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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

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

DATE: September 20, 2012

City Administrator
Approval

Date

10/4/12

COUNCIL DISTRICT: #1

RECOMMENDATION

Staff recommends that the City Council adopt:

A Resolution Denying Appeals A12-146 & A12-148, Thus Upholding the Planning Commission's Approval of Case Numbers CMDV09-107, TPM-09889, ER09-0006 and Certification of the EIR for the College Avenue Safeway Project Located at 6310 College Avenue

EXECUTIVE SUMMARY

On July 25, 2012 the Oakland Planning Commission approved case number CMDV09-107 & TPM-09889 for the demolition of the existing approximately 25,000 square foot grocery store and auto service station for a new approximately 62,000 square foot commercial development that includes 10,500 square feet of ground floor commercial space (approximately eight retail shops and one restaurant) and an approximately 51,500 square foot grocery store located at the upper level. The project would include 171 off-street parking stalls in a partially subterranean garage located behind the ground floor retail along College Avenue, as well as an upper level parking lot adjacent to the loading berths with access off of Claremont Avenue. The Planning Commission also adopted CEQA findings, including Certification of the project EIR, rejection of alternatives as infeasible and a Statement of Overriding Considerations.

Following the Planning Commission action, two appeals were filed challenging the approval of the project and the Certification of the project EIR. The first appeal (A12-146) was filed by a group of neighbors from the City of Berkeley that are opposed to the project. The second appeal (A12-148) was filed by a group of residents from the City of Oakland that are opposed to the project.

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OUTCOME

If the City Council adopts the recommended resolution denying the appeals, the project entitlements as approved by the Planning Commission on July 25, 2012 as well as the Certification of the project EIR would be upheld.

BACKGROUND

PROJECT DESCRIPTION

The proposed project would involve demolition and clearing of the entire site, followed by construction of a new two-story building with approximately 62,000 square feet of floor area, including a new Safeway store of 51,500 square feet and up to eight separate ground-floor commercial shops, totaling 10,500 square feet, fronting on College Avenue and on the proposed pedestrian “walk street” to be located near the College/Claremont corner. The sizes of the retail tenant spaces would range from 435 square feet to 2,729 square feet—the latter being the large shop at the College/Claremont corner, which has been proposed for a restaurant.

The proposal would include a parking garage that could accommodate 171 off-street parking stalls. The large majority of the off-street parking would be located in a partially underground garage with access off of College Avenue, and two access points on Claremont Avenue. A separate parking area would be provided above grade off of Claremont Avenue for employee parking as well as access for the proposed loading berths.

PROJECT LOCATION AND ZONING

The project site is a triangular shaped parcel at the north side of the intersection of College and Claremont Avenues located in the Rockridge Commercial District in North Oakland. College and Claremont Avenues bound the project site on two sides. Both streets are major arterials, and the land uses opposite the site on both is predominately commercial. The land use adjacent to the site on the north is residential; the rear yards of eight single family homes abut the parcel. Six of these homes front on Alcatraz Avenue, while one faces College Avenue and one is on Claremont Avenue.

The subject property is currently located within a CN-1 Zone, but at the time that the project was deemed complete and when the Notice of Preparation was sent out the property was located within the C-31 Zone. The C-31 zoning was subsequently eliminated from the City’s Planning Code in April 2011, replaced by the Neighborhood Commercial Zone 1 (CN-1).

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The ordinance authorizing the new zoning regulations, passed by resolution of the Oakland City Council on March 15, 2011, explicitly states that “this Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to . . . zoning applications deemed complete by the City as of the date of final passage.” Although the project site is now within a CN-1 zoning district, the zoning district was created after the City had deemed Safeway’s application for the proposed project complete. Thus, the C-31 zoning regulations and not the new CN-1 zoning regulations apply to the project.

The C-31 zone is intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping, and is typically appropriate along important shopping streets having a special or particularly pleasant character.

The proposed project was granted approval of Conditional Use permits for the following:

- General Food Sales (*Planning Code 17.48.040*)
- Alcohol Beverage Sales (*Planning Code 17.48.040*)
- Size in excess of 7,500 square feet (*Planning Code 17.48.080*)
- Driveways on College and Claremont Avenues (*Planning Code 17.48.070*)

The proposed project was granted variances for the following:

- Parking – Section 17.116.080 of the Oakland Planning Code requires that off-street parking be provided in the amount of one off street parking stall per 300 square feet of “General Food Sales” and one off-street parking stall per 600 square feet of “Retail”. Based upon this amount the total parking required for the proposal would be 194 parking stalls. However, due to the project providing 47 more spaces for bicycle parking than required, the total off-street parking required is reduced to 186. Based upon the proposed project design that includes 171 off-street parking stalls, a minor variance for fifteen (15) off-street parking stalls would be required.
- Loading – Section 17.116.140 of the Oakland Planning Code requires that three off-street loading berths be provided for developments between 50,000 – 99,999 square feet. The proposed project is including two loading berths and hence a minor variance for one loading berth would be required.

ENVIRONMENTAL REVIEW

The City is the Lead Agency pursuant to CEQA and has the responsibility to prepare the EIR for the Project, under the requirements of CEQA, pursuant to Public Resources Code Section 21000

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et. seq. An Initial Study was not prepared for the Project, as authorized under Section 15060(d) of the CEQA Guidelines.

Publication and Distribution of the DEIR

A Notice of Preparation was issued on October 30, 2009 and a scoping session held before the Planning Commission on November 18, 2009. The Initial Study screened out environmental topics that would not be further studied in the Draft EIR. These topics included: Aesthetics, Biological Resources, Hazards & Hazardous Materials, Mineral resources, Public Services, Utilities/Service Systems, Cultural resources, Hydrology/Water Quality, Recreation, Geology/Soils, Land Use/ Planning, Population/Housing, and Agricultural Resources. However, given the large numbers of comments received regarding Aesthetics and Land Use, staff added these topics back into the scope of the DEIR. The College Avenue Safeway DEIR was prepared and released on July 1, 2011 beginning a 45 day public comment period. The DEIR was heard at a duly noticed meeting of the Planning Commission on July 20, 2011 and continued for additional public comment to the Planning Commission meeting of August 3, 2011. The public review and comment period ended on August 16, 2011. The following environmental topics were addressed in detail in the DEIR:

- Aesthetics
- Air Quality and Greenhouse Gases
- Land Use, Plans and Policies
- Noise
- Transportation and Circulation

Potentially Significant Impacts Identified in the DEIR

Other than the impacts discussed below, all of the environmental effects of the Project can be reduced to less than significant levels through implementation of Standard Conditions of Approval or recommended Mitigation Measures.

The DEIR identifies the following significant and unavoidable environmental impacts related to Transportation and Circulation:

Transportation & Circulation

The DEIR identifies eleven significant and unavoidable traffic impacts at five intersections under “Existing plus Project”, “2015 plus Project”, and “Cumulative 2035 plus Project”. The following summary of these impacts is organized by intersection with the impact statement (e.g., TRANS-

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11) and scenario (e.g., Cumulative 2035 plus Project) noted for easier comparison for the reviewer.

For each of these impacts, Mitigation Measures have been identified and recommended that, if implemented, would reduce the impact to less than significant; however, in the interests of a conservative analysis, the EIR identifies the impacts as Significant and Unavoidable because the City of Oakland cannot ensure implementation of the proposed mitigation measures. Specifically, with one exception, the authority for approving and implementing the measures is outside of the City of Oakland's jurisdiction (City of Berkeley & CalTrans), and therefore the City of Oakland cannot ensure the measures' implementation. One of the identified Significant and Unavoidable impacts is located within the City of Oakland at the 63rd Street/ College Avenue/ Safeway entrance intersection and also contains proposed Mitigation Measures that would reduce that impact to Less than Significant. Conservatively the City identified this impact as Significant and Unavoidable due to potential secondary non-CEQA impacts that would be likely to occur given that 63rd Street could become a direct feed into the project entrance and substantially increase traffic on a residential side street. As a result, technical, environmental, social and other factors may cause this measure to be rejected as infeasible.

Intersection #1 – Ashby Avenue / College Avenue – City of Berkeley / CalTrans

- **Impact TRANS-1:** The proposed project would contribute to LOS E operations and increase the average intersection vehicle delay by more than three seconds during the weekday PM peak hour, and contribute to LOS F operations and increase the volume-to-capacity (v/c) ratio by more than 0.01 during the Saturday peak hour at the *Ashby Avenue/College Avenue (#1) intersection* under Existing Conditions.
- **Impact TRANS-5:** The proposed project would degrade intersection operations from LOS E to LOS F and increase the average intersection vehicle delay by more than three seconds during the weekday PM peak hour and contribute to LOS F operation and increase the v/c ratio by more than 0.01 during the Saturday peak hour at the *Ashby Avenue/College Avenue (#1) intersection* under 2015 Conditions.
- **Impact TRANS-9:** The proposed project would contribute to LOS F operation and increase the v/c ratio by more than 0.01 during both weekday and Saturday PM peak hours at the *Ashby Avenue/College Avenue (#1) intersection* under 2035 Conditions.

Intersection #2 – Ashby Avenue / Claremont Avenue – City of Berkeley & CalTrans

- **Impact TRANS-10:** The proposed project would contribute to LOS F operation and increase the v/c ratio by more than 0.01 during the weekday PM peak hour at the *Ashby Avenue/Claremont Avenue (#2) intersection* under 2035 Conditions.

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Intersection #5 – Alcatraz Avenue /College Avenue – City of Berkeley

- **Impact TRANS-2:** The proposed project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour at the *Alcatraz Avenue/College Avenue (#5) intersection* under Existing Conditions.
- **Impact TRANS-6:** The proposed project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and degrade intersection operations from LOS D to LOS E and increase intersection average delay by more than two seconds during the Saturday PM peak hour at the *Alcatraz Avenue/College Avenue (#5) intersection* under 2015 Conditions.
- **Impact TRANS-11:** The proposed project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and degrade intersection operations from LOS E to LOS F and increase intersection average delay by more than three seconds during the Saturday PM peak hour at the *Alcatraz Avenue/College Avenue (#5) intersection* under 2035 Conditions.

Intersection #6 – Alcatraz Avenue /Claremont Avenue – City of Berkeley

- **Impact TRANS-3:** The proposed project would contribute to LOS F operation at the side-street stop-controlled eastbound approach at the *Alcatraz Avenue/Claremont Avenue (#6) intersection*, which would meet the peak hour signal warrant under Existing Conditions.
- **Impact TRANS-7:** The proposed project would contribute to LOS F operation at the side street stop-controlled eastbound approach at the *Alcatraz Avenue/Claremont Avenue (#6) intersection* which would meet the peak hour signal warrant under 2015 Conditions.
- **Impact TRANS-12:** The proposed project would contribute to LOS F operation at the side-street stop-controlled eastbound approach at the *Alcatraz Avenue/Claremont Avenue (#6) intersection* which would meet the peak hour signal warrant under 2035 Conditions.

Intersection #7 – 63rd Street/College Avenue/Safeway Entrance – City of Oakland

- **Impact TRANS-13:** The proposed project would add more than 10 trips to the *63rd Street/College Avenue (#7) intersection* which would meet the peak hour signal warrant under 2035 Conditions.

With the proposed project revisions to the 63rd Street/ College Avenue/ Safeway entrance intersection as noted in this staff report, Impact Trans-13 would be eliminated.

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Project Alternatives

Chapter 5 of the Draft EIR includes the analysis of four alternatives to the Proposed Project that meet CEQA's requirements to identify and evaluate a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. The CEQA alternatives analyzed in Chapter 5 include:

- Alternative 1a - Mixed Use With Regular Apartments – This alternative includes housing in order to attempt to maximize the allowable development density on-site. This alternative would provide 40 dwelling units, a 45,000 square foot Safeway, and 10,750 square feet of ground floor commercial space. The project would contain access points as proposed and contain ground floor commercial and the Safeway located on the second floor as proposed.
- Alternative 1b – Mixed-Use With Senior Housing - This alternative includes housing in order to attempt to maximize the allowable development density on-site. This alternative would provide 54 senior housing units, a 30,000 square foot Safeway, and 11,820 square feet of ground floor commercial. The project would contain access points as proposed and contain ground floor commercial and the Safeway located on the second floor as proposed.
- Alternative 2 – Reduced Size Project – 40,000 square feet - This alternative was developed with the intent to reduce at least one Significant and Unavoidable transportation impact which ended up being a reduction of the proposed project to include only a 40,000 square foot new Safeway store, which was able to reduce the Significant and Unavoidable Impact at Ashby and College Avenue to Less than Significant. This alternative would likely be accomplished by creating a 15,000 square foot addition to the existing store and possibly providing rooftop parking to accommodate the loss of some surface parking from the building expansion.
- Alternative 2a – Reduced-Size Project – 35,750 square feet – This alternative was initially developed by the neighborhood group Friends and Neighbors of College Avenue, and was obtained from that group's website. This alternative consists of a new one-story 25,000 square foot store with rooftop parking and loading accessed off of Claremont Avenue, and a new two story 10,000 square foot commercial building along College Avenue and a 750 square foot commercial building at the corner of College and Claremont Avenues, with surface parking retained between the three buildings.
- Alternative 2b – Reduced-Size Project – 27,250 square feet - This alternative also was initially developed by the neighborhood group Friends and Neighbors of College Avenue, and was obtained from the group's website. This alternative consists of a minor addition

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to the existing Safeway at the entrance and loading dock as well as a new 750 square foot commercial building at the corner of College and Claremont Avenues.

- Alternative 3 – Full Project as Proposed with No Auto Access on College Avenue – Due to the strong desire to keep auto access points off of College Avenue in order to enhance the pedestrian environment, this alternative was reviewed to see if potential impacts could be reduced as well as to study the feasibility of a project that only contained auto access off of Claremont Avenue.
- Alternative 4 – Full Project as Proposed with only Inbound Access off College Avenue – The project alternative was studied as a sort of variant to Alternative 3, given the desire to have limited access and pedestrian interruption along College Avenue and due to the queuing and level of service issues that arose in the traffic analysis under Alternative 3.
- Alternative 5 - No Project/No Build Alternative - CEQA requires a “no Project” alternative to be considered in the EIR. This Alternative is consistent with the existing environmental setting presented throughout Chapter 4 of the EIR, and it would be assumed that the gas station would re-open.

The Environmentally Superior Alternative is the No Project/No Build Alternative. Under CEQA, if a No Project Alternative is identified as the environmentally superior alternative, the EIR shall also identify an environmentally superior alternative development among the other alternatives. In this case, the environmentally superior development alternative is Alternative 2b (Reduced Size – 27,250 Square Foot Project). This Alternative likely would avoid all of the Proposed Project’s significant impacts that occur with the other construction alternatives, because it would only include a minor addition to the existing building and create a new small commercial building to replace the gas station. However, this alternative fails to meet a majority of the project objectives. Furthermore, this alternative is inconsistent with City policies (many of which are included as project objectives). Examples include: the replacement of existing 1960s suburban style development with a design consistent with both the zoning and the General Plan; the creation of additional street-front opportunities similar in scope and scale to the retail frontage on College Avenue; the establishment of a gateway presence at this important intersection in the Rockridge neighborhood; the facilitation of pedestrian activity on a portion of College Avenue which now does not encourage pedestrian activity or comparison shopping, thus stimulating economic vitality at the College/Claremont corner; the consolidation of driveway entrances on College Avenue; the creation of a buffer to the lower-scale residential neighbors adjacent to the site; maximizing the creation of new union jobs at the store; the creation of publicly accessible open space, plazas, and seating areas that will enhance the surrounding neighborhood and establish at this end of College Avenue an attractive and inviting setting for pedestrian shopping; the promotion of LEED certified construction; and improving noise impacts for abutting neighbors by moving and/or covering noise-producing equipment.

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Therefore, Alternative 2 (the Reduced Size alternative of 40,000 square feet) would be considered the next environmentally superior alternative because it would reduce impacts, though not to the level of Alternative 2b), and would also meet the project objectives to a greater extent.

Response to Comments Document

A Notice of Release and Availability along with the Response to Comments Document (which together with the DEIR make up the Final EIR (FEIR)) was published on July 6, 2012. The Response to Comments Document includes written responses to all comments received during the public review period on the DEIR and at the public hearings on the DEIR held by the Planning Commission. All impacts, City Standard Conditions of Approval and Mitigation Measures, as they may have been revised/clarified from the DEIR, identified in the FEIR are summarized in Table 2-7 at the end of the Project Overview chapter, Chapter 2 of the FEIR. Table 2-7 also identifies the level of significance of the impacts after City Standard Conditions of Approval and recommended Mitigation Measures are implemented.

PLANNING COMMISSION REVIEW

At the July 25, 2012 hearing, the Oakland Planning Commission took public testimony from various interested parties including the appellants as well as others who were in support of the project. The Commission approved the project unanimously. The July 25, 2012 staff report is included as *Attachment A*.

ANALYSIS

On August 6, 2012 Berkeleyans for Pedestrian Oriented Development (BPOD) and Rockridge Community Planning Council (RCPC) both filed separate appeals (A12-146 & A12-148) of the July 25, 2012 Planning Commission approval of planning case number CMDV09-107 & TPM-09889 as well as the Certification of the project EIR.

This section of the Agenda Report summarizes the appellants' arguments (**in bold**) and provides responses (*in italics*). The appellants' full submitted arguments have been included as attachments to this report. The BPOD appeal letter is included as *Attachment B*, and the RCPC appeal letter is included as *Attachment C*. Because many duplicative arguments have been raised by both groups, where that occurs, they are addressed in a single, consolidated and comprehensive response.

1. The proposal violates the **C-31 Zoning** for the following reasons:
 - a. The proposal is inconsistent with the stated intent of the **Zone**

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b. The size is massively larger than the zone permits

Both appellants argue that the project is inconsistent with the stated intent of the C-31 Zone. The stated intent of the C-31 zone is as follows: "The C-31 zone is intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping, and is typically appropriate along important shopping streets having a special or particularly pleasant character." Staff's position is that the proposed development does in fact fulfill the intent of the C-31 zone as the proposal will remove the existing auto oriented development that currently contains a suburban style grocery store located in the middle of a surface parking lot and an auto service station located at the prominent corner of College and Claremont Avenues and replace it with a new development that locates the required parking largely out of view of College Avenue behind new ground floor commercial shops with the larger grocery store located at the upper level. This design will both enhance the visual character of the site as well as make the site more pedestrian oriented by placing storefront entries at the sidewalk.

