionally, measured construction noise levels will be compared to the pre-construction ambient noise levels, as described in Section 17.120.050 Part D of the Municipal Code.

Some construction activities could result in instantaneous noise levels above 90 dBA. Based on our experience, these might include air horns, material handling, air brakes, back-up beepers, and other impact-generating activities. Noise levels will be monitored during the noisiest phases of construction to refine these estimates and corresponding noise reduction measures, as necessary. All feasible techniques prescribed in Section 4.3 shall be implemented to reduce the noise impacts.

4.0 NOISE REDUCTION MEASURES

4.1 Standard Conditions of Approval

The following noise reduction measures are set forth and required by the City's Standard Conditions of Approval (SCA). These measures will be implemented throughout the project.

SCA Item	Requirement	Response
62	Construction Days/Hours. The project applicant shall comply with the following restrictions concerning construction days and hours:	
a	Construction activities are limited to between 7 am and 7 pm, Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8 am and 4 pm Monday through Friday.	Will comply
b	Construction activities are limited to between 9 am and 5 pm on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9 am to 5 pm only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.	Will comply
c	No construction is allowed on Sunday or federal holidays.	Will comply
63	Construction Noise. The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:	
a	Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds), wherever feasible. Except as provided herein, impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically-powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.	Will comply
b	Applicant shall use temporary power poles instead of generators where feasible.	Will comply

c	Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.	Will comply
d	The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.	Will comply
64	Extreme Construction Noise. Prior to any extreme noise-generating construction activities (e.g., pier-drilling, pile-driving and other activities generating greater than 90 dB), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise-generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:	
a.i	Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings.	Will comply – see Section 4.2.1
a.ii	Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions.	Piles will be drilled, not driven
a.iii	Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site.	Will comply – see Section 4.2.2
a.iv	Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by using sound blankets (for example) and implement such measure if such measures are feasible and would noticeably reduce noise impacts.	Will be provided, as needed – see Section 4.2.3
a.v	Monitor the effectiveness of noise-attenuation measures by taking noise measurements.	Will monitor noise – see Section 4.2.4
b	The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.	Will comply

65	Project-Specific Construction Noise Reduction Measures. The project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction noise impacts. The project applicant shall implement the approved Plan during construction.
66	Construction Noise Complaints. The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:
a	Designation of an on-site construction complaint and enforcement manager for the project. Will comply – see Section 4.2.5
b	A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit. Will comply – see Section 4.2.5
c	Protocols for receiving, responding to, and tracking received complaints. Will comply – see Section 4.2.5
d	Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request. Will comply – see Section 4.2.5

4.2 Supplemental Information on Standard Conditions of Approval

The following provides additional information and analysis of certain SCA identified in Section 4.1, including their application and expected noise reduction.

1. **SCA 64-a.i:** The sound fence around the project site should be constructed prior to any site work and erected at the project boundary on the north, south, and west sides. The fence should be 12-feet high and have a minimum surface density of 3 psf (e.g., plywood, sound blanket) with no cracks or gaps. This will help to reduce noise up to 10 dB at the typical pedestrian head-height – depending on the height of the equipment noise source (e.g., drilling is at grade, but equipment engine exhausts are above grade) – where line-of-sight to the construction activity will be broken. Gates will be used for entrances/exits to maintain a solid barrier and shall remain closed when not in use.
2. **SCA 64-a.iii:** The use of sound blankets around the building structure before the exterior facade is installed can provide up to 5 to 10 dB of noise reduction. The sound blankets should cover three floors at a time and be installed without seams or gaps (i.e., they should overlap one another).
3. **SCA 64-a.iv:** If a tenant elects to receive noise barriers at their property to reduce the impacts of the construction noise associated with the project, the project developer will provide and install sound blankets at the tenant’s windows at no cost to the tenant. This sound disturbance resolution will be recorded on the neighborhood complaint log. The project developer will proactively and regularly conduct neighborhood outreach to receive feedback on the noise impacts and attenuation measures.

At the adjacent 1770 Broadway residences, use construction noise control blankets along the property line (e.g., Acoustical Surfaces BBC-13X-2) to reduce noise intrusion. Pending approval from the landlord, additional noise reduction can be achieved by installing new sound-rated windows or additional storm windows⁷ in conjunction with the existing windows. These measures would provide 10 to 20 dB of additional noise reduction (depending on how well the existing windows are sealed).

4. **SCA 64-a.v:** During construction, noise will be monitored continuously at three locations with bi-weekly reporting of the noise levels during construction hours. Hourly L_{eq} will be reported and compared to the ambient hourly L_{eq} measured before construction commenced, which varied over time (see **Figures 2 to 4**). If hourly L_{eq} during construction are greater than 3 dB above the previously measured ambient noise levels for that particular hour of the day, the exceedance recordings will be used to identify what activities (e.g., construction, traffic, sirens) caused noise levels to rise.

Additionally, if noise levels exceed 90 dB outside of the approved construction hours, the project developer will be notified to adjust the construction activity accordingly. Reports will be submitted within one week of the measurements being taken. This tool will be used to fine tune the proposed noise reduction measures, as needed. See Appendix B for the noise monitoring equipment.