BPOD argues that size of the project defies the C-31 zoning maximum limit. The development regulations for the C-31 zoning district in which the project is located are set forth in Chapter 17.48 of the Planning Code. Section 17.48.080 states that the total floor area devoted to Commercial or Manufacturing Activities by any single establishment may only exceed 7,500 square feet upon the granting of a Conditional Use permit. This does not state or imply an intention on the part of the City to limit food or retail stores in the C-31 zone to absolutely no more than 7,500 square feet in size; it establishes the City's right to review such projects and exercise its discretion in whether or not to allow a particular establishment over 7,500 square feet through the Conditional Use permit review process. As stated in the Planning Commission staff report, and included as Attachment A to the report, the proposal is consistent with the required C-31 Findings and is therefore consistent with the C-31 Zoning designation applicable at the time the project was deemed complete.

2. The granting of the four Conditional Use permits is not supportable, defies the zoning and amounts to an unauthorized zone change.

BPOD argues that the granting of four conditional use permits constitutes significant non-conformance and constitutes an unauthorized zone change. This is incorrect. The granting of Conditional Use permits, no matter the number, does not amount to an unauthorized zone change. The zoning ordinance sets forth certain activities/facilities that are outright permitted, conditionally permitted, or not permitted. The requested activities/facilities that required the Conditional Use permit are part of the Planning and Zoning permitting process, and by meeting the required findings the proposal is consistent with the C-31 Zoning. Staff provided the required findings for the requested Conditional Use permits in the July 25, 2012 Planning Commission staff report to support approval of the project.

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Both appellants' assert that these conditional use permit findings were inadequate largely due to issues related to traffic, that the proposal is inconsistent with the General Plan due to the nature of the project and its potential traffic impacts. RCPC also argues that the Conditional Use permit criteria for the C-31 zone cannot not be met because the project will have a driveway located on College Avenue and will not have retail uses along Claremont Avenue.

With regard to the argument that the proposal is a one-stop auto oriented development and the proposal is inconsistent with the General Plan, please see response 4 below in this report. With regard to the arguments that the Conditional Use permit findings are not supportable due to parking impacts and side street traffic, see responses 8 and 9 below in this report.

The RCPC appeal alleges that, because the FEIR identified significant and unavoidable traffic impacts within the City of Berkeley, but the project does not guarantee that those traffic impacts will be mitigated to a less than significant level, it cannot be said that the project will not adversely affect "the livability or appropriate development of abutting properties and the surrounding neighborhood."

First, it should be noted that the Planning Code requires that "consideration be given" to various planning issues that include "the generation of traffic and the capacity of surrounding streets," but does not mandate that certain levels of traffic automatically render the finding unworkable. The use of the term "consideration" in the finding indicates that the City decision-makers are required to give careful thought to traffic and street capacity in making the finding. If it had meant to impose a "bright line" threshold for the finding, the wording would have specifically indicated that intent. To determine otherwise would mean that no project requiring a conditional use permit could ever be approved if it had any significant and unavoidable traffic impacts. This would have precluded the City's approval of for example, the Fruitvale Transit Village Project - Phase 2, which was approved by the City in 2010.¹

Second, contrary to the RCPC's assertions, the findings do not "assume" that the impacts will be mitigated by the Use Permit condition requiring the applicant to apply to the City of Berkeley to install identified mitigation measures for these impacts, or to undertake other methods deemed more appropriate to mitigate these impacts. Instead, the findings merely acknowledge that the application to the City of Berkeley is required, which indicates a likelihood (though not a certainty) of the project's ultimate success in mitigating its Berkeley traffic impacts. Even if the project were not successful, however, the findings would still be supportable in light of the

¹ The findings for that project may be found here:

<http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/dowd008705.pdf>. Exactly the finding cited above was made (see page 9 of the findings), despite the fact that the Fruitvale Transit Village project – which required a conditional use permit for excess parking – would result in two significant and unavoidable traffic impacts (see pages 3-4 of the findings).

myriad other factors cited in their support, including the pedestrian orientation and scale of the project, the relation of the ground floor commercial spaces to the "existing and desired context of the successful Rockridge shopping district," the vertical architectural breaks, and the availability of public transit.

Third, the only reason that any traffic impacts² were considered Significant and Unavoidable in the EIR was due to the fact that the intersections were located within a jurisdiction outside the City of Oakland, and therefore the City cannot definitively ensure the implementation of the mitigations that were identified in the report. If it were to be assumed that a Use Permit could never be approved if there were impacts in an adjacent jurisdiction, whether mitigations are identified or not, no large projects near City of Oakland boundaries or with impacts to CalTrans intersections within the City limits would ever be capable of being approved.

The RCPC appeal makes the argument that due to the presence of a driveway on College Avenue the C-31 specific Use Permit criteria could not be met. Staff disagrees with this assessment. In the findings in the July 25, 2012 staff report the findings clearly respond to the issue of a driveway on College Avenue. The finding states that "no driveway shall connect with the area's principal commercial street unless... .. vehicular access cannot reasonably be provided from a different street". Based upon information provided in the EIR, in which an alternative project was thoroughly studied that included no driveway on College Avenue, the results were that due to southbound traffic on College Avenue to the project site, queuing backups for cars making a left turn onto Alcatraz to reach the Claremont Avenue entry would have caused significant traffic problems and significantly added auto traffic to Alcatraz Avenue, which is a residential street. Therefore, staff found that it was not reasonable to only provide access on Claremont Avenue, and thus the College Avenue driveway was accepted in a redesigned fashion that reduced the visual impacts onto the street frontage. Furthermore, the existing site configuration contains four driveways on College Avenue, where it will now be reduced to one with the development of the project.

The RCPC appeal makes the argument that due to the lack of retail on Claremont Avenue, the C-31 specific use permit criteria could not be met. Staff also disagrees with this assessment. The criterion states that "the proposal will not impair the creation of an important shopping frontage". At the subject property site, the important shopping frontage in the area is clearly College Avenue. While there is existence of commercial activities along Claremont Avenue they are largely concentrated at the corner of intersections, which is done with the proposed project, as the restaurant will be sited at the intersection and the commercial "walk street" wraps out to Claremont Avenue, with open glazing present at the street level. This section of Claremont

² In the Draft EIR, an additional Significant and Unavoidable traffic impact was identified at the intersection of 63rd Street, College Avenue, and the project driveway; however, this Significant and Unavoidable impact was eliminated when the project was revised as discussed in the Final EIR.

Avenue contains auto oriented office buildings with surface parking lots across the street and low density residential uses to the north, and is clearly not the primary pedestrian oriented commercial street in the area.

3. The requested variances should be Major Variances not Minor Variances and are subject to the stricter Major Variance criteria, and the Variance findings in the staff report were inadequate.

In April of 2000, the City Council amended Section 17.148 of the Oakland Planning Code along with other sections of the Planning Code that related to required permit processing through Ordinance 12237 C.M.S. (Attachment D). The intent of these Planning Code amendments was to help to redistribute zoning cases between the Planning Commission ("Major Cases") and the Zoning Administrator ("Minor Cases"). This was done to allow the Planning Commission to focus on larger projects and policy oriented matters, while allowing the Zoning Administrator to oversee smaller projects that shouldn't necessarily require public hearings. Both appellants argue that the requested parking and loading variances should be considered "Major Variances," because the Planning Code states that any variance requiring an Environmental Impact Report is a Major Variance.

While this correctly quotes the Planning Code, it is not supported by the purpose and intent of the Planning Code, which was to establish a procedural requirement rather than imposing a heightened findings requirement. Specifically, Ordinance 12237 C.M.S. shows that it was not Council's intent, in enacting this provision of the Code, to apply heightened findings to projects requiring an EIR; rather the purpose of the legislation was to alter the process (but not the substance) and require a project to be elevated to the Planning Commission for a decision on the application. Incidentally, Ordinance 12237 actually removed parking variances from one of the items that would require a Major Variance, providing further justification that minor variance findings were appropriately administered in this case.

As the legislative history demonstrates, variances are defined as "Major" when an EIR is required in order to ensure that it will be considered as part of the overall package of land use approvals presented to the decisionmakers. Because an EIR must go before the Planning Commission and/or City Council, and because EIRs almost invariably are associated with projects that required Commission and/or Council-level approvals, it is both prudent and efficient to package the variance with the other approvals. This ensures that the decisionmaker has full discretion over all of the entitlements associated with projects, as well as ensuring that the variance will be considered in a public hearing, together with other required approvals.

Here, the variances were cited as "Minor Variances" because the applicable findings are those for a Minor Variance, (i.e., the variance criteria set forth in Section 17.148.050), in contrast to the "Major Variance" criteria, which typically applies only to uses or densities that are prohibited within a zoning district. . Requiring the stricter criteria for any variance request just

because the Planning Commission is the approval body would not be justifiable, which is why the minor variance criteria are routinely applied to projects that are required to appear before the Commission (due to an EIR or in the event that a project is referred to the Planning Commission by the Zoning Administrator).

Although staff believes that the project as proposed would also meet the required Major variance criteria. Specifically, Findings 1 & 2 of Section 17.148.050 of the Oakland Planning Code which are the only required findings that are different for a Major Variance vs. Minor Variance can be made for the project, as follows:

Finding 1: That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design.

Finding 1 would be met in that there would be a practical difficulty in providing the additional required parking for the ground floor commercial square footage that was required by staff in order to comply with the necessary use permit and design review criteria. The additional commercial square footage at the ground floor occupies the area that the additional 15 required parking stalls could have been provided, resulting in a unique condition of design where the grocery store project meets the required parking but the additional ground floor commercial required by staff does not.

Finding 2: That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property.

Finding 2 would be met in that strict compliance would deprive the applicant of privileges enjoyed by owners of other properties in the zone, since the ground floor commercial spaces on their own would not have triggered any parking requirements and the grocery store on its own meets the zoning parking requirement of 171 off-street spaces. However, since staff required the applicant to provide the ground floor commercial, the parking requirement was raised by 15 parking stalls due to the cumulative calculation of floor area. This would not have been the case if the ground floor spaces were developed individually as other commercial buildings on College Avenue have been.

RCPC specifically challenges variance findings #2, #3, and #4 made by the Planning Commission and included in the July 25, 2012 staff report. The appellant argues that finding #2 for the parking variance is inadequate because the intent of the zoning ordinance is to provide sufficient off-street parking for large uses so that it does not overburden parking capacity of the area. Since the EIR showed that the parking demand would not be met on-site, the appellants argue that the finding cannot be made. The Planning Commission made this finding on the basis that the proposed Safeway store itself meets its required parking, and the size of the individual commercial spaces at the ground floor would not on their own require parking if they were

independently developed similar to other properties in the area. In addition, staff has made the argument that the parking to be developed will act as shared parking for the area, and as people go into Safeway they will also be able to park and go to other stores within the development as well as the commercial district during the same trip. Staff believes that this fulfills the intent of providing parking for Safeway as required by code, while still allowing the ground floor commercial uses that provide for a superior design and function of the site by relieving their parking requirements as if they were developed independently as other smaller commercial storefronts in the area would be allowed to do.

The appellant argues that variance finding #3 was inadequate because the finding asserts that the granting of the parking variance would not adversely affect the character, livability, or appropriate development of the area. The appellant argues that since the FEIR shows that the proposed project cannot meet its parking demand, the surrounding commercial district will become less attractive due to limited parking, and parking spill-over into the adjacent residential areas will cause displacement of elderly or disabled residents who do not have off-street parking spaces. The Planning Commission made the finding upon the basis of the character of the College Avenue shopping district (including the fact that many of the other businesses in the vicinity do not have any parking), and that relieving the required parking by 15 parking stalls would help allow for the new development to include active ground floor commercial uses that are functionally and visibly consistent with the desirable characteristics of the commercial district. Furthermore, the FEIR uses peak hour parking demand, which is an absolute worst case scenario, and shows that there would still be on-street parking available within a couple of blocks from the site.

The appellant argues that variance finding #4 for the parking and loading variance is inadequate because the granting of the variances would not be considered a grant of special privilege since they are "generally granted," and therefore the zoning regulations are being ignored. The Planning Commission's finding did not just state that variances such as these are generally granted, but rather they are generally granted when they would be prove to create a better design solution, create a more compatible development with the character of the area, or improve operational efficiency. In this case the proposed project was requesting to waive the amount of off-street parking and loading required so that the proposal would be able to include ground floor commercial space that would create a pedestrian oriented shopping environment consistent with the existing and desired character seen throughout this portion of College Avenue. The purposes of the zoning regulations is to create developments that are consistent with the desired character of the zone. Many other ground floor commercial developments in the area do not contain any parking, nor would they be required to since they typically do not exceed the minimum size that triggers parking at 3,000 square feet. None of the proposed ground floor commercial spaces would in themselves exceed that size threshold.

4. **The project is inconsistent with the General Plan for the following reasons:**
 - a. **The proposal is not consistent with the Neighborhood Center Mixed Use classification because it is not a pedestrian oriented mixed-use facility and is only a single-use facility.**
 - b. **The proposal does not conform with Policy N11.3 that states that there should be strict compliance with variance criteria and should not grant a special privilege to the property, which is the case since the proposal is more than eight times the size allowed by zoning and would be the largest building in the Rockridge C-31 zone.**
 - c. **The proposal is not consistent with the “maintain and enhance” designation for the area and would be more appropriate in an area designated as “grow and change” on the General Plan, and the proposal is inconsistent with numerous General Plan policies.**

The Planning Commission staff report (as well as the EIR) included multiple pages on how the project is consistent with the General Plan. Pages 5 through 7 of the staff report include the General Plan analysis that outlines various applicable General Plan policies and objectives and how the proposed project is consistent. Both appellants' assert that the proposal isn't consistent with the Neighborhood Center Mixed Use land use classification because the project isn't a pedestrian oriented mixed use facility and is only a single use facility. Staff disagrees with this assessment. The proposed project is actually taking a site that is auto oriented and redeveloping it into a site that will be pedestrian oriented, containing a mix of commercial uses. While people may in fact drive to a grocery store, which is very often the case no matter the design, that doesn't in itself make it an auto oriented development. When referring to auto vs. pedestrian orientation it is a matter of design and creating a sense of place, not whether or not someone may choose to drive an automobile or to walk to a given location. The proposed project, by placing active retail space at the ground floor of the building and tucking the parking back behind the shops and largely out of view to pedestrians along College Avenue, has developed a design that orients the site to the pedestrian walking along College Avenue and completes the sense of the place that College Avenue has with the small retail and food shops lining the sidewalk. This is also in comparison to what is existing at the site today, which is an open parking lot that surrounds a store, setback from the street, without storefront windows that face the street, and an auto service gas station at the corner, which both come along with four curb cuts along this stretch of College Avenue, which with the project would be reduced to one.

BPOD argues that the proposal is inconsistent with the General Plan because the project does not comply with Policy N11.3 of the General Plan that requires strict compliance with variance criteria. This policy is a part of Objective N11 of the General Plan that gives guidance on development of new zoning regulations.

Staff disagrees. First, the project is able to strictly comply with the applicable variance criteria. Second, Policy N11.3 does not say that variances should not be granted. Rather, Policy N11.3 provides guidance that the rules should be examined and revisions considered, but rules should be examined and a determination should be made as to whether or not those regulations should be revised if too many variances are granted. For example, as part of the last major zoning update citywide, staff found that side setback variances were being granted quite regularly due to the existing built environment, based on setbacks that were built into the 1960's zoning regulations. As a result the regulations were revised, reducing side yard setback requirements for narrow lots, which decreased the number of side yard variances that homeowners have had to request.

BPOD also states that allowing the development would be a grant of special privilege, since it the building would be more than eight times the size allowed by zoning and would be the largest building in the Rockridge C-31 Zone. Staff disagrees with this argument, because the size of the building itself does not require a variance, but a conditional use permit for any square footage that exceeds 7,500 square feet. The proposed building may very well be the largest building in the area, but it is also located on the largest lot in the area, being approximately 2.1 acres in size. As a comparison to other developments in the area, the proposal includes a 62,000 square foot development on a lot that is 90,000 square feet, which is a Floor Area Ratio (FAR) of less than 1.0. Across the street at 6230 Claremont Avenue, the building is 42,714 square feet on a lot of 42,281 square feet, for an FAR of greater than 1.0. Other more recently approved developments such as the Dreyer's site or the Market Hall are also both in excess of a 1.0 FAR.

Both appellants argue that the proposal is inconsistent with the General Plan, in that the project would be more appropriate in an area designated as "Growth and Change" rather than in the area designated as "Maintain and Enhance" in which College Avenue is located. These terms are part of the General Plan strategy diagram, which shades areas in activity centers and along major transportation corridors as "growth and change," explaining that these are the areas where major growth is likely to occur in the future and where densities should be increased. As part of the Citywide zoning update, when areas were located within the growth and change areas they were typically "upzoned" or were given a higher density than that which previously existed for the zoning at the time. For areas that were located within the "Maintain and Enhance" areas, the General Plan describes them as areas where the "predominant established uses and densities will continue." This does not mean that no property owners within these areas are allowed to expand their properties, but rather that the existing permitted uses by the zoning will generally remain and the existing permitted densities by the zoning in those areas will continue as well. This also was applied in the Citywide zoning update as the C-31 Zone was changed to the CN-1, which essentially still allows the same uses and densities as the prior zone. The fact that the proposed development increases the built square footage at the site does not make the development inconsistent with the strategy diagram.

RCPC argues that the proposal is inconsistent with numerous General Plan policies that are cited in the appeal, such as:

- *Policy C4.1 – Protecting Existing Activities, which states that existing commercial areas should be protected from the intrusion of incompatible uses. These assertions are not accurate. Here, the grocery store is an existing use which will be redeveloped, and the only new uses proposed for the site that don't presently exist are retail sales and a full-service restaurant. Retail sales are outright permitted, and the proposal includes a use permit for the full-service restaurant (general food sales activity).*
- *Policy T2.2 of the General Plan that states that transit oriented developments should be pedestrian oriented. RCPC argues that the proposal is not pedestrian oriented, but as described above, the project has specifically been designed to be pedestrian scale with the inclusion of the new ground floor retail spaces along College Avenue to fit in with the character of the area, and just because people may drive to a site does not automatically make it auto oriented.*
- *Policy T2.3 of the General Plan because the project will serve people outside of the neighborhood. Policy T.2.3 states "Promote neighborhood-serving commercial development within one-quarter to one-half mile of established transit routes and nodes." The main project tenant will be selling groceries which is a neighborhood serving activity, and it will be located directly on the AC Transit 51 line, therefore the project clearly meets this policy.*
- *Policy T3.11 of the General Plan because the parking demand shows that at peak hour parking for the project may occur on the residential side streets. Policy T3.11 states "Parking in residential areas should give priority to adjacent residents;" the proposal is not inconsistent with this policy. For the majority of the day the project site will be able to fully accommodate parking demand, and there will not be added pressure on the on-street parking supply in the residential streets except for during peak hour, which is the worst case scenario for parking demand. In this instance there will still be available on-street parking within two blocks of the store, and residents could also choose to implement a Residential Permit Parking program for the area (which some side streets already contain) if they so choose.*
- *Policy N1.4 of the General Plan because the project is a regional serving commercial facility located on the two lane College Avenue. Policy N1.4 says that "Commercial uses which serve long term retail needs or regional consumers and which primarily off high volume goods should be located in areas visible or amendable to high volumes of traffic.....and should be directed to arterial streets and freeways and not adversely affect nearby residential areas." Staff disagrees with the argument that the*

proposed activity is one that meets this description in Policy NI.4, as the main tenant is a grocery store that serves short term needs replenished on a weekly basis. The "Large-Scale Commercial" activity that is being referred to in the Policy would be more comparable to a large retail store in excess of 100,000 square feet, such as a Target, WalMart, CostCo, or other large retail department stores or malls.

- *Policies NI.5 and NI.8 which state that Commercial development should be designed to be sensitive to residential uses, and that the height and bulk of a commercial development should be consistent with that allowed of a residential development. RCPC argues that the project would be inconsistent with these due to the traffic impacts, and that the proposal is grossly out of scale with what could be developed residentially on the site. Staff disagrees with the appellants' argument, as a residential development of this size would in fact be permitted on the site as it is fully within the parameters of the height and setbacks within the C-31 Zone to which commercial and residential developments are subject. The proposal was designed in a manner to be sensitive to the neighboring residential uses by creating a ten foot landscaped setback from the residential homes to the north of the site and enclosing all truck loading, garbage compactors, and recycling areas into an indoor area to reduce the noise from operations.*

5. The Tentative Map findings were invalid due to the project not being consistent with the General Plan and therefore the site is not suitable for the proposed development.

See response 4 above regarding the argument that the proposal is not consistent with the General Plan.

6. The project will cause blight and urban decay due to economic decline of the area from smaller stores having to compete with a larger store.

The two appeals filed in response to the Oakland Planning Commission's actions pertinent to the proposed expansion of the College & Claremont Safeway store both included comments regarding perceived urban decay impacts of the planned expansion.

One of the assertions of the cited appeals is that the urban decay analysis conducted for the FEIR (referenced as Appendix A to the FEIR) did not conduct economic analysis to reach the study conclusion that the College & Claremont Safeway Project (including the expansion of the existing Safeway store and development of a limited number of additional street front retail spaces) will not result in any significant urban decay impacts, either on an individual or cumulative basis. The urban decay analysis comprises a comprehensive study examining a number of factors contributing to the formulation of the study conclusion.

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The urban decay study included market-based assumptions defining the estimated Project composition and sales; definition of a retail market area; fieldwork to review the project site, identify existing area retailers, and evaluate real estate market conditions; visits to competitive food stores; estimated market area retail sales; estimated sales attracted to and leaving the market area; projected household retail demand; and research regarding other planned retail projects. Numerous secondary data sources were used to conduct the analysis, including materials generated by the 2010 U.S. Census, the Association of Bay Area Governments, the California State Board of Equalization, Claritas, a national provider of economic and demographic data, Neilson Trade Dimensions, and the Planning and Economic Development Departments in the cities of Berkeley, Emeryville, and Oakland. The analysis, fully documented and described in the urban decay study, resulted in estimates of project sales impacts, resulting impacts on real estate market, and a determination of the extent to which operations of the Project and the cumulative projects may or may not contribute to urban decay. This study is similar in scope and approach to other studies conducted for projects throughout the State of California assessing the extent to which project development will or will not contribute to urban decay in a CEQA context, and comprises an industry standard type of economic analysis.

A premise of the appellants' comments is that any commercial spaces vacated as a result of Project impacts would be "abandoned," and thus lead to prolonged vacancy and potential urban decay. The appellants do not provide support for this premise. Moreover, there is no precedent to suggest the potential for long-term retail vacancies of formerly occupied retail space in the Project site's immediate retail submarket. In contrast, the urban decay study includes historic and current information about the retail commercial markets in Berkeley and Oakland.³ This information indicates that these commercial markets as a whole are very strong. In both recent periods and historically, retail vacancies in the area proximate to the Project site are uncommon, and when they occur, are backfilled quickly. This includes vacancies that occurred while the urban decay study was in progress (the former A Cuppa Tea site) and since the conclusion of the study (the former Shuz of Rockridge site). These recent examples, and the current full retail occupancy of the area, are evidence that retail vacancies in the immediate area are unlikely to remain vacant on a prolonged basis, and thus are not likely to cause or contribute to urban decay. The retail market in this area is too strong to be characterized by prolonged vacancies, with this market strength documented in the urban decay study. Further, the retail spending leakage analysis included in the urban decay study indicates that the Project's market area has a retail deficit in most retail categories (excepting food & beverage stores), totaling \$20 million or more per category, except home furnishings & appliances, which has a lesser, yet still substantial deficit of \$4.4 million.⁴ This noted retail leakage indicates the potential for a wide range of additional retailers to enter the market area and meet with strong demand, fueling commercial retail space occupancy.

³ See urban decay study included as Appendix A in the FEIR, pages 53-55 and Exhibits 19 through 24.

⁴ See urban decay study, page 26 and Exhibit 11. Cited retail leakage figures reflect 2011 market conditions.

Based upon consideration of the Project's estimated sales and the strength of the existing retail market, the urban decay analysis concluded that nearby local stores such as Yasai Produce Market, Ver Brugge Meat-Fish Poultry, and Star Market are anticipated to at least initially experience some sales impacts attributable to expansion of the Safeway store. However, assuming these stores continue to build customer loyalty and provide quality products not available at Safeway, such as the local farm-based market fresh produce at Yasai, the unparalleled meat and fish products available at Ver Brugge, and the personal customer service available at Star Grocery, the study concluded that these stores, along with other existing food stores, would likely not experience sales impacts so severe as to induce store closures. These are the conclusions the appellant deemed "hopeful assertions," which were based on an understanding of the products offered by the local stores compared to products offered by the expanded Safeway. However, even if some of these smaller local stores were to close following stabilization of the Safeway store, CEQA's focus is on environmental impacts, which in this context would be reflected by urban decay, which was defined as, among other characteristics, visible symptoms of physical deterioration that invite vandalism, loitering, and graffiti that is caused by a downward spiral of business closures and long-term vacancies.⁵ The outward manifestations of urban decay include, but are not limited to, plywood-boarded doors and windows, parked trucks and long-term unauthorized use of the properties and parking lots, extensive gang and other graffiti and offensive words painted on buildings, dumping of refuse on site, overturned dumpsters, broken parking barriers, broken glass littering the site, dead trees and shrubbery together with weeds, lack of building maintenance, homeless encampments, and unsightly and/or dilapidated fencing.⁶ Based on the above-referenced market research, the study concluded that the local commercial retail market is very strong and that urban decay characteristics such as those described here will not occur following development of the Project. In any event, the City's code enforcement programs also would help to preclude urban decay.

The appellants also attempt to cast doubt on the findings of the urban decay analysis, since it did not identify specific retailers anticipated for the planned street level retail space. This space totals less than 8,000 square feet, a very low volume of retail space. The urban decay study made assumptions about the type of retail likely to occupy this space, with the estimation procedure informed by retail trends in general and the existing composition of area retail in particular. This is an industry-standard analytical approach and comprises a good faith estimate. Moreover, lacking specific information about the future retailers, analysis beyond this type would be speculative, and CEQA discourages speculation.

The appellants also fault the urban decay analysis for not considering secondary urban decay impacts of traffic impacts and parking constraints, saying these impacts will cause businesses to close or leave, resulting in vacancies and deteriorating physical conditions. There is circularity

⁵ See urban decay study, page 53.

⁶ Ibid.

to this argument, in that increased traffic and lack of parking means the area will be characterized by numerous consumers, who comprise potential shoppers; for the other retailers in the area. Moreover, the Project's EIR says that non-Project customers would also use the Project garage. Thus, even with potential tighter parking conditions there will be parking opportunities available; for shoppers, enabling them to frequent non-Project retailers. Finally, the strong market conditions and, in the words of one of the appellants, the vibrancy of the area, will serve to attract yet additional retailers if any of the existing businesses close due to these secondary impacts.

Lastly, the appellants critique the urban decay study because it did not examine the potential impacts that would result from possible closure of the Safeway store, with the appellants claiming that potential closure would endanger the area with economic and physical decay, deterioration, or blight. There is no evidence that the Safeway store would be in danger of closing any time in the near future; to the contrary, the urban decay analysis concludes that there is a large amount of sales leakage in the area with respect to the products that Safeway carries, which indicates that the market easily would be able to support the project. Furthermore, there is no imperative in CEQA to consider what would happen if the project under study were developed and ultimately failed. It would in fact be speculative to do so, and CEQA discourages speculation. Moreover, as demonstrated in the urban decay analysis, the market area is characterized by very strong retail sales leakage.⁷ This high leakage suggests unmet retail demand in many categories, such as general merchandise, other retail, and apparel.⁸ Therefore, just as with the smaller retail spaces in the Project's immediate area, the economic analysis included in the urban decay study suggests a very strong likelihood that the Safeway site could be readily transferred to alternative ownership, backfilled with other commercial retail tenants, or otherwise redeveloped.

7. The DEIR should have been re-circulated due to new information raised at hearings such as traffic impacts – specifically Saturday peak hour impacts, toxics, and presentation of a new “feasible” alternative.

Appellants argue that the DEIR should have been recirculated due to new information raised by commenters. Appellants allege that the “new information” addresses: the timing and level of traffic impacts on Saturdays; the existence of additional potentially significant toxics impacts;

⁷ See urban decay study, pages 28-29 and Exhibit 11.

⁸ The other retail category is on Exhibit 10 of the urban decay study, and includes health and personal care, gifts, arts goods and novelties, sporting goods, photographic equipment and supplies, musical instruments, stationary and books, office and school supplies, second-hand merchandise, among other types of goods.

and the introduction of a new feasible alternative at the hearing before the Design Review Committee. Each of these issues is addressed in turn below.

Recirculation Generally

CEQA requires that, if "significant new information is added" to an EIR after notice of public review has been given but before final certification of the EIR, the lead agency must issue a new notice and recirculate the Draft EIR for comments and consultation (see CEQA Section 21092.1 and CEQA Guidelines Section 15088.5). The CEQA Guidelines provide that "the term 'information' can include changes in the project or environmental setting as well as additional data or other information" (CEQA Guidelines, Section 15088.5). To be sure, the FEIR did include additional "information." However, it is not enough for new information to be included; such new information must also be "significant" in order to warrant recirculation. The CEQA Guidelines clarify this requirement as follows:

New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.*
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.*
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043). (Id)*

As discussed below, no changes were made to the DEIR that "deprived the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." No new significant

environmental impacts were identified; no substantial increase in the severity of an environmental impact would result; no feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it; and the DEIR was not "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."

Information Regarding Traffic Impacts

Appellants argue that the DEIR must be recirculated because the FEIR identifies an increase in the estimated amount of traffic generated by the project on Saturdays, and includes traffic information for an additional time period on that day (i.e., the "Saturday midday peak hour"). However, the FEIR's discussion of these two topics does not constitute "significant new information." As discussed in detail in Master Response M-2, an analysis of the "Saturday midday peak hour" concluded the following:

- 1) No new significant environmental impact would result from the analysis of Saturday midday peak hour volumes. *All impacts identified as a result of a change from a Saturday PM peak hour to a Saturday midday peak hour were already identified as impacts during the weekday PM peak hour. Oakland's practice, which is consistent with generally accepted CEQA methodology, is to characterize impacts by intersection, regardless of the time or day on which such impacts occur. Therefore, a single impact is identified for a given intersection under a given scenario, whether the impact occurs during a single peak hour or during multiple peak hours.⁹ This makes logical sense because CEQA mandates the study of a project's effect on the "environment" (Cal. Pub. Res. Code Section 21002(a)), but does not require that the "environment" be parsed out by day of the week or time of day. Further, this practice is consistent with Appendix E to Oakland's CEQA Thresholds of Significance Guidelines, dated August 24, 2011, which stipulates that the project must analyze certain scenarios (for example, Existing, Existing Plus Project, Near-Term Future) but does not require that impacts from specific timeframes within those scenarios (such as PM peak or Saturday peak) be separately identified.*
- 2) No new mitigation measures would be required as a result of the Saturday midday peak hour analysis. *In every case, the mitigation measures proposed in the DEIR for the intersections in question, in the scenario in question (i.e., present day, 2015, or 2035), would (if implemented) mitigate the identified impact to a less-than-significant level.*

⁹ For example, in the DEIR, the traffic impacts of the project under "Existing Plus Project Conditions" include the single Impact TRANS-4 at the College Avenue/Clairemont Avenue intersection, even though the impact occurs both during the weekday PM peak hour and the Saturday PM peak hour.

- 3) There would be no substantial increase in the severity of a previously-identified environmental impact. The DEIR identified impacts to certain intersections under certain scenarios, and in some cases those impacts would be somewhat worse during Saturday midday peak hour conditions compared to Saturday PM peak hour conditions. However, in every scenario studied, a comparison of Saturday midday peak conditions to Saturday PM peak hour conditions showed increased traffic volumes only for a handful of intersections, and then only for a few hours at the maximum. There would be no change from the DEIR analysis either with respect to the traffic conditions for weekdays, or for that matter during most of Saturday either. A comparative increase in the severity of traffic impacts during only a few hours on Saturday is not considered to be "substantial" when evaluated in the context of a full week of traffic conditions.

Furthermore, the traffic analysis in the DEIR and FEIR is extremely detailed and conservatively studies all possible impacts from the project under multiple different scenarios.

It is true that new information was incorporated into the FEIR. However, as noted above, the fact that new information is present does not in itself trigger the recirculation requirement. The CEQA Guidelines state that recirculation is not required "where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR." (14 Cal. Code Regs. §15088.5(b).) In this case, the information in the FEIR regarding project traffic simply clarifies and further discusses the timing of traffic patterns during a very few hours on one day of the week. It does not identify an increase in the number of intersections that are impacted by traffic in any of the different scenarios studied, nor does it indicate that additional mitigation measures would be needed to mitigate those traffic patterns. Thus, the information in the FEIR regarding project traffic on Saturdays did not "deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement," and therefore no recirculation is necessary.

Information Regarding Toxics Impacts

Appellants further argue that the DEIR must be recirculated because commenters raised questions about toxic materials on the project site. However, none of the information cited by the commenters constitutes "significant new information."

As background, the issues of hazards and hazardous materials were evaluated in the Initial Study for the project (Initial Study, pp. 41-47). The Initial Study cites (among other documents) two environmental assessment reports prepared for the project site. The first document is a Phase I and Screening Level Phase II Environmental Assessment Report that had been prepared for the Safeway store parcel. That report included an assessment of soil conditions in the areas to be excavated as part of the project, and found no evidence of environmentally hazardous conditions on that parcel (Initial Study, page 44; Phase I and Screening Level Phase II.

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Environmental Assessment Report, included in the administrative record for the project, page 2). The second document is a Phase I and Screening Level Phase II Environmental Assessment Report that was prepared for the 76 Gas Station parcel, which included five soil borings and disclosed the presence of underground storage tanks (USTs; Initial Study, page 45). After thoroughly discussing the existing conditions of the site and potential future hazards that could be encountered during the demolition, construction, and operational phases of the project, the Initial Study discussed the fact that the project would be required to implement and comply with certain "Standard Conditions of Approval" ("SCAs") promulgated by the City. The Initial Study concluded that, with implementation of ten of these SCAs,¹⁰ the project would have less than significant hazards impacts (Id). Thus, in accordance with CEQA Guidelines Section 15063(c)(3), the issue of hazards was 'focused out' of the Draft EIR (Id).

Despite the thorough treatment of the topic of hazards in the Initial Study, and the proper exclusion of hazards from the DEIR, the appellants allege that the FEIR does not adequately address "toxic materials impacts." The RCPC appeal attaches a memorandum from Soil/Water/Air Production Enterprise (SWAPE, an environmental consulting firm) and a letter from Annette Floystrup, each dated August 15, 2011, regarding hazardous substances on the site. SWAPE and Ms. Floystrup argue that the DEIR did not fully disclose or discuss any of the following: the regulatory status of the project site; potential construction worker exposure to contaminants in soil, dust, groundwater or through vapors; the prior automotive and light manufacturing uses that occupied the project site; or any prior releases of contaminants to soil and shallow groundwater at the project site, attempts at groundwater treatment, or existing groundwater contamination. SWAPE and Ms. Floystrup also argue that the DEIR should have included studies of the area to determine the existence or absence of USTs and an analysis of possible vapor intrusion (together with any potential health risks).

This is not the first time that SWAPE's memorandum and Ms. Floystrup's letter have been addressed during CEQA review for the project. In fact, the FEIR fully and thoroughly responded to both the SWAPE memorandum (see Responses to Comments B-4-15 through B-4-23) and Ms. Floystrup's letter (see Responses to Comments C-86-1 through C-86-3). The FEIR

¹⁰ These standard conditions of approval require, among other things: the submission of a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report, as well as implementation of any remedial actions recommended by those reports; documentation of any radon or vapor intrusion from the groundwater and soil; written confirmation that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of any hazardous waste materials onsite; implementation of Best Management Practices (BMPs) with respect to potential soil and groundwater hazards; and implementation of construction BMPs as part of construction to minimize the potential negative effects to groundwater and soils and minimize health risks to construction workers. They also require that all applicable governmental agencies "have granted all required clearances and confirmed that all applicable standards, regulations and conditions for all previous contamination at the site" have been complied with.

pointed out that, as noted earlier, the Initial Study referenced the existence of Phase I and Screening Level Phase II Environmental Assessment Reports for both the Safeway store parcel and the 76 Gas Station parcel. Each of these reports summarized the prior uses on those parcels and discussed the presence or absence of potentially hazardous chemicals, USTs, and other indicators of hazards, relying in part on the same Sanborn maps relied upon by SWAPE and Ms. Floystrup in their communications. The FEIR concluded that the Initial Study thus provided the necessary information regarding the potentially significant hazards impacts of the project. Further, the Initial Study identified the SCAs that would mitigate all of those impacts and committed to mitigating those impacts. The FEIR explained that the fact that additional supporting data might later be explored as part of the identified SCAs does not render the Initial Study's discussion of hazards legally insufficient. (See, e.g., California Native Plant Society v. City of Rancho Cordova (2009) 172 Cal.App.4th 603, 621.)