5. **SCA 66:** The following procedures will be implemented to address construction noise complaints:
 - a. Designation of Enforcement Manager. Any complaints received with respect to construction noise shall be forwarded to the Compliance Manager [TBD]. Contact Number: [TBD].
 - b. Signage. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit. Example signage provided as **Appendix C**.
 - c. Notifications. Notify adjacent property owners and occupants located within 300 feet of the project site at least 14 days prior to commencement of activities. SCA NOI-1 only requires notifications for construction activity outside of standard hours.
 - d. Complaints. The noise and compliance enforcement manager for the project, shall ensure response and corrective action to complaints within the same working day if the complaint is received during the noise-related incident and from sensitive receptors residing within 100 feet of the project site. Otherwise, response and corrective action to complaints shall occur within 48 hours. A complaint log shall be maintained by the Compliance Manager indicating the date and time of each received noise complaint, the noise source of concern, and how the issue was resolved. Example complaint log provided as **Appendix D**.

⁷ Storm windows are an additional operable pane of glass installed in conjunction with the existing window assembly to provide additional noise reduction.

4.3 Site-Specific Noise Reduction Measures (All Phases)

The following are noise reduction measures that will be implemented by the project applicant throughout construction. These techniques are in line with the recommendations in the Construction Noise Analysis report prepared for the neighbors at 1770 Broadway by Wilson Ihrig on April 1, 2019.

All Phases:

- Utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible) for equipment and trucks
- Locate stationary noise sources as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds or incorporate insulation barriers to provide noise reduction
- Use hydraulic or electric-powered impact tools wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools
- Use "quiet" gasoline or electric-powered compressors
- Use electric forklifts
- Manage truck traffic to reduce idling (see the Site Logistics Plan in Appendix A)
- Proactively and regularly evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by using sound blankets
- Use back-up beepers only when required by law. Spotters or flaggers should be used in lieu of back-up beepers to direct backing operations when allowable
- Minimize drop height when loading excavated materials onto trucks
- Minimize drop height when unloading or moving materials on-site
- Sequence the noisiest activities to coincide with the noisiest ambient hours

Phase 1:

- Erect temporary plywood noise barriers around the construction site
- Erect localized barriers around noisy stationary equipment at-grade (e.g., pumps, generator)
- Erect a barrier around the drill rig that is tall enough to block line-of-sight to the adjacent residences with no cracks or gaps. The interior of the barrier should be lined with a sound-absorptive material (e.g., duct liner, black-faced insulation). Actual design of the barrier would be developed in conjunction with the contractor.
- Only operate the drill rig during the noisiest time of the day
- Install noise control blankets to reduce noise intrusion at 1770 Broadway
- Install temporary "storm windows" over existing windows in habitable rooms at 1770 Broadway with direct line-of-sight to the project site

Phase 2:

- Utilize sound blankets around the building structure as construction moves vertically above the plywood noise barriers at-grade

Phase 3:

- Locate noisy equipment within the building structure once the exterior facade is installed

4.4 Estimated Noise Levels with Noise Reduction Measures

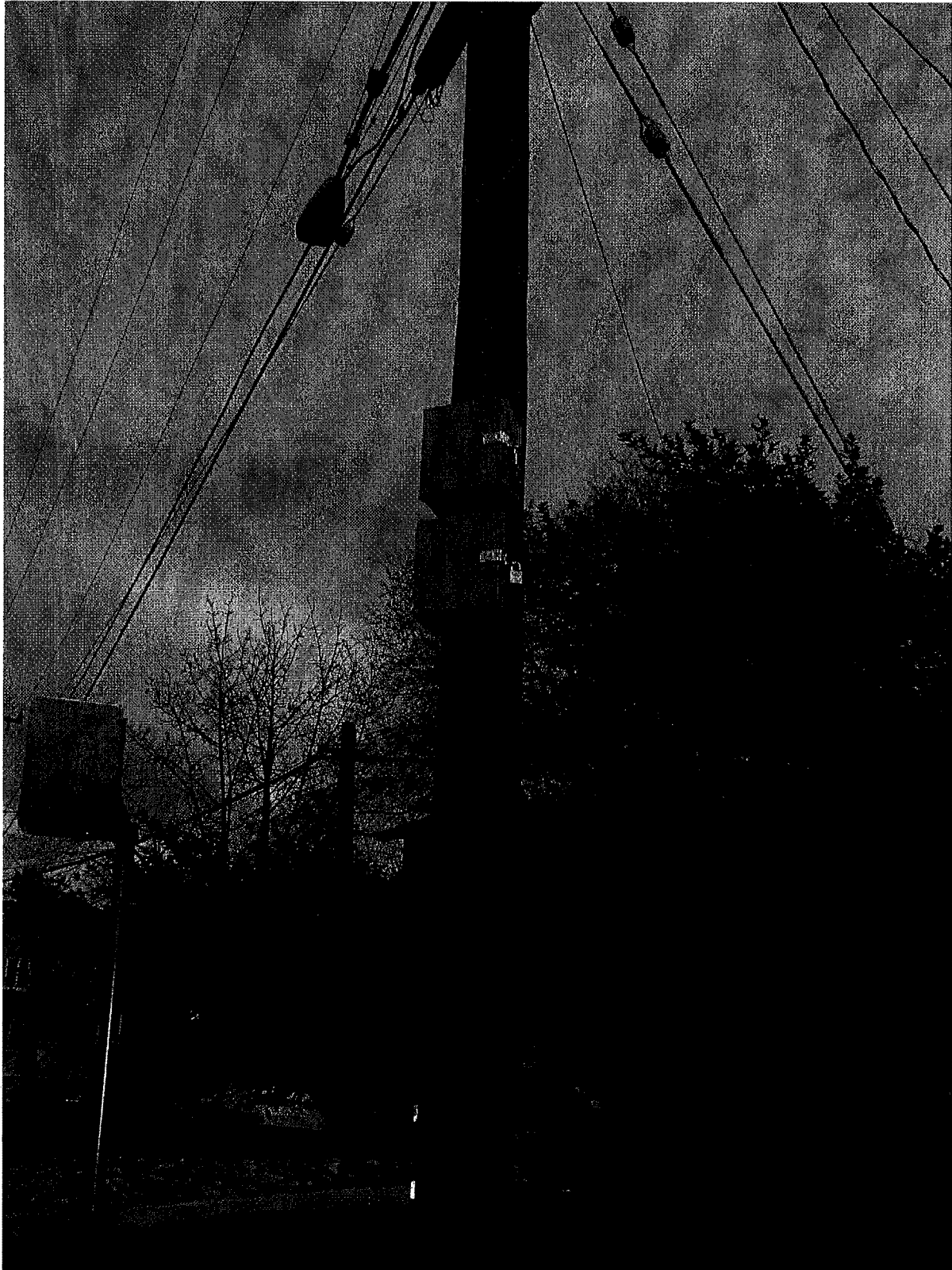
The following tables show the estimated noise levels at each location during each phase with the noise reduction measures prescribed in the SCA and the Noise Reduction Measures in Section 4.3.