As explained above, the commenters did not identify any new significant hazards impacts, nor did they identify any substantial increase in the severity of a hazards impact. Further, the Initial Study contains a discussion of the topic of hazards that was sufficient to allow meaningful public review and comment, such that hazards were properly focused out of the DEIR in accordance with the CEQA Guidelines. Thus, recirculation is not required due to the treatment of hazards impacts in the DEIR and FEIR.

Information Regarding a New Feasible Alternative

Appellants allege that a new feasible alternative was proposed at the October 2011 hearing before the Design Review Committee that "would meet most of the project sponsor's identified project objectives while significantly reducing impacts, but which the project sponsor refused to accept" (RCPC Appeal, page 2). It is unclear to what proposal the appellants are referring. However, the City is not aware of any alternative that would meet most of Safeway's objectives while significantly reducing impacts. The only project impacts that were determined to be significant and unavoidable under CEQA are related to traffic. Thus, an alternative would have to eliminate one or more traffic impacts while simultaneously preserving most of the basic project objectives in order to trigger the recirculation standard under CEQA.

Traffic impacts are dependent almost entirely on the size of the project. Thus, the City chose to study as one of the project alternatives "Alternative 2," which assumes that the project would be reduced in size to 40,000 square feet in order to eliminate project impacts. Alternative 2 represents the largest possible project that would still reduce one or more significant and unavoidable project impacts to a less than significant level.¹¹ (DEIR, page 5-11.) Under the Alternative 2 scenario, the maximum amount by which the existing Safeway store size could be

¹¹ Pursuant to CEQA Guidelines Section 15126.6(c), "[a]mong the factors that may be used to eliminate alternatives from detailed consideration in an EIR are ... inability to avoid significant environmental impacts."

increased would be approximately 15,000 square feet,¹² while the retail and restaurant components of the proposed project would be eliminated. Due to the relatively small scale of the increase from the current size of the store, the alternative assumed that the project likely would be accomplished by remodeling the store and reconfiguring existing parking spaces, rather than constructing a new store with structured parking. The DEIR concluded that "Alternative 2 would fall short of accomplishing several of the primary objectives of the applicant." Since Alternative 2 was unable to satisfy a majority of the project objectives primarily because of its smaller size, it was rejected.

The rejection of Alternative 2 is consistent with City policies, many of which are included as project objectives. Examples include: the replacement of existing 1960s suburban style development with a design consistent with both the zoning and the General Plan; the creation of additional street-front opportunities similar in scope and scale to the retail frontage on College Avenue; the establishment of a gateway presence at this important intersection in the Rockridge neighborhood; the facilitation of pedestrian activity on a portion of College Avenue which now does not encourage pedestrian activity or comparison shopping, thus stimulating economic vitality at the College/Claremont corner; the consolidation of driveway entrances on College Avenue; the creation of a buffer to the lower-scale residential neighbors adjacent to the site; maximizing the creation of new union jobs at the store; the creation of publicly accessible open space, plazas, and seating areas that will enhance the surrounding neighborhood and establish at this end of College Avenue an attractive and inviting setting for pedestrian shopping; the promotion of LEED certified construction; and improving noise impacts for abutting neighbors by moving and/or covering noise-producing equipment.

The City further concluded that none of the other analyzed project alternatives would significantly reduce impacts while simultaneously meeting most of the project objectives. Commenters have from time to time raised other possible project configurations that the appellants argue should have been studied as alternatives. For instance, Mr. Kirk Peterson submitted architectural drawings (see FEIR Comments C-277 and D-27) that would have been configured similarly to the project with smaller-scale retail uses on the ground floor and the Safeway store on the upper level; however, the design does not provide enough specifics for full evaluation under CEQA. In fact, although no square footages are given in the drawings,¹³ the design appears to show as much or more retail space than the 40,000 square feet shown in Alternative 2; as such, it is extremely unlikely to significantly reduce any project impacts. Furthermore, it is not necessary for the EIR to have included every possible alternative

¹² The 40,000-square-foot store contemplated by Alternative 2 is approximately 11,500 square feet smaller than the store proposed as part of the project.

¹³ Mr. Peterson actually stated: "I didn't even put square footage there, that's actually not my issue. I don't think it needs to stay the same size it is or get gigantic." (FEIR Comment D-27)

permutation to the project. As noted in Section 15126.6(a) of the CEQA Guidelines, "An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation."

To date, no feasible project alternative has been identified that is considerably different from others previously analyzed, would clearly lessen the significant environmental impacts of the project, and has been declined to be adopted by the project's proponents. Thus, recirculation of the DEIR on the basis of the range of alternatives studied is not required.

8. The FEIR failed to identify, analyze or mitigate significant impacts on surrounding residential streets from cut through traffic such as noise, safety, air quality and quality of life.

Appellants argue that the FEIR fails to properly identify, analyze, or mitigate the significant impacts that project-related traffic will have on the surrounding residential streets and neighborhoods, including specifically but not limited to the effects of cut-through traffic and of "patrolling" traffic related to the parking deficiency exacerbated by the project, and the secondary noise, air quality, bicycle and pedestrian safety, and quality of life impacts caused by the traffic impacts.

The Responses to Comments document addressed the issue of potential project-generated traffic intrusion on nearby neighborhood streets including the effects of cut-through traffic (see Pages 5-33 to 5-42, and Comments C-1-2, C-3-1, 17-4, C-17-5, C-24-4, C-26-5, and C-30-2), and concluded that the potential for project generated traffic to use residential streets in the neighborhood as a cut-through route to access the project site would be minimal if the project mitigation measures identified in the FEIR on pages 4.3-64 to 4.3-99 are implemented.

The existing traffic congestion on College Avenue is identified in Table 4.3-6 of the DEIR which shows that major intersections along College Avenue currently operate at unacceptable LOS E or LOS F during peak hours. As shown in Tables 4.3-14, 4.3-16, and 4.3-18 of the DEIR, the proposed mitigation measures would mitigate the impact caused by the project (i.e., eliminate the incremental increase in delay caused by the proposed project); however the majority of impacted intersections would continue to operate at a deficient LOS E or LOS F in the future after the completion of the proposed project and the mitigation measures. Based on the analysis presented in the DEIR, if implemented, these mitigation measures would reduce overall delay and eliminate the additional delay caused by the proposed project at these intersections as compared to conditions without the proposed project and therefore reduce the potential for cut-through traffic on nearby residential streets.

Moreover, as described in the Neighborhood Traffic Intrusion subsection on page 4.3-117 and Master Response M-5, the FEIR acknowledges that traffic generated by the proposed project may use residential streets in the vicinity of the project as a cut-through route to divert from potential congestion (e.g. the segment of Alcatraz Avenue, between College and Claremont Avenues) or to search for available on-street parking. Master Response M-5 also evaluates the potential for non-project traffic to divert to adjacent residential streets due to the congestion caused by the project. However, as described in Master Response M-5, traffic intrusion on residential streets is not considered a CEQA issue; therefore, no mitigation measures are necessary.

As described in the DEIR and reiterated in Master Response M-5, since neighborhood traffic intrusion would not exceed the capacity of the residential streets, it would not result in a significant impact based on significance criteria established by Cities of Berkeley and Oakland, and used in the EIR. Although not identified as a significant impact under CEQA, the EIR identifies traffic intrusion on residential streets as a non-CEQA quality-of-life issue and recommends Improvement Measure TRANS-3 to monitor and, if necessary, implement traffic calming strategies on residential streets in the vicinity of the project site, including Alcatraz Avenue between College and Claremont Avenues, in consultation with local residents and in accordance with all legal requirements.

Despite the current congestion along College Avenue, very few project customers currently choose to use the residential streets west of College Avenue as a cut-through route to directly access the project site. Considering that the level of congestion on College Avenue would remain similar to current conditions after the implementation of the mitigation measures, it is reasonable to expect that the proposed project would generate minimal traffic on these residential streets. However, if one or more of the mitigation measures along College Avenue are not implemented, it is likely that additional traffic may divert to Colby Street.

Furthermore, the revised project would reconfigure the 63rd Street/Safeway Driveway/College Avenue intersection to limit access between 63rd Street and College Avenue to right-turns only and eliminate direct automobile access between 63rd Street and Safeway. This modification would reduce the potential for cut-through traffic on 63rd Street and other residential streets west of College Avenue.

As discussed above, the proposed project and the revised project would not have significant effects on traffic intrusion on neighborhood streets with implementation of the mitigation and improvement measures.

- 9. The FEIR fails to identify, analyze, or mitigate secondary impacts related to parking deficiencies such as blight/decay caused by business closures and residential displacement.**

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Appellants argue that the FEIR fails to properly identify, analyze, or mitigate the secondary impacts related to the parking deficiencies created and exacerbated by the project, including the blight inducing impact due to the detrimental impact the parking deficiency will have on the businesses along College Avenue, the additional traffic impacts on residential streets and neighborhoods caused by the "patrolling" traffic seeking on-street parking spaces, and the "constructive displacement" impact caused by affectively removing access to available on-street parking spaces near homes of residents who, because they are elderly and/or disabled, need to have a close-by on-street parking space in order to continue to live in the community.

First, it is important to note that the urban decay analysis conducted for the FEIR (referenced as Appendix A to the FEIR) comprises a comprehensive study examining a number of factors contributing to the formulation of the study conclusion. This study is similar in scope and approach to other studies conducted for projects throughout the State of California assessing the extent to which project development will or will not contribute to urban decay in a CEQA context, and comprises an industry standard type of economic analysis. The urban decay analysis concluded that urban decay characteristics will not occur following development of the Project.

Second, the Responses to Comments document addresses the issue of parking deficiencies and secondary impacts on pages 5-18 to 5-31 (Master Response M-3), and Responses to Comments A-2-6, A-5-10, B-1-1, B-1-4, B-1-16, C-10-1, C-178-9, and C-214-16. Based on observations, parking demand at the existing Safeway parking lot is at or near capacity during peak demand periods. Thus conducting additional parking data as argued by the appellant would not change the FEIR's conclusion that the current parking lot is generally full during peak demand periods. Furthermore, the existing Safeway parking lot is not only used by Safeway employees and customers, it is also used by substantial number of customers of other nearby stores and restaurants. Thus, it would be inaccurate to use current parking occupancies as a basis to estimate project parking demand.

The parking analysis presented in FEIR Master Response M-3 estimates project parking demand using the 85th percentile rate¹⁴ for suburban supermarkets published in ITE's Parking Generation. The FEIR uses the 85th percentile rather than an average rate in order to present a more conservative analysis. However, almost all trips at typical suburban developments are by car; to account for the urban setting of the project which provides good pedestrian, bicycle and transit access, the parking generation is adjusted based on the mode share observed at the existing store (DEIR, page 4.3-44)

¹⁴ 85th Percentile is defined as a point at which 85 percent of the sites where parking demand was observed fall at or below.

The FEIR also shows that the estimated parking demand generated by the proposed project would not be accommodated on-site and on-streets adjacent to the project site during peak demand periods, which may require project employees and customers to drive around and look for available parking. However, the parking deficit would not have a secondary impact on traffic congestion or pedestrian safety because the incremental amount of additional vehicles is small compared to the current traffic volumes in the area.

The secondary effects of drivers searching for parking in congested urban environments is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in the area. Considering that the project is located in a dense walkable neighborhood with good transit service, any shifts to other modes of travel would be consistent with the City's "Transit First" policy. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignment used in the FEIR transportation analysis, as well as in the associated air quality and noise analyses, reasonably addresses potential secondary effects.

Furthermore, as documented on page 5-28 of the FEIR, the project parking demand that cannot be accommodated on-site can be accommodated within two blocks of the project entrance and would not spill into streets further from the project site. Although College Avenue and the adjacent residential blocks would experience higher parking occupancies, about 150 on-street parking spaces within two blocks of the project entrance would continue to be vacant and available to local residents and businesses. In addition, the project parking garage would continue to be available for customers of other non-project retailers in the area.

The Urban Decay Study (Appendix A in the Responses to Comments Document and on pages 5-43 to 5-49) considered secondary urban decay impacts of traffic impacts and parking constraints. The study concluded that the proposed project would not cause businesses to close or leave, resulting in vacancies and deteriorating physical conditions. Even with potential tighter parking conditions there would be parking opportunities available for shoppers, enabling them to frequent non-project retailers. The study found that the strong market conditions would serve to attract yet additional retailers if any of the existing businesses close due to these secondary impacts.

The Urban Decay study provided evidence that retail vacancies in the immediate area are unlikely to remain vacant on a prolonged basis, and thus are not likely to cause or contribute to urban decay. The study concluded that the retail market in the project area is too strong to be characterized by prolonged vacancies. In addition the study identified an economic retail leakage in the project area which indicates the potential for a wide range of additional retailers to enter the market area and meet with strong demand, fueling commercial retail space occupancy.

Based on the above-referenced market research, the study concluded that the local commercial retail market is very strong and that urban decay characteristics (including any business closures or residential displacement) would not occur following development of the project.

10. The FEIR Mitigations don't take into account the relief of congestion on College Avenue and the diversion of trips from Telegraph Avenue to College Avenue.

The appellant argues that since the proposed mitigation measures would reduce traffic congestion on College Avenue, automobiles currently using other arterials in the area such as Telegraph Avenue in order to avoid the College Avenue congestion would divert to College Avenue, and that the EIR does not account for the additional traffic that would use College Avenue.

As documented in the DEIR Table 4.3-6, major intersections along College Avenue currently operate at deficient LOS E or LOS F; however, the appellant does not show evidence that the current congestion along College Avenue results in traffic diverting to Telegraph Avenue.

As shown in Tables 4.3-14, 4.3-16, and 4.3-18 of the DEIR, the proposed mitigation measures which consist of updating traffic signal operations and other improvements would mitigate the impact caused by the project and eliminate the incremental increase in delay caused by the proposed project. However, major intersections along College Avenue would continue to operate at a deficient LOS E or LOS F in the future after the completion of the proposed project and the mitigation measures. As a result, travel times along both College and Telegraph Avenues would continue to be similar to current conditions without the proposed project or mitigation measures. The reduction in delay would only be at the specific intersections along College Avenue and would not be substantially noticeable to most drivers.

Furthermore, the recently completed AC Transit East Bay BRT Project Final EIS/EIR (January 2012) evaluated a number of intersections along both Telegraph and College Avenues and shows generally less congestion along Telegraph Avenue than College Avenue under existing, 2015 and 2035 conditions. Therefore, motorists currently using Telegraph Avenue instead of College Avenue would continue to do so and no noticeable traffic would divert to College Avenue. Thus, the analysis of mitigated conditions presented in the EIR remains valid.

11. The FEIR fails to address impacts from toxics at the project site.

Appellants argue that the DEIR is deficient in its failure to identify the impact, if any, of previous uses to the public, construction workers and workers in the new project based on its total silence on the topic of previous uses on all parts of the site exclusive of the former Union 76 gas station. Appellants claim that the DEIR needs to be revised to consider and address these site assessment

issues. However, neither the commenters' questions nor the FEIR's discussion of toxic materials constitute "significant new information."

The RCPC appeal attaches a memorandum from SWAPE and a letter from Annette Floystrup, each dated August 15, 2011, regarding hazardous substances on the site. SWAPE and Ms. Floystrup allege that the DEIR did not fully disclose or discuss any of the following: the regulatory status of the project site; potential construction worker exposure to contaminants in soil, dust, groundwater or through vapors; the prior automotive and light manufacturing uses that occupied the project site; or any prior releases of contaminants to soil and shallow groundwater at the project site, attempts at groundwater treatment, or existing groundwater contamination. SWAPE and Ms. Floystrup also allege that the DEIR should have included studies of the area to determine the existence or absence of USTs and an analysis of possible vapor intrusion (together with any potential health risks).

The FEIR responds in full to both the SWAPE memorandum (see Responses to Comments B-4-8 B-4-15 through B-4-23) and Ms. Floystrup's letter (see Responses to Comments C-86-1 through C-86-3). It cites to the Initial Study, which explains that a Phase I and Screening Level Phase II Environmental Assessment Report was prepared for the Safeway store parcel which included an assessment of soil conditions in the areas to be excavated as part of the project, and no evidence was found of environmentally hazardous conditions on that parcel (Initial Study, page 44; Phase I and Screening Level Phase II Environmental Assessment Report (cited on page 48 of the Initial Study), page 2). The Initial Study further noted that a Phase I and Screening Level Phase II Environmental Assessment Report was prepared for the 76 Gas Station parcel, which included five soil borings and disclosed the presence of USTs (Initial Study, page 45). The Initial Study concluded that, with implementation of ten of the City's standard conditions of approval,¹⁵ the project's hazards-related impacts would be less than significant. (Id.) Thus, in accordance with CEQA Guidelines Section 15063(c)(3), the issue of hazards was "focused out" of the Draft EIR. (Id.)

¹⁵ These standard conditions of approval require, among other things: the submission of a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report, as well as implementation of any remedial actions recommended by those reports; documentation of any radon or vapor intrusion from the groundwater and soil; written confirmation that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of any hazardous waste materials onsite; implementation of Best Management Practices (BMPs) with respect to potential soil and groundwater hazards; and implementation of construction BMPs as part of construction to minimize the potential negative effects to groundwater and soils and minimize health risks to construction workers. They also require that all applicable governmental agencies "have granted all required clearances and confirmed that all applicable standards, regulations and conditions for all previous contamination at the site" have been complied with.

Contrary to appellants' arguments, neither SWAPE nor Ms. Floystrup in fact identified any new information regarding potential toxics on the project site. As noted earlier, the Initial Study referenced the existence of Phase I and Screening Level Phase II Environmental Assessment Reports for both the Safeway store parcel and the 76 Gas Station parcel. Each of these reports summarized the prior uses on those parcels and discussed the presence or absence of potentially hazardous chemicals, USTs, and other indicators of hazards, relying in part on the same Sanborn maps cited by SWAPE and Ms. Floystrup. The Initial Study thus provided the necessary information regarding the potentially significant hazards impacts of the project. Further, it identified standard City measures that would mitigate all of those impacts and committed to mitigating those impacts. The fact that additional supporting data (e.g., the existence of vapor intrusion barriers) might later be explored as part of the identified mitigation measures did not render the Initial Study's discussion of hazards legally insufficient (e.g., California Native Plant Society v. City of Rancho Cordova (2009) 172 Cal.App.4th 603, 621).

In conclusion, neither the FEIR nor the commenters identified any new significant environmental impacts, nor did they identify any substantial increase in the severity of an environmental impact. Further, the Initial Study contains a discussion of the topic of hazards that was sufficient to allow meaningful public review and comment, and was properly focused out of the DEIR in accordance with the CEQA Guidelines. Thus, there is no need to revise the DEIR regarding treatment of potential hazardous materials impacts.

12. The FEIR fails to address the air quality impacts from a Bakery on the project site which will release acetaldehyde as well as other ozone precursor compounds and does not take into account the cumulative impacts of Safeway bakeries in the Bay Area.

The RCPC appeal notes: "The FEIR fails to disclose, discuss or mitigate the significant air quality impact associated with operating an on-site bakery, which bakery will release acetaldehyde, a designated toxic air contaminant and probably human carcinogen (see attached background materials on acetaldehyde), as well as other ozone precursor compounds. In addition, the FEIR fails to disclose or analyze the cumulative air quality impacts of the many Safeway projects being proposed throughout the Bay Area, and specifically ozone precursor production from their bakeries, which are all within a single air basin already noncompliant for the ozone standard (see attached materials from BAAQMD)."

This comment raises two main issues with respect to the project's proposed on-site bakery: the release of acetaldehyde and other ozone precursor compounds during the baking process; and potential cumulative air quality impacts when considered in the context of other projects proposed by Safeway in the Bay Area. Each of these issues is addressed below.

Acetaldehyde and Other Ozone Precursor Emissions

As background, acetaldehyde is a chemical compound that is emitted by a variety of sources, including yeast, coffee, and ripe fruit, and is produced by plants as part of their normal metabolism. According to CARB, the largest sources of directly emitted acetaldehyde are from combustion of fuels from mobile sources, agricultural burning, and wildfires. (See CARB Executive Study, November 1993, p. 3.¹⁶) In fact, the CARB Executive Study regarding acetaldehyde does not mention baking activities at all.

Acetaldehyde and other ozone precursors are emitted as byproducts of the yeast fermentation that takes place during the production of leavened baked goods. It is estimated that approximately 98% of the volatile organic compounds (VOCs) produced by yeast fermentation emissions are ethanol, while acetaldehyde and several other VOCs comprise the other 2% (see Calculation Procedures for Baking and Baking Process Description, established by the San Diego Air Pollution Control District¹⁷).

BAAQMD has promulgated Regulation 8, Rule 42, which regulates large commercial bread bakeries (i.e., bakeries whose total production of bread, buns, and rolls per operating day is more than 100,000 pounds) in order to minimize the emission of acetaldehyde and other ozone precursors into the atmosphere as a result of yeast fermentation. However, for larger bakeries with ovens that commenced operation after January 1, 1989, the only applicable requirement is to vent emissions to a control system capable of reducing emissions of precursor organic compounds by 90% on a mass basis. (See BAAQMD Rule 8-42-302.) No other operational restriction is imposed.

According to Safeway representatives,¹⁸ the project would include a bakery that is expected to produce approximately 500 pounds of leavened goods per day. That amount is 0.5% of the minimum daily amount of leavened products required in order for the Safeway bakery to be regulated by BAAQMD Rule 8-42. Thus, the project would not be subject to the BAAQMD requirements applicable to "large commercial bread bakeries."

While the project's bakery would produce small amounts of acetaldehyde and other ozone precursors, these amounts would be extremely small and would not result in new significant air quality impacts in the context of either project criteria pollutant emissions or toxic air contaminants (TACs). The small VOC emission from baking would add to project ROG

¹⁶ This document may be found at: www.arb.ca.gov/toxics/id/summary/acetalde.pdf

¹⁷ This document may be found at: www.sdapcd.org/toxics/emissions/baking/baking.html.

¹⁸ Email from George Arias, Safeway District 4 Manager, dated 9/12/2012.

emissions, but total emissions would be below the Oakland threshold of significance for ROG, which is both a project and cumulative threshold of significance.

Using BAAQMD emission factors for total organic gases (TOG) and Safeway's estimated throughput, baking emissions of TOG would be 1.35 pound per day or 0.25 tons per year. These new emissions would be partially offset by reductions at existing-baking facilities providing baked goods to the existing Safeway Store. If it is assumed that a) the project bakery represents entirely new emissions (that is, no credit is taken for reductions at other facilities providing baked goods to the existing Safeway Store), and b) TOG is equivalent to Reactive Organic Gases (ROG), then the net increase in ROG emissions shown in Table 4.4-5 of the DEIR would be recalculated from 7.39 pounds per day to 8.74 pounds per day. This net increase is well below the City of Oakland/BAAQMD threshold of significance of 54.0 pounds per day. Annual emissions would be recalculated from 1.35 tons per year to 1.59 tons per year. This net increase is well below the City of Oakland/BAAQMD threshold of significance of 10 tons per year.

The BAAQMD has established TAC trigger levels in BAAQMD Regulation 2, Rule 5. These trigger levels are used to determine when a health risk assessment is required for the permitting process. Using San Diego APCD emission factors for Acetaldehyde and Safeway's estimated throughput, the daily emission from the project would be 0.019 pounds per day and 6.89 pounds per year. These emissions would be partially offset by reductions at existing baking facilities providing baked goods to the existing Safeway Store. Project hourly emissions of 0.0008 pounds per hour would be only 0.08% of the BAAQMD's acute trigger level for this pollutant of 1 pound per hour. Annual emissions of this pollutant would only be 18% of the BAAQMD's chronic trigger level for this pollutant of 38 pounds per hour.

It should also be noted that the existing Safeway already provides freshly-baked goods to its customers. These baked goods are currently produced by the Safeway bakery at 51st Street and Broadway, and then brought over to the Safeway at College and Claremont each day by truck. Thus, since ozone precursor emissions are cumulative in nature, the project baseline already includes the ozone precursors produced by the baking of leavened goods for the existing site. Only those emissions related to any incremental increase in the amount of leavened goods to be provided at that location would be examined for the purposes of CEQA.

Cumulative Air Quality Impacts

As noted in Master Response MR-7, the BAAQMD methodology for evaluating projects (which has been adopted by the City of Oakland) is based on examining the emissions associated with an individual development but comparing project emissions to levels established as representing a "cumulatively considerable" impact. The BAAQMD CEQA Air Quality Guidelines state: "By its very nature, air pollution is largely a cumulative impact. ... The emission levels for which a project's individual emissions would be cumulatively considerable are considered in developing thresholds of significance for air pollutants. If a project exceeds the identified significance

thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Therefore additional analysis to assess cumulative impacts is unnecessary" (BAAQMD, CEQA Air Quality Guidelines, May 2011). Similarly, the City's August 2011 CEQA Thresholds of Significance Guidelines note on page 5: "Except for impacts related to Toxic Air Contaminants ... and odors ... air quality impacts are, by their nature, cumulative impacts because one project by itself cannot generate air pollution that would violate regional air quality standards." As noted in Master Response MR-7, "Since the significance thresholds are also used to determine what is cumulatively considerable, the air quality analysis not only evaluates the cumulative impact of the project and all Bay Area Safeway proposals but also all 'past, present and future development projects.' The cumulative analysis was based on regional growth. The project would not result in a significant and unavoidable impact on either a project or cumulative level." With respect to TAC impacts, impacts from bakery exhaust are primarily local, and thus the various Safeway projects in the Bay Area are too far separated to have significant cumulative TAC impacts.

To the extent that the appellants intended to infer that all Safeway projects in the area should have been studied as a single, large project for the purpose of evaluating emissions, please see Master Response M-10, "Piecemeal Analysis of Environmental Impacts." As noted in that master response, "The redevelopment of other Safeway stores in the region does not constitute a single larger project or a proposed phased project. Each store would require a separate and wholly independent approval, and each would be subject to environmental review pursuant to CEQA under the jurisdiction of multiple lead agencies. Either project may proceed independent of the others, [and] approval or denial of one in no way facilitates or otherwise affects approval or implementation of the others. Under CEQA, such independent projects are not treated as a single project."

13. The project objectives in the EIR are too narrow and self serving thus leading to the rejection of any project alternatives.

Appellants argue that the Project objectives as stated in the EIR are too narrow and that they are impermissibly based on Safeway's own objectives. Appellants further argue that, because the project objectives are too narrow, the EIR fails to consider an adequate range of feasible alternatives, in violation of CEQA.

The FEIR addressed the selection of objectives in Responses to Comments B-4-12 and C-10-7. As noted in these responses, CEQA Guidelines Section 15124 simply requires a "statement of objectives sought by the proposed project" and does not prohibit the project sponsor from defining the objectives of a proposed project to be included and applied in an EIR. CEQA does not distinguish between objectives of a project proponent and objectives of the lead agency. To

the contrary, the project objectives must reflect the goals of a project proponent, because without a project sponsor there would be no project to evaluate in an EIR.

The project objectives identified in the DEIR were collaboratively defined by City staff and the project sponsor, and City staff independently determined that the objectives were appropriate for the project and consistent with the policy direction established by the Oakland City General Plan and Zoning Ordinance.

As noted on page 5-1 of the DEIR, the alternatives analyzed in the EIR were selected in part on "the extent to which the alternative would accomplish most of the basic objectives of the project." This is consistent with Section 15126.6(c) of the CEQA Guidelines, which notes:

The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. ... Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

Thus, the range of alternatives analyzed in the EIR is adequate in light of the project objectives.

14. The EIR did not include an adequate range of project alternatives, did not adequately analyze project alternatives and improperly rejected project alternatives thus making the CEQA findings for the project invalid.

Appellants argue that the EIR did not include an adequate range of project alternatives, and that it did not adequately analyze the project alternatives that it did include. Finally, appellants argue that the EIR improperly dismissed project alternatives.

The EIR addressed a range of alternatives that is adequate under, and in fact surpasses, CEQA's requirements. Section 15126.6(a) of the CEQA Guidelines states:

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

All of the alternatives evaluated in the EIR for the proposed project were developed to 'feasibly attain most of the basic objectives' and "avoid or substantially lessen any of the significant effects of the project." Because the DEIR identified eleven significant and unavoidable impacts for the project,¹⁹ all of them related to traffic operations, the alternatives are focused on reducing or avoiding one or more of these impacts.

The rationale behind the selection of each individual alternative was as follows:

Alternative 1a, "Mixed-Use Alternative With Regular Apartments," represented a different mix of land uses, with a reduced amount of commercial development, that would reduce one or more of the project's significant traffic impacts. The amount of commercial development under this alternative (a 45,000-square-foot Safeway store with approximately 10,750 square feet of "other retail" along College Avenue, for a total of approximately 55,750 square feet) represented a reduction in size from the proposed project y approximately 10 percent. While it is true that provision of housing is not one of the objectives of the project, a 40-unit housing component nevertheless was included to evaluate any potential trip reduction benefits of an integrated mixed-use project.

Alternative 1b, "Mixed-Use Alternative With Senior Housing," entailed a more aggressive reduction in the proposed grocery store, which would be only 30,000 square feet, but included approximately 11,820 square feet of "other retail" space, resulting in a total retail square footage of approximately 41,820 square feet. Alternative 1b also included 54 senior housing units to further analyze the possibility of trip reduction benefits cited above with respect to Alternative 1a; more senior housing units would be possible than "regular apartments" because senior housing units generate fewer traffic trips than the general multi-family units included in Alternative 1a.

Alternative 2, "40,000-Square-Foot Reduced Size Project," was specifically developed to reduce significant and unavoidable Impact TRANS-10, at the Ashby Avenue/Claremont Avenue intersection, which was judged to be the impact most likely to be reduced to a less-than-significant level by reducing the size of the project. Alternative 2 included a 40,000-square foot Safeway store, while the retail and restaurant components of the proposed project were eliminated. Due to the relatively small scale of the increase from the current size of the store, the

¹⁹ The Revised Project evaluated in the FEIR was found to eliminate a significant and unavoidable impact (Impact TRANS-13) at the intersection of the project driveway, College Avenue, and 63rd Street.

alternative assumed that the project likely would be accomplished by remodeling the store and reconfiguring existing parking spaces, rather than constructing a new store with structured parking.

Alternative 2a, "35,750-Square-Foot Reduced Size Project," envisioned a new, one-story Safeway store of approximately 25,000 square feet, with 5,000 square feet of other retail, 5,000 square feet of office, and 750 square feet of café/deli space, again with the intention of possibly achieving trip reduction benefits of an integrated mixed-use project. As noted on DEIR page 5-22, the alternative was selected in part because it would reduce five of the proposed project's significant and unavoidable impacts (Impacts TRANS-3, TRANS-7, TRANS-10, TRANS-12, and TRANS-13²⁰) to a less-than-significant level and would reduce the magnitude of all others, which would remain significant.

Alternative 2b, "27,250-Square-Foot Reduced Size Project," provided a variation on Alternative 2a, slightly increasing the proposed Safeway store size (via remodeling or new construction) to approximately 26,500 square feet and preserving a café/deli in a 750-square-foot building, but removing the other retail and office space. The alternative was selected in part because it would reduce the same impacts to a less-than-significant level identified for Alternative 2a and would result in a greater reduction of the other impacts, although they would remain significant.

Alternative 3, "Full Project With No Curb Cut on College Avenue," was developed to reduce the project's impacts on traffic along College Avenue by eliminating vehicle access to the project site from College Avenue. While Alternative 3 would generate the same number of vehicular trips as the project, all vehicular access would be through Claremont Avenue, and traffic patterns around the site would be modified.

Alternative 4, "Full Project With Inbound Only Driveway on College Avenue," was developed to reduce the project's impacts on traffic along College Avenue by restricting vehicle access to the project site from College Avenue. While Alternative 4 also would generate the same number of vehicular trips as the project, all outbound vehicular access would be through Claremont Avenue, and traffic patterns around the site would be modified.

²⁰ Impact TRANS-13 was eliminated when the project evolved into the Revised Project.

Alternative 5, "No Project Alternative," was required pursuant to CEQA. Under this scenario, the project site would not be redeveloped, and the former 76 Gas Station on the site would not be demolished.

Each alternative examines a different set of variables that include: the size of the Safeway store, the size of the additional "other retail" spaces (if any), the inclusion or exclusion of residential units, and the various configurations of vehicle access to the site. Together, the alternatives provide a range of potential scenarios so that the decision-makers may understand evaluate their ability to a) reduce the environmental impacts of the project and b) meet the objectives of the project.

To the extent that other potential alternatives exist, the City has determined that either a) their impacts fall within those of the range of selected alternatives, in which case their relative advantages and disadvantages may be assessed from a review of the selective alternatives,²¹ or b) they are not required under CEQA's mandate to include only "reasonable alternatives" which would "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project incapable of reducing environmental effects." (CEQA Guidelines § 15126.6(a).) To date, no feasible project alternative has been identified that is considerably different from others previously analyzed and would clearly lessen the significant environmental impacts of the project.

For the reasons discussed above, the range of alternatives evaluated in the EIR is adequate and fully consistent with the requirements of CEQA.

Analysis and Rejection of Alternatives Included in EIR. The DEIR included 68 pages of detailed discussion of the identified alternatives. This included a description of the physical characteristics of each of the alternatives, followed by a discussion of the degree to which each alternative met the project's objectives, followed by an analysis of each alternative's environmental impacts and a comparison of those impacts to the project's impacts. Finally, the DEIR selected Alternative 2b as the "environmentally superior alternative," although it then concluded that Alternative 2b did not meet most of the basic project objectives. This methodology was continued in, and supported by, the FEIR.

Contrary to the appellants' assertions, the DEIR did not "dismiss" any of the alternatives considered on the basis that it was infeasible, although it did exclude an "alternative site

²¹ See, e.g., *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors*, 134 CalApp.3d 1022 (1982), in which study of a 15,000-unit project alternative was deemed unnecessary in light of the 10,000-unit and 20,000-unit alternatives studied.

location” alternative altogether from consideration due to infeasibility. (DEIR p. 5-4.) All of the alternatives set forth in the DEIR were preliminarily determined to be sufficiently feasible for inclusion in the DEIR. The DEIR then described each alternative and evaluated the potential for each alternative to 1) “avoid or substantially lessen any of the significant effects of the project, and 2) “feasibly attain most of the basic objectives of the project.” (CEQA Guidelines §15126.6(a).) The Planning Commission considered the information and analysis in the DEIR and the FEIR and the administrative record as a whole, and ultimately rejected each of the alternatives, as discussed in the summary below.

Alternative 1a. The analysis of the “Mixed-Use Alternative With Regular Apartments” Alternative determined that while there would be some reduction of traffic trips generated, it would not be a significant reduction, and all of the significant and unavoidable impacts identified for the project would still occur. Furthermore, Alternative 1a would not be able to achieve several of the primary objectives to the same degree as the project, as discussed on page 5-7 of the DEIR. Thus, Alternative 1a ultimately was rejected by the Planning Commission.

Alternative 1b. The analysis of the “Mixed-Use Alternative With Senior Housing” Alternative determined that it would reduce one of the project’s significant and unavoidable impacts (Impact TRANS-13) to a less-than-significant level and would reduce the magnitude of the other traffic impacts of the project, but not to a level of insignificance. However, Alternative 1b fell ‘far short of accomplishing several of the primary objectives,” as discussed on page 5-9 of the DEIR. Thus, Alternative 1b ultimately was rejected by the Planning Commission.²²

Alternative 2. As noted on page 5-11 of the DEIR, the “40,000-Square-Foot Reduced Size Project” Alternative was specifically developed to reduce significant and unavoidable Impact TRANS-10, at the Ashby Avenue/Claremont Avenue intersection, which was judged to be the impact most likely to be reduced to a less-than-significant level by reducing the size of the project. As noted on DEIR page 5-20, the analysis determined that Impact TRANS-10 would be reduced to a less-than-significant level by this alternative, successfully achieving the objective of the alternative. However, Alternative 2 was also judged to ‘fall short of accomplishing several of the primary objectives,” as discussed on page 5-11 of the DEIR. Thus, Alternative 2 ultimately was rejected by the Planning Commission.

²² Furthermore, Impact TRANS-13 was eliminated when the project evolved into the Revised Project. Thus, Alternative 1b would not eliminate any of the significant and unavoidable impacts of the Revised Project.