Table 8: Construction Noise Analysis for Location 1 (Hourly L_{eq})		
Phase	Estimated Noise Levels with Noise Reduction	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	72 to 76 dBA	Ambient of 68 to 76 dBA
2	70 to 75 dBA	
3	70 to 75 dBA	

Table 9: Construction Noise Analysis for Location 2 (Hourly L_{eq})		
Phase	Estimated Noise Levels with Noise Reduction	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	70 to 75 dBA	Ambient of 63 to 77 dBA
2	63 to 70 dBA	
3	62 to 69 dBA	

Table 10: Construction Noise Analysis for Location 3 (Hourly L_{eq})		
Phase	Estimated Noise Levels with Noise Reduction	Noise Limit/Typical Ambient Noise Level During Construction Hours
1	69 to 72 dBA	Ambient of 63 to 72 dBA
2	64 to 69 dBA	
3	64 to 69 dBA	

APPENDIX B – SOUND MONITORING EQUIPMENT



APPENDIX C - SIGNAGE

SIGN REQUIREMENTS FOR POSTING CONSTRUCTION HOURS

Contractor shall post a sign at all entrances to the construction site upon commencement of construction. Sign(s) shall be posted in a conspicuous place visible from the public right-of-way near the entrance to the job site, at least five (5) feet above ground level, and shall be of a white background, with legible black lettering. Lettering shall be a minimum of one and one-half (1-1/2) inches in height. The sign shall read as follows:

ADDRESS: 1750 Broadway

CONSTRUCTION HOURS (includes any and all deliveries)

MONDAY-FRIDAY 7:00 a.m. to 7:00 p.m.

SATURDAY 9:00 a.m. to 5:00 p.m.

SUNDAY/HOLIDAYS Prohibited

RESPONSIBLE PARTY CONTACT: [NAME TBD] [PHONE NUMBER TBD] [EMAIL ADDRESS TBD]

This sign and construction hours posting requirement is for the purpose of informing all contractors and subcontractors, their employees, agents, material, men and all other persons at the construction site. Construction includes: alteration, demolition, maintenance of construction equipment, deliveries of materials or equipment, or repair activities.