Alternative 2a. The “35,750-Square-Foot Reduced Size Project” Alternative would reduce five of the proposed project’s significant and unavoidable impacts (Impacts TRANS-3, TRANS-7, TRANS-10, TRANS-12, and TRANS-13²³) to a less-than-significant level and would reduce the magnitude of all others, which would remain significant. However, as noted on DEIR page 5-12, Alternative 2a met even fewer of the project objectives than Alternative 2, and thus ultimately was rejected by the Planning Commission.

Alternative 2b. the “27,250-Square-Foot Reduced Size Project” Alternative would reduce the same impacts to a less-than-significant level identified for Alternative 2a and would result in a greater reduction of the other impacts, which would remain significant under this alternative. For this reason, Alternative 2b was designated the “environmentally superior alternative.” However, as noted on DEIR page 5-12, Alternative 2b met even fewer of the project objectives than Alternatives 2 or 2a, and thus ultimately was rejected by the Planning Commission.

Alternative 3. The “Full Project With No Curb Cut on College Avenue” Alternative would eliminate Impact TRANS-13, but would also result in new significant and unavoidable traffic impacts at the intersections of College Avenue/Claremont Avenue under 2015 and 2035 conditions. The DEIR concluded on page 5-15 that this new impact would not accomplish the project objective of retaining an important vehicular access point from College Avenue. Furthermore, the evolution of the project into the Revised Project eliminated the previously significant and unavoidable Impact TRANS-13. Thus, Alternative 3 now would not eliminate any of the significant and unavoidable impacts of the Revised Project, and ultimately was rejected by the Planning Commission.

Alternative 4. The “Full Project With Inbound Only Driveway on College Avenue” Alternative would eliminate Impact TRANS-13, and would have no additional significant and unavoidable traffic impacts as compared with the project. However, the DEIR concluded on page 5-15 that Alternative 4 would not accomplish the objective of retaining an important vehicular access point from College Avenue to the same degree as the proposed project, since it would only allow inbound traffic on College Avenue. Furthermore, the evolution of the project into the Revised Project eliminated the previously significant and unavoidable Impact TRANS-13. Thus, Alternative 4 now would not eliminate any

²³ Impact TRANS-13 was eliminated when the project evolved into the Revised Project.

of the significant and unavoidable impacts of the Revised Project, and ultimately was rejected by the Planning Commission.

Alternative 5. The “No Project Alternative” would not have any of the impacts of the project. However, as noted on page 5-16 of the DEIR, this alternative would utterly fail to accomplish any of the project objectives, and thus ultimately was rejected by the Planning Commission.

Appellants argue that the determination of each alternative's ability to meet the project objectives was not based on substantial evidence, though they do not elaborate on this concern. The specific arguments that previously were made by project commenters are all addressed in detail in the FEIR. Among other things, the FEIR includes Table 5-1 on page 5-3 that compares the square footages and capacities of the project with those of the Safeway that was recently approved in Berkeley. As noted in that table, even though gross square footage of the project would be 12% larger, its sales area would only be 7% larger and its total linear feet of sales display would only be 5% more. Thus, the proposed store would actually function as a slightly smaller store, indicating the physical constraints on the site. These constraints support the rejection of smaller-sized alternatives, because they would function as even smaller stores than their “absolute” square footages would indicate, and thus would be unable to meet many of the project objectives that related to store layout and capacity.

For the reasons discussed above, the analysis of the alternatives in the DEIR was adequate and fully consistent with the requirements of CEQA. Further, each alternative was properly rejected in the DEIR.

PUBLIC OUTREACH/INTEREST

This item has appeared before community meetings and public hearings on multiple occasions and has a large amount of interested parties especially in the area around the project site. A pre-application was filed with Planning and Zoning in December 2007 and a series of community meetings with the applicant and the neighborhood began in March on 2008. The project appeared before the Planning Commission in November 2009 for a scoping session on the pending environmental review, and in July and August of 2011 to take comments on the DEIR, and in October 2011 the item appeared before the Design Review Committee for comments, and in July 2012 the item appeared before the full Planning Commission for a decision on the project and certification of the environmental document.

Item: _____
City Council
October 16, 2012

COORDINATION

The Agenda report on the two filed appeals has been reviewed by the City Attorney's Office and the Budget Office.

COST SUMMARY/IMPLICATIONS

The project involves a private development and does not request or require public funds and has no direct fiscal impact on the City of Oakland. If constructed, the project would provide a positive fiscal impact through increased property taxes, utility user taxes and business license taxes, while at the same time increasing the level of municipal services that must be provided.

SUSTAINABLE OPPORTUNITIES

Economic: Allowing the development to proceed creates more commercial square footage within a successful shopping area within Oakland that would be likely to increase the sales tax base, the redevelopment of the property would raise the property tax for the site due to the proposed improvements, and temporary construction jobs would be created as well as future permanent jobs within the expanded grocery store and new ground floor retail stores.

Environmental: While the proposal would demolish the existing building, the replacement building would be one of much greater energy efficiency and would provide expanded commercial businesses along a major mass transit line, the 51 AC Transit line.

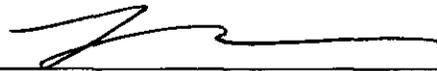
Social Equity: The project benefits the community by adding increased commercial opportunities in the City of Oakland as well as additional temporary jobs during the construction of the project.

CEQA

See "*ENVIRONMENTAL REVIEW*" portion of the Background section of this report.

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

Respectfully submitted,



Fred Blackwell, Assistant City Administrator

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

Robert Merkamp, Acting Zoning Manager

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

Attachments:

- A. July 25, 2012 Planning Commission Staff Report
- B. BPOD Appeal
- C. RCPC Appeal
- D. Ordinance 12237

NOTE:

The Draft and Final EIRs were provided under separate cover for review and consideration by the City Council, and is available to the public at the Planning Department office at 250 Frank H. Ogawa Plaza, Suite 2214, Oakland, CA 94612 and on the City's website at:

<http://www2.oaklandnct.com/Government/o/PBN/OurServices/Application/DOWD0091>

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Item: _____
City Council
October 16, 2012

Case File Number ER09-0006, CMDV09-107, TPM-09889

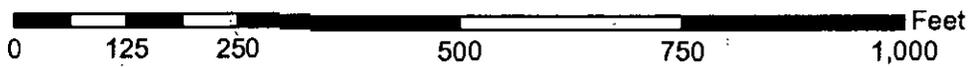
July 25, 2012

Project Name:	College Avenue Safeway
Location:	6310 College Avenue (APN's: 048A-7070-001-01; & 007-01) See map on the reverse
Proposal:	The project would involve demolition of the existing approximately 25,000 square-foot store, parking lot and service station and construction of a two-story, approximately 62,000 square foot building that would contain Safeway supermarket of approximately 51,500 square feet, approximately 10,500 square feet of ground floor retail spaces (for approximately eight retail shops including one restaurant), and a partially below-grade and upper level parking garage with about 171 parking spaces
Applicant:	Lowney Architects
Contact Person/Phone Number:	Ken Lowney - (510) 836-5400
Owner:	Safeway Stores Inc.
Case File Number:	ER09-0006, CMDV09-107, TPM-09889
Planning Permits Required:	Major Conditional Use permits (General Food Sales, Commercial Square Footage in excess of 7,500 square feet, Driveway location, and Alcohol Sales), Regular Design Review for new construction, Minor Variances for required parking (186 stalls required; 171 proposed) and required loading berths (3 required; 2 proposed), and a Vesting Tentative Parcel Map for lot merger and commercial condominiums.
General Plan:	Neighborhood Center Mixed Use
Zoning:	C-31, Special Retail Commercial Zone (The subject site's zoning designation has been changed as part of the citywide zoning update and the subject property is now located within a CN-1 Zone, but the project is proceeding under the prior C-31 Zoning as allowed per the rezoning ordinance)
Environmental Determination:	Draft Environmental Impact Report (DEIR) was published for a 45-day review period from July 1, 2011 to August 15, 2011. The Final EIR was published on July 6, 2012.
Historic Status:	Not a Potentially Designated Historic Property; rating: X
Service Delivery District:	2
City Council District:	1
Action to be Taken:	Adopt the CEQA findings, including Certification of the Environmental Impact Report and Statement of Overriding Considerations, and decision on the applications based on staff report.
Finality of Decision	Appeal to City Council within 10 days.
For Further Information:	Contact project planner Peterson Z. Vollmann at (510) 238-6167 or by email pvollmam@oaklandnet.com

SUMMARY

Ken Lowney Architects, on behalf of Safeway Stores Inc., has filed an application for review and consideration of a proposal to demolish the existing 25,000 square foot grocery store and adjacent automotive service station to develop a new two story commercial building of approximately 62,000 square feet that would contain a 51,500 square foot Safeway grocery store and approximately 10,500 square feet of additional ground floor commercial space. The proposal would include a partially subterranean parking garage containing a total of 171 off-street parking spaces. The project site is located in the Rockridge Commercial district in North Oakland, at the northern end of the intersection of College and Claremont Avenues.

CITY OF OAKLAND PLANNING COMMISSION



Case File: ER09-0006, CMDV09-107 & TPM-09889
Applicant: Lowney Architects
Address: 6310 College Avenue
Zone: C-31 (now CN-1)

The City is the Lead Agency pursuant to the California Environmental Quality Act (CEQA) and has the responsibility to prepare the Environmental Impact Report (EIR) for the Project. A Draft Environmental Impact Report (DEIR) was prepared for the Project, under the requirements of CEQA, pursuant to Public Resources Code Section 21000 et. seq. The Notice of Availability for the DEIR was prepared and released on July 1, 2011 beginning a 45 day public comment period. The DEIR was heard before the Planning Commission on July 20, 2011 and continued onto August 3, 2011. The public review and comment period ended on August 16, 2011. A Final EIR (FEIR), responding to the comments received on the DEIR, was published on July 6, 2012.

On October 12, 2011, the proposed project appeared before the Oakland Planning Commission's Design Review Committee to receive comments from Committee members and the public on issues related to the architectural design of the project.

The purpose of this meeting is to take any remaining public testimony concerning the Project and to consider the application submitted for the Project summarized in the Project Description section. Staff has prepared recommended actions for the Planning Commission to review and consider. These actions are listed below:

- (1) Adoption of the enclosed CEQA findings, including Certification of the EIR, rejection of alternatives as infeasible and a Statement of Overriding Considerations.
- (2) Approval of the Major Conditional Use permits, Design Review, Minor Variances, and Vesting Tentative Parcel Map for the Project as described in the Project Description section of this report subject to the conditions (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP), requirements, and findings contained in this staff report.

SITE DESCRIPTION

Existing Conditions

The proposed project site is a triangular shaped parcel at the north side of the triangle formed by the intersection of College and Claremont Avenues in north Oakland. The site encompasses 2.1 acres and slopes gently from the northeastern corner, where the elevation is about 221 feet to the southern corner, at 203 feet. The site currently contains a Safeway store with about 25,000 square feet of floor area. It is a one-story masonry building on a flat concrete pad, at elevation 207. The Safeway store provides approximately 106 parking spaces on the east and south sides, and a loading dock at the north side. The existing surface parking lot can be accessed from two driveways on College Avenue and two on Claremont. The site has a retaining wall along the Claremont frontage, with a row of trees planted between the wall and the sidewalk.

The southern corner of the parcel houses a Union 76 gasoline and service station featuring a small building of about 1,120 square feet, a covered service area, a canopy over the gasoline pumps, and multiple curb cuts on College and Claremont Avenues to facilitate access. The former gas station site is paved with asphalt or concrete.

The northern boundary of the site lies along the Oakland/Berkeley City Limit line, and is marked by a wooden fence and by the northern wall of the Safeway store, which is built on the property line.

Surrounding Land Uses

The project site is located in the Rockridge Commercial District in North Oakland at the prominent intersection of College and Claremont Avenues. College and Claremont Avenues bound the project site on two sides. Both streets are major arterials, and the land uses opposite the site on both is predominately commercial. The land use adjacent to the site on the north is residential; the rear yards of eight single family homes abut the parcel. Six of these homes front on Alcatraz Avenue, while one faces College Avenue and one is on Claremont Avenue.

PROJECT DESCRIPTION

The proposed project would involve demolition and clearing of the entire site, followed by construction of a new two-story building with approximately 62,000 square feet of floor area, including a new Safeway store of 51,500 square feet and up to eight separate ground-floor commercial shops, totaling 10,500 square feet, fronting on College Avenue and on the proposed pedestrian "walk street" to be located near the College/Claremont corner. The sizes of the retail tenant spaces would range from 435 square feet to 2,729 square feet—the latter being the large shop at the College/Claremont corner, which has been proposed for a restaurant.

The proposal would include a parking garage that could accommodate 171 off-street parking stalls. The large majority of the off-street parking would be located in a partially underground garage with access off of College Avenue, and two access points on Claremont Avenue. A separate parking area would be provided above grade off of Claremont Avenue for employee parking as well as access for the proposed loading berths.

Project Revisions

As a result of comments received at the October 12, 2011 Design Review Committee, the applicant has submitted a revised project that made minor changes to the exterior architectural finishes of the building as well as a redesign for the College Avenue driveway entry. The architectural finishes include the following changes:

- Adjustments to the color scheme of the building to appear darker and more substantial;
- Redesign of the mullions at the upper level of the building on College and Claremont Avenue facades to add louvers and provide more variation to their size and location;
- Changing the exterior wall material on the "walk street" elevation of the restaurant building to stone;
- Comprehensive revisions to the Claremont Avenue façade to make it more visually appealing and more similar to the College Avenue façade;
- Modifications to the ten foot landscape buffer between the residential properties to the north to improve security measures for the area and adding small openings to the garage for ventilation and visual interest to the northern building wall.

As mentioned, the revised project also modified the College Avenue driveway for the project. The revised design reduced the size of the driveway from two outbound lanes to one outbound lane to prohibit left turns out of the store onto College Avenue. In addition, revisions have been made to the College Avenue/63rd Street/Safeway Driveway intersection that will prohibit left turns from College Avenue onto 63rd Street, as well as through movements from Safeway to 63rd Street.

These project revisions were evaluated in the Responses to Comments, and the City has determined that none of these revisions resulted in significant new impacts, substantially more severe impacts or otherwise constituted new information that necessitate recirculation of the DEIR.

GENERAL PLAN ANALYSIS

Land Use and Transportation Element of the General Plan

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

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

- Objective N1: Provide for healthy, vital, and accessible commercial areas that help meet local consumer needs in the neighborhoods.
- Policy N1.1: Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for small scale, neighborhood-oriented retail.
- Policy N1.2 Placing Public Transit Stops. The majority of commercial development should be accessible by public transit. Public transit stops should be placed at strategic locations in Neighborhood Activity Centers and Transit-Oriented Districts to promote browsing and shopping by transit users.
- Policy N1.4 Locating Large-Scale Commercial Activities. Commercial uses which serve long term retail needs or regional consumers and which primarily offer high volume goods should be located in areas visible or amenable to high volumes of traffic ...
- Policy N1.5: Designing Commercial Development. Commercial development should be designed in a manner that is sensitive to surrounding residential uses.
- Policy N1.6: Reviewing Potential Nuisance Activities. The City should review any proposed new commercial activities that have the potential to create public nuisance or crime problems, and should monitor those that are existing. These may include isolated commercial or industrial establishments located within residential areas, alcoholic beverage sales activities (excluding restaurants, adult entertainment, or other entertainment activities).
- Policy N1.8: Making Compatible Development. The height and bulk of commercial development in "Neighborhood Mixed-Use Center" and "Community Commercial" areas should be compatible with that which is allowed for residential development.
- Objective N5: Minimize conflicts between residential and non-residential activities while providing opportunities for residents to live and work at the same location.
- Policy N5.2: Buffering Residential Areas. Residential areas should be buffered and reinforced from conflicting uses through the establishment of performance-based regulations, the removal of non-conforming uses and other tools.

- Objective N10: Support and create social, informational, cultural and active economic centers in the neighborhoods.
- Policy N10.1: Identifying Neighborhood "Activity Centers." Neighborhood Activity Centers should become identifiable commercial, activity and communication centers for the surrounding neighborhood. The physical design of neighborhood activity centers should support social interaction and attract persons to the area. Some attributes that may facilitate this interaction include plazas, pocket parks, outdoor seating on public and private property, ample sidewalk width, street amenities such as trash cans and benches, and attractive landscaping.

The proposed Project meets the referenced policies and objectives; the general intent of the Neighborhood Center Mixed Use land use designation; and is a good fit for this area because the proposal would maintain the Safeway grocery store and add eight new pedestrian oriented commercial storefronts, including a restaurant, while eliminating one (long established, but recently closed) gasoline station and removing the prominence of the Safeway parking lot from the site. The net effect would to further concentrate commercial opportunities in this successful neighborhood-oriented retail district, which also has good accessibility to the AC Transit 51 Line. Policy N1.4 defines Large Scale Commercial activities as those that serve long term retail needs or regional consumer, although much larger than the existing Safeway store, the proposed store would continue to primarily stock groceries, which are typically replenished by households on a weekly or more frequent basis (short-term). The store would not be focused on a regional market (a characteristic of large-scale commercial) as there are many other grocery stores in the region.

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

Pedestrian Master Plan Element (PMP)

The following Pedestrian Element policies and objectives apply to the proposed Project:

- Policy 1.1. Crossing Safety. Improve pedestrian crossings in areas of high pedestrian activity where safety is an issue.
- Action 1.1.1: Consider the full range of design elements – including bulb outs and refuge islands – to improve pedestrian safety.
- Policy 2.3. Safe Routes to Transit. Implement pedestrian improvements along major AC transit lines and at BART stations to strengthen connections to transit.
- Action 2.3.1. Develop and implement street designs (like bus bulb-outs) that improve pedestrian/bus connections.
- Policy 3.2. Land Use. Promote land uses and site designs that make walking convenient and enjoyable.
- Action 3.2.1. Use building and zoning codes to encourage a mix of uses, connect entrances and exits to sidewalks, and eliminate "blank walls" to promote street activity.
- Action 3.2.2. Promote parking and development policies that encourage multiple destinations within an area to be connected by pedestrian trips.
- Action 3.2.3. Consider implementing "pedestrian only" areas in locations with the largest pedestrian volumes.

Bicycle Master Plan

The following Bicycle Master Plan Element action applies to the proposed Project:

- Action 1A.1 – Bicycle Lanes (Class 2): Install bicycle lanes where feasible as the preferred bikeway type for all streets on the proposed bikeway network (except for the bicycle boulevards proposed for local streets with low traffic volumes and speeds).
- Action 1A.2 – Arterial Bicycle Routes (Class 3A): Install arterial bicycle routes on collector and arterial streets only when bicycle lanes are infeasible. These shared lane facilities shall include best practices for lane widths, signage, and striping.
- Action 1D.7 – Development Incentives: Consider reduced automobile parking requirements in exchange for bicycle facilities as part of transportation demand management strategies in new development.

The project is generally consistent with the goals of the Bicycle Master Plan, in that it would not adversely affect the feasibility of implementing bike lanes on Claremont Avenue, nor would it add new impediments to the operation of College Avenue as an Arterial Bike Route. The closure of the large curb cuts at the former gas station site may marginally reduce the potential for auto/bike conflicts and improve safety at a major approach to and from the Claremont/College intersection.

Finally, the project plans call for bike racks at numerous locations along the College Avenue frontage and on the Claremont frontage near the intersection with College Avenue. Bike parking will also be provided inside the garage. The project takes advantage of regulations that allow reduced required parking when providing an excess of bike parking above that required by Code.

ZONING ANALYSIS

The subject property is currently located within a CN-1 Zone, but at the time that the project was deemed complete and when the Notice of Preparation was sent out the property was located within the C-31 Zone. The C-31 zoning was subsequently eliminated from the City's Planning Code in April 2011, replaced by the Neighborhood Commercial Zone 1 (CN-1).

The ordinance authorizing the new zoning regulations, passed by resolution of the Oakland City Council on March 15, 2011, explicitly states that "this Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to . . . zoning applications deemed complete by the City as of the date of final passage." Although the project site is now within a CN-1 zoning district, the zoning district was created after the City had deemed Safeway's application for the proposed project complete. Thus, the C-31 zoning regulations and not the new CN-1 zoning regulations apply to the project.

The C-31 zone is intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping, and is typically appropriate along important shopping streets having a special or particularly pleasant character.

Conditional Use Permits

The proposed project would require approval of a Conditional Use permit for the following:

- General Food Sales (*Planning Code 17.48.040*)

- Alcohol Beverage Sales (*Planning Code 17.48.040*)
- Size in excess of 7,500 square feet (*Planning Code 17.48.080*)
- Driveways on College and Claremont Avenues (*Planning Code 17.48.070*)

Variances

Parking – Section 17.116.080 of the Oakland Planning Code requires that off-street parking be provided in the amount of one off street parking stall per 300 square feet of “General Food Sales” and one off-street parking stall per 600 square feet of “Retail”. Based upon this amount the total parking required for the proposal would be 194 parking stalls. However, due to the project providing 47 more spaces for bicycle parking than required, the total off-street parking required is reduced to 186. Based upon the proposed project design that includes 171 off-street parking stalls, a minor variance for fifteen (15) off-street parking stalls would be required.

Loading – Section 17.116.140 of the Oakland Planning Code requires that three off-street loading berths be provided for developments between 50,000 – 99,999 square feet. The proposed project is including two loading berths and hence a minor variance for one loading berth would be required.

SUBDIVISION ORDINANCE

The applicant has filed an application for a Vesting Tentative Parcel Map to merge two parcels into one and to create new commercial condominiums.

DESIGN REVIEW

The demolition and new construction of the Safeway store and related ground floor commercial also is required to go through a Regular “Major” Design Review for new construction in excess of 25,000 square feet. As mentioned earlier the project appeared before the Design Review Committee on October 12, 2011. At that meeting a number of issues were raised related to the Claremont Avenue façade and its lack of visual interest, the rhythm of storefronts and materials on the College Avenue façade, and the orientation of the College Avenue driveway into and out of the project. As a result of those comments the architect has made revisions to the design of the project that as noted above in the “project revisions” section of this report.

Staff believes that the proposed project, while containing a larger square footage for the primary tenant than many other buildings in the area meets the design review criteria by locating ground floor commercial store fronts at the street level in a pedestrian oriented manner, which will replace the currently open surface parking lot that is significantly out of context with the character of the neighborhood. The applicant has also done a successful job in locating the new parking area to the rear of the ground floor commercial bays to shield it from the public view on College Avenue, which is the primary commercial street. The proposal successfully creates a pattern of commercial storefronts that break down the long horizontal façade of the building to relate to the context of the neighborhood as well as breaking up the upper level Safeway entries into two locations so that they feel like they are part of the general rhythm of storefronts along the block.

The exterior of the building will use high quality durable materials that will provide richness and texture to the building and allow for a successful modern designed building. The exterior will consist of a stained concrete bulkhead along much of the building, and a mix of smooth painted stucco, dry-stack ledgerstone and metal panel veneer to differentiate many of the individual storefronts. The storefront glazing will be in the form of a dark anodized aluminum storefront system, as will much of the upper

level of the building. The upper level glass has been applied in a manner that relates to the large transom windows seen on older buildings in the area, but in a modern representation. The two entrances to the Safeway grocery store on the upper level are accented with wood composite paneling as well as the "signature" tower element at the corner of the proposed "walk street" that connects through to Claremont Avenue. Staff believes that the applicant has done a successful job in the use of building materials to give a sense of overall quality to the project.

The Claremont façade, while functionally is the back side of the project, incorporates methods to improve its visual appearance along the street by wrapping the glazing of the last tenant space along the "walk street" onto Claremont to give interior visual connection, provided upper level glazing to the back of house area of the grocery store so that it does not appear as "dead space" from the street, and has incorporated a landscape trellis along the partially subterranean garage to help to screen out view of parked cars from the sidewalk. For the portion of the building that contains the loading berths for the project, the building steps back away from the street but contains the landscape trellis along the sidewalk edge to buffer the upper employee parking area and the loading activities as best as possible without preventing a visual connection for safety purposes.

ENVIRONMENTAL DETERMINATION

The City is the Lead Agency pursuant to CEQA and has the responsibility to prepare the EIR for the Project, under the requirements of CEQA, pursuant to Public Resources Code Section 21000 *et. seq.* An Initial Study was not prepared for the Project, as authorized under Section 15060(d) of the CEQA Guidelines.

Publication and Distribution of the DEIR

A Notice of Preparation was issued on October 30, 2009 and a scoping session held before the Planning Commission on November 18, 2009. The Initial Study screened out environmental factors that would not be further studied in the Draft EIR. These factors included: Aesthetics, Biological Resources, Hazards & Hazardous Materials, Mineral resources, Public Services, Utilities/Service Systems, Cultural resources, Hydrology/Water Quality, Recreation, Geology/Soils, Land Use/ Planning, Population/Housing, and Agricultural Resources. However, given the large numbers of comments received regarding Aesthetics and Land Use, they were added back into the scope of the DEIR. The College Avenue Safeway DEIR was prepared and released on July 1, 2011 beginning a 45 day public comment period. The DEIR was heard before the Planning Commission on July 20, 2011 and continued for additional public comment to August 3, 2011. The public review and comment period ended on August 16, 2011. The following environmental topics were addressed in detail in the DEIR:

- Aesthetics
- Air Quality and Greenhouse Gases
- Land Use, Plans and Policies
- Noise
- Transportation and Circulation

Potentially Significant Impacts Identified in the DEIR

Other than the impacts discussed below, all of the environmental effects of the Project can be reduced to less than significant levels through implementation of Standard Conditions of Approval or recommended Mitigation Measures.

The DEIR identifies the following significant and unavoidable environmental impacts related to Transportation and Circulation:

Transportation & Circulation

The DEIR identifies eleven significant and unavoidable traffic impacts at five intersections under "Existing plus Project", "2015 plus Project", and "Cumulative 2035 plus Project". The following summary of these impacts is organized by intersection with the impact statement (e.g., TRANS-11) and scenario (e.g., Cumulative 2035 plus Project) noted for easier comparison for the reviewer.

For each of these impacts, Mitigation Measures have been identified and recommended that, if implemented would reduce the impact to less than significant; however, in the interests of a conservative analysis, the EIR identifies the impacts as Significant and Unavoidable because the City of Oakland cannot ensure implementation of the proposed mitigation measures. Specifically, with one exception, the authority for approving and implementing the measures is outside of the City of Oakland's jurisdiction (City of Berkeley & CalTrans), and therefore the City of Oakland cannot ensure the measures' implementation. One of the identified Significant and Unavoidable impacts is located within the City of Oakland at the 63rd Street/ College Avenue/ Safeway entrance intersection and also contains proposed Mitigation Measures that would reduce that impact to Less than Significant. Conservatively the City identified this impact as Significant and Unavoidable due to potential secondary non-CEQA impacts that would be likely to occur given that 63rd Street could become a direct feed into the project entrance and substantially increase traffic on a residential side street. As a result, technical, environmental, social and other factors may cause this measure to be rejected as infeasible.

Intersection #1 – Ashby Avenue /College Avenue – City of Berkeley /CalTrans

- Impact TRANS-1: The proposed project would contribute to LOS E operations and increase the average intersection vehicle delay by more than three seconds during the weekday PM peak hour, and contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the Saturday peak hour at the *Ashby Avenue/College Avenue (#1) intersection* under Existing Conditions.
- Impact TRANS-5: The proposed project would degrade intersection operations from LOS E to LOS F and increase the average intersection vehicle delay by more than three seconds during the weekday PM peak hour and contribute to LOS F operation and increase the v/c ratio by more than 0.01 during the Saturday peak hour at the *Ashby Avenue/College Avenue (#1) intersection* under 2015 Conditions.
- Impact TRANS-9: The proposed project would contribute to LOS F operation and increase the v/c ratio by more than 0.01 during both weekday and Saturday PM peak hours at the *Ashby Avenue/College Avenue (#1) intersection* under 2035 Conditions.

Intersection #2 – Ashby Avenue / Claremont Avenue – City of Berkeley & CalTrans

- **Impact TRANS-10:** The proposed project would contribute to LOS F operation and increase the v/c ratio by more than 0.01 during the weekday PM peak hour at the *Ashby Avenue/Claremont Avenue (#2) intersection* under 2035 Conditions.

Intersection #5 – Alcatraz Avenue / College Avenue – City of Berkeley

- **Impact TRANS-2:** The proposed project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour at the *Alcatraz Avenue/College Avenue (#5) intersection* under Existing Conditions.
- **Impact TRANS-6:** The proposed project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and degrade intersection operations from LOS D to LOS E and increase intersection average delay by more than two seconds during the Saturday PM peak hour at the *Alcatraz Avenue/College Avenue (#5) intersection* under 2015 Conditions.
- **Impact TRANS-11:** The proposed project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and degrade intersection operations from LOS E to LOS F and increase intersection average delay by more than three seconds during the Saturday PM peak hour at the *Alcatraz Avenue/College Avenue (#5) intersection* under 2035 Conditions.

Intersection #6 – Alcatraz Avenue / Claremont Avenue – City of Berkeley

- **Impact TRANS-3:** The proposed project would contribute to LOS F operation at the side-street stop-controlled eastbound approach at the *Alcatraz Avenue/Claremont Avenue (#6) intersection*, which would meet the peak hour signal warrant under Existing Conditions.
- **Impact TRANS-7:** The proposed project would contribute to LOS F operation at the side street stop-controlled eastbound approach at the *Alcatraz Avenue/Claremont Avenue (#6) intersection* which would meet the peak hour signal warrant under 2015 Conditions.
- **Impact TRANS-12:** The proposed project would contribute to LOS F operation at the side-street stop-controlled eastbound approach at the *Alcatraz Avenue/Claremont Avenue (#6) intersection* which would meet the peak hour signal warrant under 2035 Conditions.

Intersection #7 – 63rd Street/College Avenue/Safeway Entrance – City of Oakland

- **Impact TRANS-13:** The proposed project would add more than 10 trips to the 63rd Street/College Avenue (#7) intersection which would meet the peak hour signal warrant under 2035 Conditions.

With the proposed project revisions to the 63rd Street/ College Avenue/ Safeway entrance intersection as noted in this staff report, Impact Trans-13 would be eliminated.

Project Alternatives

Chapter 5 of the Draft EIR includes the analysis of four alternatives to the Proposed Project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would

feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. The five CEQA alternatives analyzed in Chapter 5 include:

- Alternative 1 - Mixed Use Alternatives a & b – This alternative includes two variants. One with regular housing and one with senior housing to maximize the allowable density on-site. The project would contain access points as proposed and contain ground floor commercial and the Safeway located on the second floor as proposed. The difference between the two variants is that the regular housing variant a) would provide 40 dwelling units, a 45,000 square foot Safeway, and 10,750 square feet of ground floor commercial space, and the senior housing variant b) would provide 54 senior housing units, a 30,000 square foot Safeway, and 11,820 square feet of ground floor commercial.
- Alternative 2 – Reduced Size Project – 40,000 square feet & variants a & b - This alternative was developed with the intent to reduce at least one Significant and Unavoidable transportation impact which ended up being a reduction of the proposed project to include only a 40,000 square foot new Safeway store, which was able to reduce the Significant and Unavoidable Impact at Ashby and College Avenue to Less than Significant. This alternative would likely be accomplished by creating a 15,000 square foot addition to the existing store and possibly providing rooftop parking to accommodate the loss of some surface parking from the building expansion.

The reduced size alternative also included two variants which were developed by the neighborhood group Friends and Neighbors of College Avenue, and was obtained from their website. Variant a) consisted of a new one-story 25,000 square foot store with rooftop parking and loading accessed off of Claremont Avenue, and a new two story 10,000 square foot commercial building along College Avenue and a 750 square foot commercial building at the corner of College and Claremont Avenues, with surface parking retained between the three buildings. Variant b) would include a minor addition to the existing Safeway at the entrance and loading dock as well as a new 750 square foot commercial building at the corner of College and Claremont Avenues.

- Alternative 3 – Full Project as Proposed with No Auto Access on College Avenue – Due to the strong desire to keep auto access points off of College Avenue in order to enhance the pedestrian environment, this alternative was reviewed to see if potential impacts could be reduced as well as to study the feasibility of a project that only contained auto access off of Claremont Avenue.
- Alternative 4 – Full Project as Proposed with only Inbound Access off College Avenue – The project alternative was studied as a sort of variant to alternative 3, given the desire to have limited access and pedestrian interruption along College Avenue and due to the queuing and level of service issues that arose in the traffic analysis under alternative 3.
- Alternative 5 - No Project/No Build Alternative - CEQA requires a “no Project” alternative to be considered in the EIR. This Alternative is consistent with the existing environmental setting presented throughout Chapter 4 of the EIR, and it would be assumed that the gas station would re-open.

The Environmentally Superior Alternative is the No Project/No Build Alternative. Under CEQA, if a No Project Alternative is identified as the environmentally superior alternative, the EIR shall also identify an environmentally superior alternative development among the other alternatives. In this case, the environmentally superior development alternative is Alternative 2 the Reduced Size Alternative variant b, as it would likely avoid all of the Proposed Project's significant impacts that occur with the other

construction alternatives because it would only include a minor addition to the existing building and create a new small commercial building to replace the gas station. However, this alternative fails to meet a majority of the project objectives. Therefore, Alternative 2 the Reduced Size alternative of 40,000 square feet would be considered the next environmentally superior alternative because it would reduce impacts, though not to the level of variant b), and would also meet the project objectives to a greater extent.

Response to Comments Document

A Notice of Release and Availability along with the Response to Comments Document (which together with the DEIR make up the Final EIR (FEIR)) was published on July 6, 2012. The Response to Comments Document includes written responses to all comments received during the public review period on the DEIR and at the public hearings on the DEIR held by the Planning Commission. The FEIR was provided under separate cover for review and consideration by the Planning Commission, was sent to all who commented, and is available to the public at the Planning Department office and on the City's website at

<http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157>

All impacts, City Standard Conditions of Approval and Mitigation Measures, as they may have been revised/clarified from the DEIR, identified in the FEIR are summarized in Table 2-7 at the end of the Project Overview chapter, Chapter 2 of the FEIR. Table 2-7 also identifies the level of significance of the impacts after City Standard Conditions of Approval and recommended Mitigation Measures are implemented.

KEY ISSUES

Traffic Impacts

As noted above, the DEIR identified 11 significant and unavoidable impacts to five different intersections under "Existing plus Project", "2015 plus Project", and "Cumulative 2035 plus Project", however with the revised project this number is decreased to 10 significant and unavoidable impacts at four different intersections, all of which are located within the City of Berkeley. For each of these impacts, Mitigation Measures have been identified and recommended that, if implemented would reduce the impact to less than significant; however, in the interests of a conservative analysis, the EIR identifies the impacts as significant and unavoidable because the City of Oakland cannot ensure implementation of the proposed mitigation measures due to the intersections being located outside the City of Oakland's jurisdiction.

Staff has been in contact with the City of Berkeley Transportation Engineering staff and has been working on language to ensure that these Mitigation Measures, or other improvements preferred by the City of Berkeley, will be implemented through Conditions of Approval of the project and funded by the applicant. The Berkeley City Council held a hearing on July 17, 2012 to discuss the agreement for implementation of the necessary mitigation measures; however, the Berkeley City Council opted not to accept the agreement at this time because of their opposition to the project. Council members at the hearing stated that they would prefer to await the outcome of the project at the Oakland City Council prior to accepting any agreement regarding implementation of mitigations, and that in the event that the project is approved they would attempt to hold a future Council hearing to address the issue prior to the project being heard by the Oakland City Council upon appeal.

Staff is comfortable proceeding with the entitlements on the project given that it is very likely that measures will be taken to resolve the outstanding issues as they relate to intersections located within the

City of Berkeley. Staff has included as a Condition of Approval that the applicant must apply for an encroachment permit with the City of Berkeley prior to Certificate of Occupancy to attempt to implement the necessary mitigation measures as identified in the EIR.

Square Footage of the Proposal

The major issue that has been raised by individuals in opposition to the project is that of the proposed square footage of the rebuilt grocery store. The existing grocery store is approximately 25,000 square feet, and the reconstructed store would approximately double the size of the store to 51,000 square feet. As stated earlier in this report the C-31 Zone requires approval of a Conditional Use permit for any individual commercial space that is in excess of 7,500 square feet. Staff believes that the proposal meets the required Conditional Use permit criteria because the project would redevelop the existing site from a 1960's era development that was centered around a surface auto parking lot in a new urbanized site that includes new ground floor commercial spaces that will better relate to the pedestrian oriented commercial district along College Avenue and place the larger single user space as the grocery store at the upper level away from the sidewalk while still incorporating the store entrances into the fabric of the pattern of commercial storefronts.