NOISE LIMITS

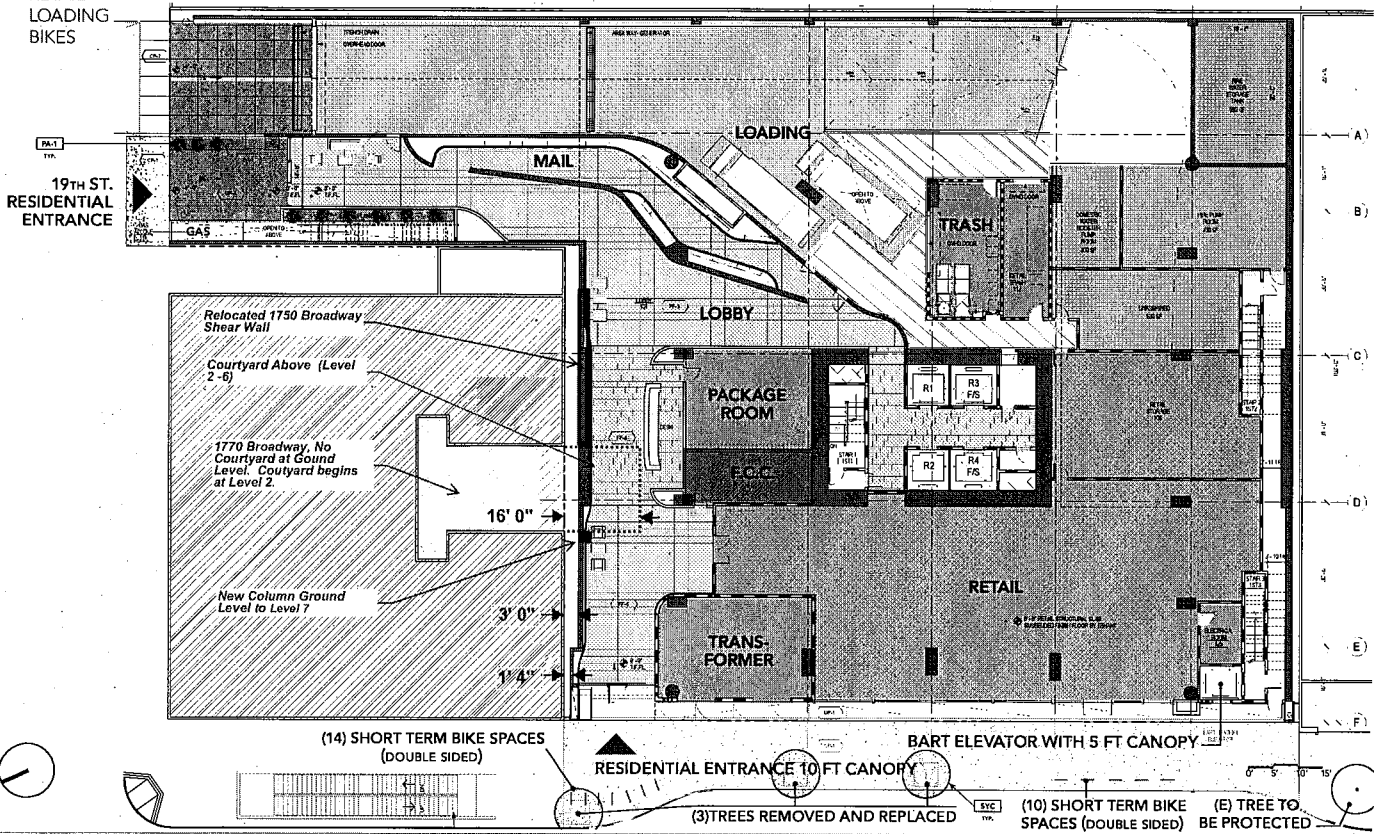
The construction site noise level at any point outside of the construction property line shall not exceed ninety (90) dBA. Violation of the construction hours and/or noise limits may be enforced as either an infraction or a misdemeanor punishable by fines or jail time or both or by an administrative citation with a fine, or by a civil action with a monetary penalty, injunction and/or other remedies.

ATTACHMENT 3

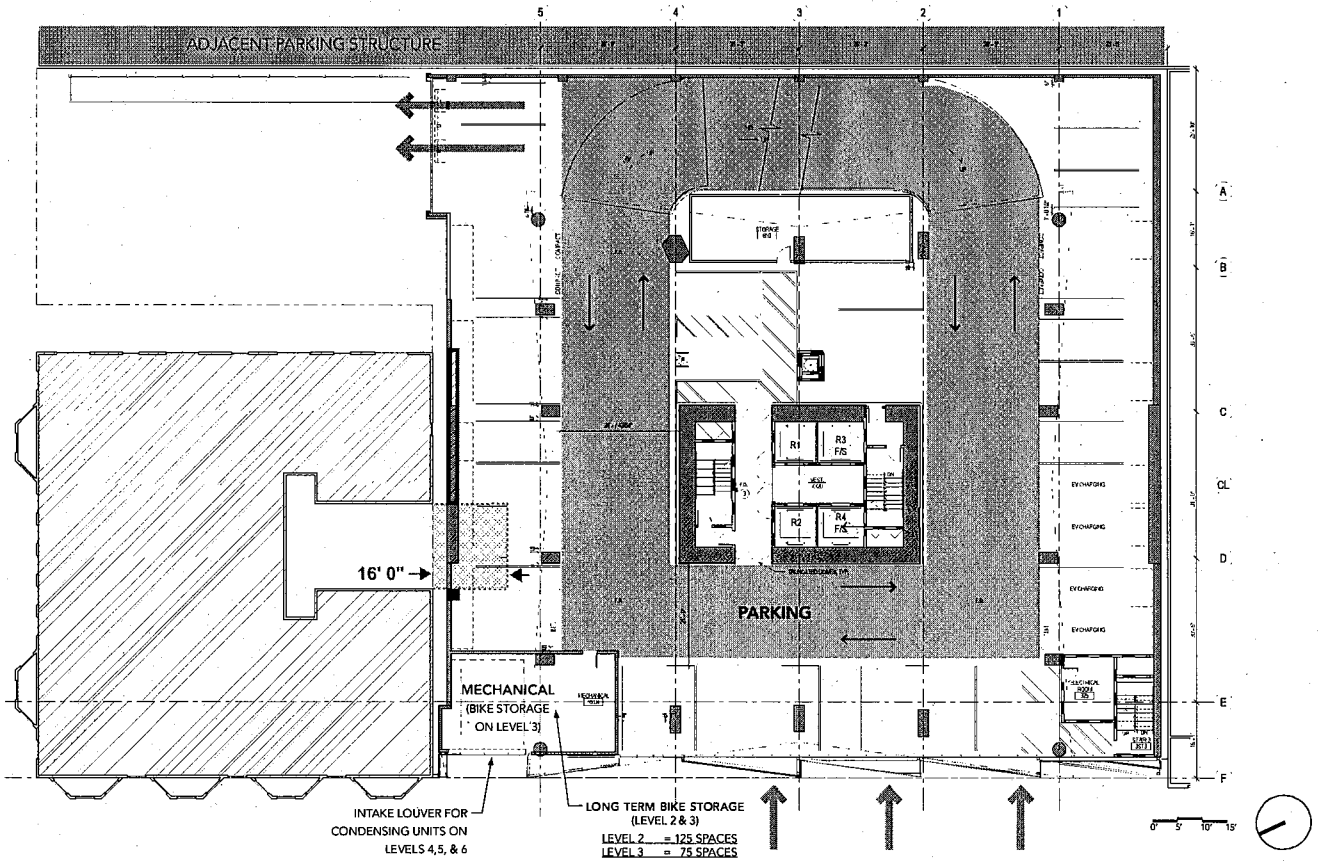
GROUND FLOOR PLAN

APARTMENT LOBBY

RETAIL
LOADING
BIKES

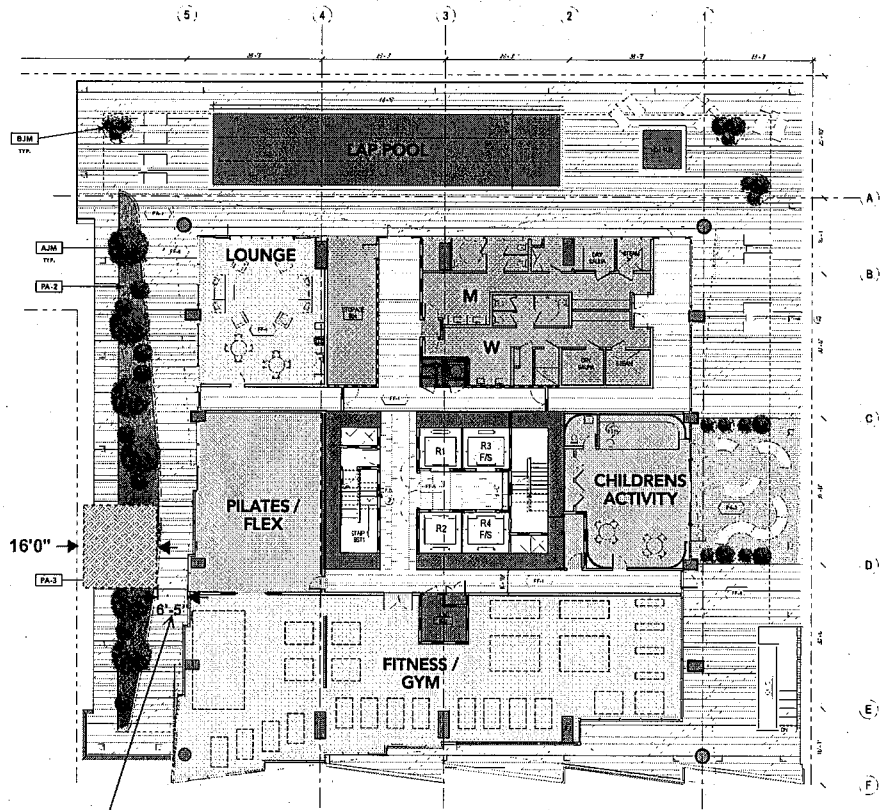


LEVEL 3-6 PLAN



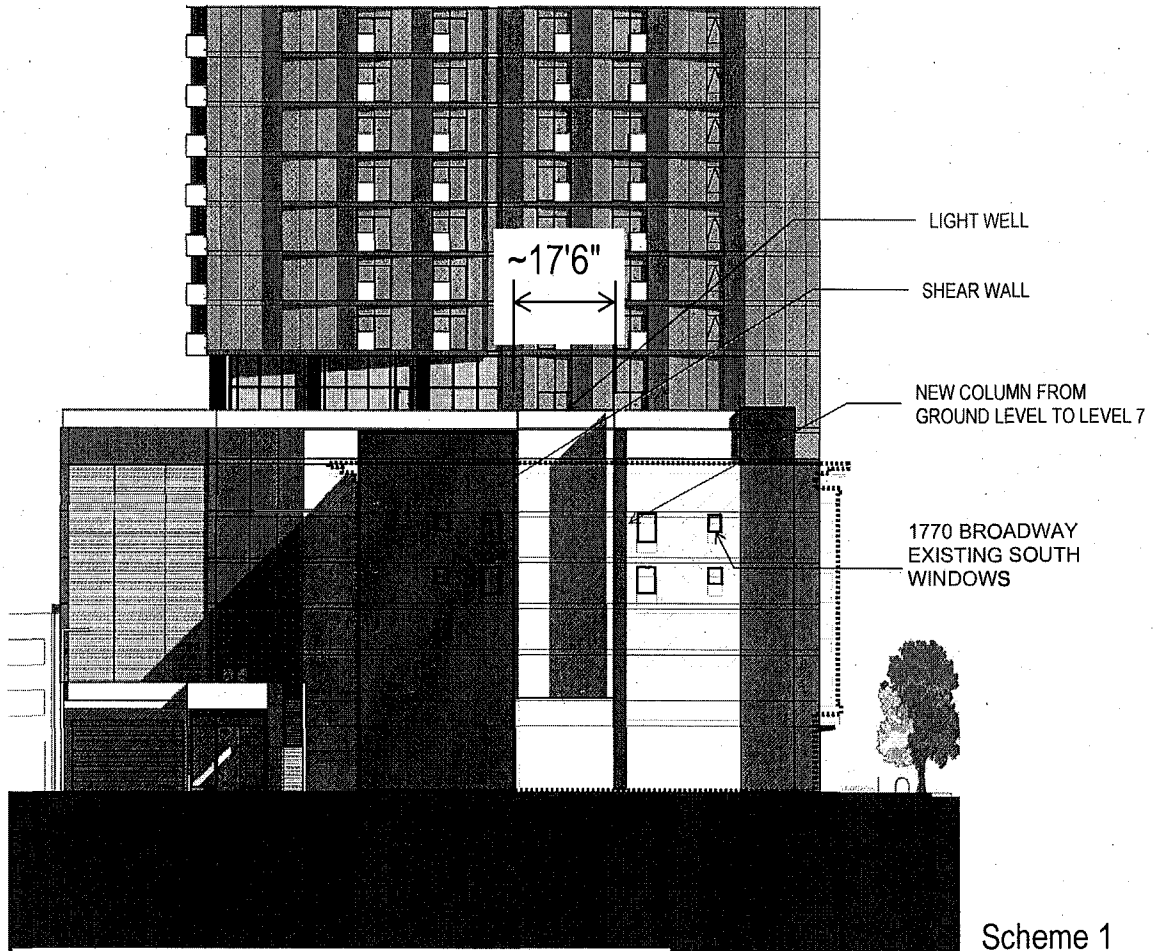
LEVEL 7 PLAN AMENITY

- FITNESS GYM
- PILATES / YOGA / FLEX
- LAP POOL
- LOUNGE AND TERRACE
- GARDENS
- CHILDREN'S ACTIVITY AND PLAY AREA

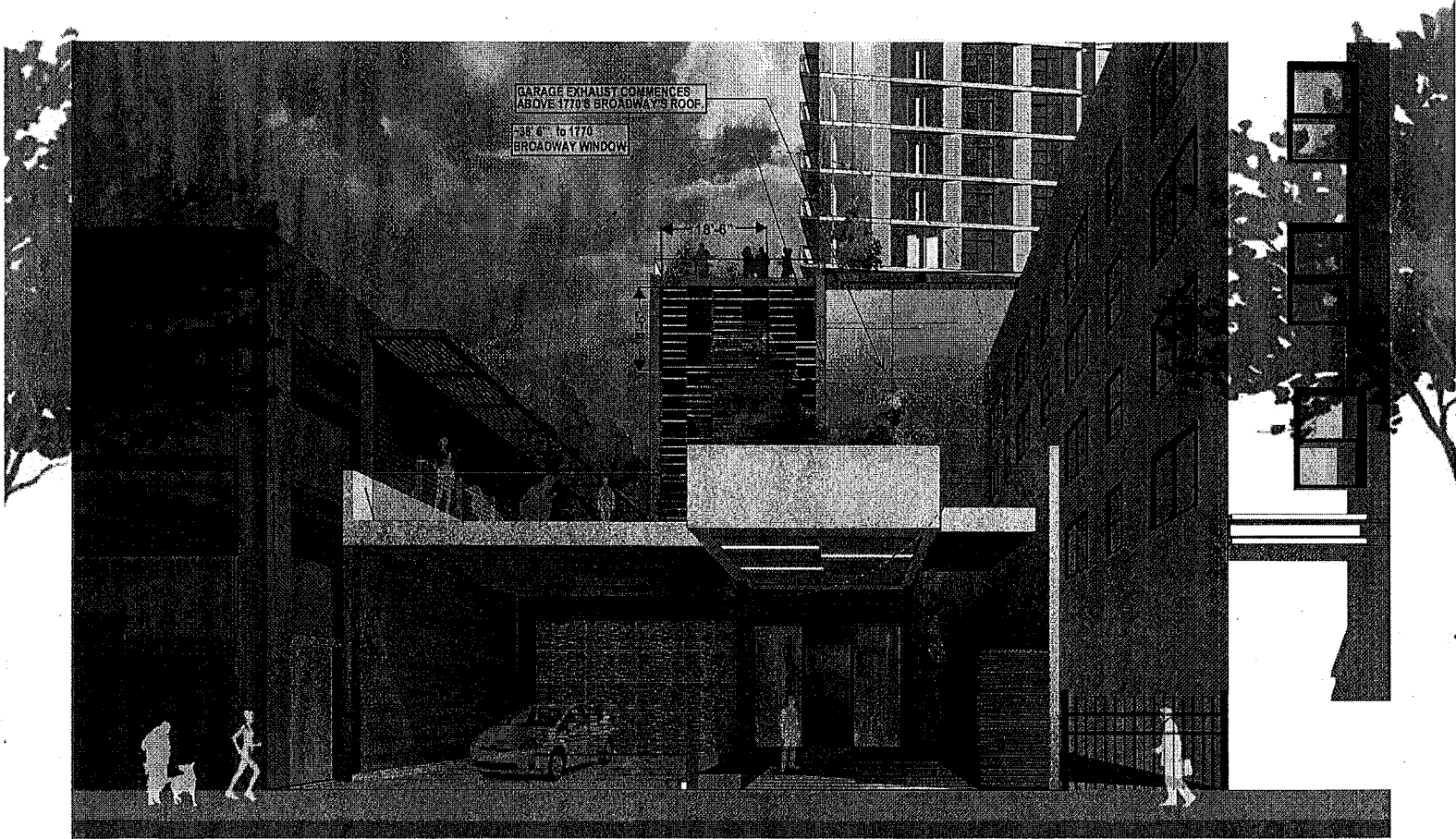


OPEN SPACE SUMMARY

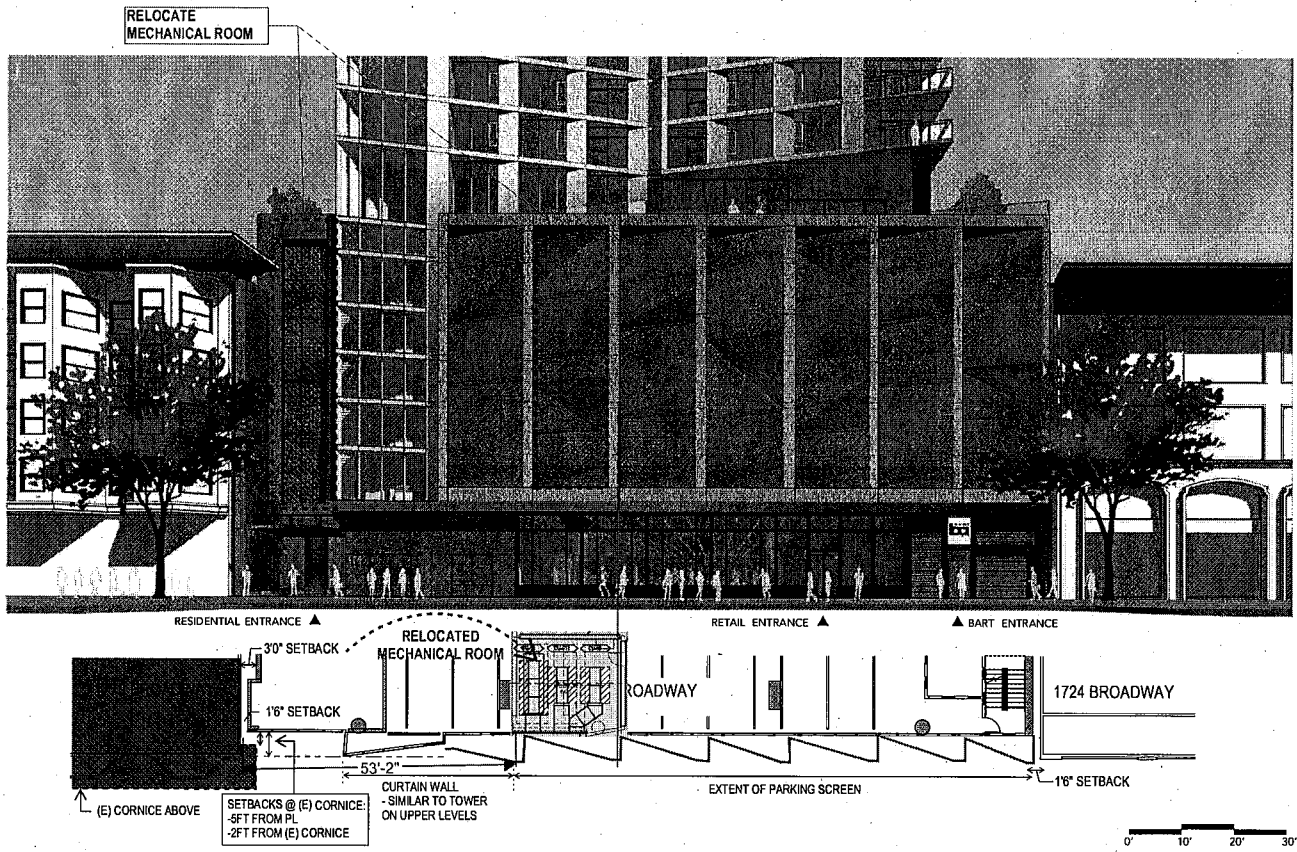
COMMON OPEN SPACE LEVEL 2	= 3,155 SF
COMMON OPEN SPACE LEVEL 8	= 9,060 SF
COMMON OPEN SPACE LEVEL 38	= 2,985 SF
TOTAL COMMON OPEN SPACE	= 15,200 SF
PRIVATE OPEN SPACE LEVEL 26	= 309 SF
PRIVATE OPEN SPACE LEVEL 36	= 754 SF
PRIVATE OPEN SPACE LEVEL 37	= 115 SF
TOTAL PRIVATE OPEN SPACE	= 1,178 SF
TOTAL OPEN SPACE	= 16,378 SF



ATTACHMENT 4



PODIUM FACADE



FILED
OFFICE OF THE CITY CLERK
OAKLAND

Joseph A. Adams
City Attorney's Office

2020 JAN 22 PM 4: 05

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER [IF APPLICABLE]

A RESOLUTION DENYING THE APPEAL BY THE RESIDENTS OF 1770 BROADWAY LED BY JOSEPH HORNOF (APL19010) AND UPHOLDING THE PLANNING COMMISSION'S ENVIRONMENTAL DETERMINATION AND APPROVAL OF A MAJOR CONDITIONAL USE PERMIT FOR BUILDING CONSTRUCTION OVER 200,000 SQUARE FEET AND REGULAR DESIGN REVIEW, FOR THE PROJECT LOCATED AT 1750 BROADWAY, OAKLAND CA (PLN18369).

WHEREAS, the project applicant, Rubicon Point Partners (Applicant), filed an application on September 4, 2018 to construct a 37-story building with 307 market-rate residential units, approximately 5,000 square feet of retail space, and a five-level parking garage for 170 parking spaces to be accessed from 19th Street, and located at 1750 Broadway, Oakland, CA (PLN18369) (the Project); and

WHEREAS, the Design Review Committee (DRC) reviewed the pre-application on January 31, 2018 and the formal application on November 28, 2018 meetings and considered the design review aspects of the Project at its duly noticed public meetings, and forwarded the application to the Planning Commission; and

WHEREAS, the City Planning Commission took testimony and considered the Project at its duly noticed public meeting of March 20, 2019; adopted California Environmental Quality Act (CEQA) findings related to the Project; and approved 1) A Major Conditional Use Permit (CUP) for Building Construction over 200,000 square feet, and 2) Regular Design Review for the proposed Project; and

WHEREAS, on April 1, 2019, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was timely filed by the Residents of 1770 Broadway led by Joseph Hornof (Appellant); and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council at a duly noticed public hearing on February 4, 2020; and

WHEREAS, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on February 4, 2020 ; now, therefore be it

RESOLVED: That, the City Council hereby independently finds and determines that the requirements of CEQA, as prescribed by the City of Oakland's environmental review requirements, have been satisfied pursuant to CEQA Guidelines Sections: 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning; 15183.3 - Streamlining for Infill Projects; and 15332 - Urban Infill Development. Each of the foregoing provides a separate and independent basis for CEQA compliance; and be it

FURTHER RESOLVED: That, the City Council, having 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 Appeals, finds that the Appellant has not shown, by reliance on evidence already contained in the record before the City's Planning Commission, that the Planning Commission's decision on March 20, 2019 was made in error, that there was an abuse of discretion by the Planning Commission or that the Commission's decision was not supported by substantial evidence in the record, based on the March 20, 2019 Staff Report to the Planning Commission and the February 4, 2020 City Council Agenda Report hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's CEQA determination, approval of the major CUP, and Regular Design Review findings are upheld, based upon the March 20, 2019 Staff Report to the City's Planning Commission and the February 4, 2020 City Council Agenda Report, each of which is hereby separately and independently adopted by this City Council in full; and be it

FURTHER RESOLVED: That, in support of the Planning Commission's decision to approve the Project, the City Council affirms and adopts the March 20, 2019 Staff Report to the City Planning Commission (including without limitation the discussion, findings, conclusions and conditions of approval each of which is hereby separately and independently adopted by this Council in full), as well as the February 4, 2020 , City Council Agenda Report, (including without limitation the discussion, findings, conclusions and conditions of approval, each of which is hereby separately and independently adopted by this Council in full), except where otherwise expressly stated in this Resolution; and be it

FURTHER RESOLVED: That, the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption (NOE) and Notice of Determination (NOD) with the appropriate agencies; and be it

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

1. The application, including all accompanying maps and papers;
2. All plans submitted by the Applicant and their representatives;
3. The notice of appeal and all accompanying statements and materials;

4. All final Staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. All oral and/or written evidence received by the City's Planning Commission and City Council during the public hearings on the appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal;
6. All matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal 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) Department of Planning & Building, Bureau of Planning, 250 Frank H. Ogawa Plaza, 2nd floor, Suite 2114, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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