The biggest issue raised by the concern of the store size has been that of increased traffic in an area that at present is very congested and the intersections operate with poor levels of service. With implementation of proposed Mitigation Measures as identified in the EIR, the existing level of service of nearby intersections at the peak hour would not be degraded beyond that of what currently exists, as described above, and many more pedestrian oriented improvements will be incorporated to the surrounding public right of way adjacent to the site.

Another major issue that has been raised is that of competition with other stores in the area. While Zoning does not specifically deal with issues of competition between private businesses, a detailed economic analysis was performed as part of the EIR that addresses concerns related to the potential for urban decay as a result of a new large store opening.

Parking

One of the other concerns related to the size of the store was the amount of parking being provided. As stated earlier in the staff report, the project as proposed would require 186 off-street parking stalls and a minor variance is required since the project is only proposing 171 stalls. Staff feels that the requested variance is supportable due to the fact that the number of stalls being provided actually meets the zoning requirements for the Safeway grocery store use. However, the project incorporates an additional approximately 10,000 square feet of commercial square footage as a means of allowing the project to fit in with the C-31 desired goal of developments that emphasize pedestrian oriented comparison shopping. As a result the project falls short of the ability to meet the increased parking requirements, both by the increase in the commercial square footage that raises the amount of parking required as well as the potential ground floor area on the site that could provide more parking dedicated to those active ground floor uses.

Furthermore, staff feels that the mix of uses at the site will be able to have a shared parking situation where individuals will come to the site to park and shop at the Safeway grocery store and may very likely visit other businesses in the development as well as other businesses in the College Avenue commercial district.

CONCLUSION AND RECOMMENDATION

In summary, based on the analysis contained within this report and the EIR, staff believes that the proposed Project, to demolish the existing 25,000 square foot grocery store and adjacent automotive service station to develop a new two story commercial building of approximately 62,000 square feet that would contain an approximately 51,500 square foot Safeway grocery store and approximately 10,500 square feet of additional ground floor commercial space, is an appropriate urban in-fill re-development project which will further the overall objectives of the General Plan.

Staff recommends that the Planning Commission:

- (1) Adopt the enclosed CEQA findings, including Certification of the EIR, rejection of alternatives as infeasible and a Statement of Overriding Considerations.
- (2) Approve the Major Conditional Use permits, Minor Variances, Design Review, and Vesting Tentative Parcel Map for the Project as described in this report subject to the conditions (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)), requirements, and findings contained in this staff report.

Approved for forwarding to the
City Planning Commission:



SCOTT MILLER
Interim Planning and Zoning Director
Department of Planning, Building, and Neighborhood
Preservation

Prepared by



Peterson Z. Vollmann
Planner III

Attachments:

- A. Findings, including CEQA Findings
- B. Conditions of Approval
- C. SCAMMRP
- D. Project Plans
- E. Vesting Tentative Parcel Map
- F. Intersection Proposal for College and Alcatraz Avenues

NOTE:

The Draft and Final EIRs were provided under separate cover for review and consideration by the Planning Commission, and is available to the public at the Planning Department office at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612 and on the City's website at <http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157>

ATTACHMENT A

FINDINGS FOR APPROVAL

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

SECTION 17.134.050 –CONDITIONAL USE PERMIT FINDINGS:

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

The proposed project will demolish the existing approximately 25,000 square foot Safeway grocery store and the abutting auto service station, which currently are set back from the street edge and surrounded by an expansive surface parking lot with numerous curb cuts along the street frontages. The new proposal will rebuild the site with a new two story approximately 62,000 square foot commercial facility that will contain a newly rebuilt Safeway grocery store located on the second level of the building and contain several ground floor pedestrian oriented commercial bays along College Avenue. The inclusion of the ground floor commercial spaces allows the development to be built to the pedestrian scale by removing the existing surface lot and replacing the College Avenue frontage with numerous commercial store fronts that will relate to the existing and desired context of the successful Rockridge shopping district on College Avenue. The proposal will cover the majority of the project site, which is quite typical for commercial properties in the area, however, given the large size of the site in comparison to other properties along College Avenue, methods were taken to create vertical architectural breaks along the frontage of the building including creating a new "walk street" or pedestrian arcade that breaks up the site and provides connection between College and Claremont Avenues. These measures help to successfully reduce the visual bulk of the project and provide a pedestrian friendly street edge that does not exist with the current suburban model store and surrounding surface parking lot

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

FINDINGS

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

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

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

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

The development will enhance the area as a neighborhood shopping district by rebuilding the existing grocery store and locating it on the upper level of the building so that the pedestrian level at the ground floor can be occupied by smaller commercial bays more consistent with the character of the district.

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

See Design Review findings below.

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

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

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

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

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

The proposed Project meets the referenced policies and objectives; the general intent of the Neighborhood Center Mixed Use land use designation; and is a good fit for this area because the proposal would maintain the Safeway grocery store and add eight new pedestrian oriented commercial storefronts, including a restaurant, while eliminating one (long established, but recently closed) gasoline station and removing the prominence of the Safeway parking lot from the site. The net effect would to further concentrate commercial opportunities in this successful neighborhood-oriented retail district, which also has good accessibility to the AC Transit 51 Line. Policy N1.4 defines Large Scale Commercial activities as those that serve long term retail needs or regional consumer, although much larger than the existing Safeway store, the proposed store would continue to primarily stock groceries, which are typically replenished by households on a weekly or more frequent basis (short-term). The store would not be focused on a regional market (a characteristic of large-scale commercial) as there are many other grocery stores in the region.

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

SECTION 17.48.100 – C-31 USE PERMIT CRITERIA:

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

The desired character of the College Avenue shopping district is that of continuous ground floor commercial spaces that encourage pedestrian oriented comparison shopping. The development will enhance the area as a pedestrian oriented shopping district by rebuilding the existing grocery store and locating it on the upper level of the building so that the pedestrian level at the ground floor can be occupied by smaller commercial bays more consistent with the desired existing character of the district.

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

The proposal will not remove an undesirable auto oriented surface parking lot and auto service station, and replace it with a new development that establishes a generally continuous wall of building facades with pedestrian oriented commercial store fronts along College Avenue. The project will create a generally continuous wall of building façade where none exists today.

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

The proposal will not weaken the concentration and continuity of retail facilities at the ground level, as none such facilities exist at present. The existing site contains an auto oriented grocery store that sits in the middle of a surface parking lot and an auto service station with numerous curb cuts right at the important intersection of College and Claremont Avenues. The new development will establish a new restaurant building anchoring the corner, and develop a number of ground floor commercial bays that will create an important shopping frontage for the district. The project increases the concentration and continuity of ground-level retail facilities.

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

The proposal does include one new curb cut along College Avenue, which is the important major pedestrian street in the area. However, it will be replacing the existing development that at present contains four such curb cuts. The new curb cut will be placed in a manner that reflects 63rd Street to the west of the project site so that it is a clear auto access point, and adequate sight lines will be provided so that motorists exiting the site will be able to see pedestrians. The proposed condition will be an improvement over the current situation with four existing curb cuts.

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

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

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

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

In the instance of this project two existing sites are being merged into one to accommodate the project, which as a result will share auto access provided for the most part off of Claremont Avenue.

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

The amount of off street parking will not be in excess of that required by the Planning Code, whereas in fact measures were taken in the development review process to push for the proposed grocery store to be located at the upper story so that the ground floor could be occupied by pedestrian oriented commercial storefronts better suited to the area, which as a result takes away available parking space and ups the overall parking required. As a result of this design component of the project, the proposal is providing 15 stalls less than that required by the Planning Code.

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

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

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

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area.

The proposal will redevelop an existing site that contains an auto oriented grocery store that sits in the middle of a surface parking lot as well as an automotive service station with numerous curb cuts on the street. The new development will be a new large facility that will fill out the majority of the block and reestablish the grocery store at the upper level of the building in order to allow for new ground floor pedestrian oriented commercial storefronts to face directly onto College Avenue. The new ground floor commercial bays will mimic the pattern of storefronts on the opposite side of the street. In addition, the new parking will largely be provided for in a partially subterranean garage that will be tucked back behind the ground floor commercial spaces along College Avenue so that its presence is obscured and minimizes any conflict with the pedestrian character of the commercial district.

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

The height of the building is consistent with the height of other buildings in the vicinity, and consistent with the height maximum of 35 feet in the C-31 Zone. While the proposed building contains a large portion of the subject block, the design of the building contains vertical design elements that break down the horizontal plane of the buildings and differentiate individual commercial storefronts. In addition, the proposal creates a break in the project site by including a pedestrian arcade or "walk street" between the main building and the restaurant building at the corner that provides a storefront lined pedestrian access between College and Claremont Avenues.

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

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

The proposal will contain high quality and durable exterior materials that will provide for an attractive façade to the buildings. The replacement of the existing surface parking lot and auto service station will transform the site from an auto oriented relic of the 1960's into a pedestrian oriented commercial site that while modern would relate to the pedestrian

character of the district by its inclusion of numerous ground floor commercial store fronts replicating those across College Avenue.

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

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

SECTION 17.148.050 - MINOR VARIANCE FINDINGS:

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

Strict compliance with the required parking regulations would preclude an effective design solution that improves operational efficiency and appearance of the proposed building. The proposed development overall requires 186 off-street parking stalls, whereas only 171 are being provided. Parking is being provided in two locations. The main parking area will be located in the partially subterranean garage that is located to the rear of the ground floor commercial storefronts along College Avenue, and the other stalls are located at the rear of the upper level adjacent to the loading berths. The applicant on the project is Safeway, a large chain grocery store which currently exists at the site. The first intention of the applicant was to rebuild the existing store as a one story building with parking on the rooftop, however staff had informed the applicant that in order to receive support and comply with the required Use Permit criteria for the C-31 Zone they would need to establish ground floor commercial bays separate from the Safeway store itself. As a result the store was moved to the upper level and numerous ground floor commercial bays were added to the street front thus raising the amount of required parking for the project site. By the installation of the ground floor commercial at the project site the appearance of the building has been greatly improved in terms of neighborhood context, and the operational efficiency of the building has been improved in terms of the general function of the overall commercial district as a pedestrian oriented shopping district with smaller storefronts for comparison shopping. In addition, the parking as proposed can act as dual use shared parking that can accommodate different activities at differing times of the day, or separate peak periods or support parking for an individual making multiple shopping trips to different vendors.

Strict compliance with the required three loading berths precludes an effective design solution improving appearance and operational efficiency. Typically most large Safeway stores only contain two loading berths and as stated by the applicant the third berth would exceed the operational needs for the store. This is also consistent with other recently approved large grocery stores of a similar size such as Whole Foods located on Bay Place with the loading docks accessed directly off of Harrison Street. The loading berths also sit adjacent to the

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proposed upper level employee parking lot which will not have as frequent use as the general customer parking lot in the lower level. As a result smaller delivery trucks will be able to temporarily park in the employee lot while making deliveries. By allowing the reduction of the required loading berth from three to two the general appearance of the rear side of the building facing Claremont Avenue is improved because it minimizes the visual appearance of the loading dock, which in its nature is not a typically attractive design feature on a building.

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

The basic intent of the commercial parking regulations is to provide ample off-street parking for customers and employees of specific commercial activities. The proposed development overall requires 186 off-street parking stalls, whereas only 171 are being provided. Parking is being provided in two locations. The main parking area will be located in the partially subterranean garage that is located to the rear of the ground floor commercial storefronts along College Avenue, and the other stalls are located at the rear of the upper level adjacent to the loading berths. The amount of parking being provided would meet the requirement for the Safeway store on its own, however with the inclusion of the additional ground floor commercial spaces the required parking goes beyond that of what is provided. Strict compliance would preclude an effective design solution that allows the inclusion of important ground floor commercial activities in the pedestrian oriented commercial district of College Avenue, in addition customers that come to the site will quite likely use the off-street parking provided and patronize multiple stores either at the project site or in the surrounding commercial district, which allows for a shared parking scenario for different activities. Furthermore, none of the proposed commercial storefronts by themselves would trip the threshold for which parking would be provided and similar other commercial storefronts in the area do not themselves contain any required off-street parking.

The basic intent of the required commercial loading berths is to provide ample loading space for commercial activities. In this instance the main tenant of the site that will require large delivery trucks is Safeway, which will have two dedicated loading berths for the project, which the applicant has stated is typical of other stores of the same size, as well as other similar recently approved large grocery stores such as Whole Foods on Bay Place and Harrison Street. The loading berth is also located adjacent to the upper level employee parking lot which will allow independent smaller delivery trucks to park in the employee lot to deliver goods to the store in a situation away from the main customer auto circulation of the site. The smaller commercial tenant spaces will be located at the ground floor and will be directly accessible to the parking garage in which they would be able to receive deliveries from small vendors at off peak hours from within the garage, or will also be able to utilize existing on street loading zones directly across the street on 63rd Street as other commercial businesses in the district currently use. By allowing the reduction of the required loading berth from three to two the general appearance of the rear side of the building facing Claremont Avenue is improved because it minimizes the visual appearance of the loading dock, which in its nature is not a typically attractive design feature on a building.

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

The granting of the parking and loading berth variances will not adversely impact the character of the neighborhood, as the reduced requirements are making the inclusion of the ground floor commercial spaces at the College Avenue frontage a feasible option that makes the proposal more consistent with the pedestrian oriented character of the commercial district.

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

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

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

See design review findings above.

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

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

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

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

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

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

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

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

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

The existing site is physically suitable to accommodate a development that would include a Floor

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Area Ratio of less than 1.0, which is below the maximum of 4.0 set forth in the Neighborhood Center Mixed Use General Plan land use designation for the site.

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

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

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

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

- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)

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

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

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

SECTION 16.24.040 – LOT DESIGN STANDARDS

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

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

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

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

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

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

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

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

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

No such characteristics exist at the subject site.

CEQA FINDINGS

I. INTRODUCTION

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

II. PROJECT DESCRIPTION

4. The Project site is located on 2.1 acres at the northwest corner of College and Claremont Avenues and is presently occupied by an existing Safeway store, with approximately 25,000 square feet of floor area, a 96-space surface parking lot, and a vacant gasoline station formerly owned and operated by Union 76. The proposed development studied in the Draft EIR ("DEIR"), referred to herein as the "DEIR Project," included demolition of the existing store, parking lot and service station and construction of a two-story, approximately 62,000 square foot building that would contain a Safeway store of approximately 51,150 square feet, approximately 10,500 square feet of ground floor retail spaces (for approximately eight retail shops including one restaurant), and a partially below-grade parking garage with about 171 parking spaces.
5. In response to issues raised during a series of public hearings held by the Planning Commission and the Design Review Committee, as well as during numerous meetings with City staff and members of the public, the Project sponsor proposed certain design and site access changes as compared to the DEIR Project. The result is the "Revised Project," which is more fully described in Chapter 2 of the Response to Comments and Final Environmental Impact Report ("FEIR"). The Revised Project is identical to the DEIR Project in most respects, including the overall size of the Project and the proposed Safeway store. The Revised Project differs from the DEIR Project only with respect to its aesthetic appearance and its proposed treatment of the store driveway and lane configuration at the intersection of 63rd Street and

College Avenue. These findings pertain to the Revised Project, and all references in these findings to the "Project" are references to the Revised Project unless the context clearly indicates otherwise.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

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

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

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

review all comments and responses thereto prior to consideration of certification of the EIR and prior to taking any action on the proposed Project.

IV. THE ADMINISTRATIVE RECORD

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

- a. The EIR and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the EIR or incorporated into reports presented to the Planning Commission.
- d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.
- e. All final applications, letters, testimony and presentations presented by the Project sponsor and its consultants to the City in connection with the Project.
- f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.
- g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation, general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- h. The Standard Conditions of Approval for the Project and Mitigation Monitoring and Reporting Program for the Project.
- i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

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

V. CERTIFICATION OF THE EIR

11. In accordance with CEQA, the Planning Commission certifies that the EIR has been completed in compliance with CEQA. The Planning Commission has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the Planning Commission confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Planning Commission.

12. The Planning Commission recognizes that the EIR may contain clerical errors. The Planning Commission reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

13. The Planning Commission certifies that the EIR is adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the July 25, 2012 Planning Commission staff report. The Planning Commission certifies that the EIR is adequate to support approval of the Project described in the EIR, each component and phase of the Project described in the EIR, any alternative to or variant of the Project described in the EIR, and any minor modifications to the Project or to alternatives to or variants of the Project described in the EIR.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

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

15. The Planning Commission finds that the changes and modifications made to the EIR after the DEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

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

16. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR to reduce significant Project impacts are implemented. The Standard Conditions of Approval and Mitigation Monitoring and Reporting Program ("SCAMMRP") is attached and incorporated by reference into the July 25, 2012 Planning Commission staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the Planning Commission. The SCAMMRP satisfies the requirements of CEQA.

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

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

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

VIII. FINDINGS REGARDING ENVIRONMENTAL IMPACTS

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

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

IX. POTENTIALLY SIGNIFICANT BUT MITIGABLE ENVIRONMENTAL IMPACTS

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

23. Transportation, Circulation and Parking: The Project would result in significant but mitigable traffic impacts at several roadways and intersections under Existing Conditions, 2015 Conditions

and 2035 Conditions. The following summary of these impacts is organized in numeric order by relevant impact statement with the intersection noted for easier comprehension by the reviewer.

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

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

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

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

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

Under 2035 Conditions, the Project would contribute to LOS F operations and increase the intersection volume to capacity (v/c) ratio by more than 0.03 during weekday PM, Saturday midday and Saturday PM peak hours at the College Avenue/Claremont Avenue intersection. Mitigation Measure TRANS-14 requires implementation of Mitigation Measure TRANS-4. After implementation of this measure, the intersection would continue to operate at LOS F during the weekday PM, Saturday midday and Saturday PM peak hours. Although the

intersection would continue to operate at an unacceptable level, the Project impact would be reduced to less than significant because the average intersection vehicle delay and v/c ratio during the relevant peak periods would be less than under 2035 No Project conditions. No secondary significant impacts would result from implementation of this measure.

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

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

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

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

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

cancer risk from construction activities would be reduced from 30.9 in one million to 9.3 in one million, and thus reduced to a less than significant level.

X. SIGNIFICANT AND UNAVOIDABLE IMPACTS

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

26. Transportation, Circulation and Parking – The proposed Project would result in significant and unavoidable traffic impacts at several roadways and intersections under Existing Plus Project Conditions, 2015 Plus Project Conditions and Cumulative 2035 Plus Project Conditions. The following summary of these impacts is organized in numeric order by relevant impact statement with the intersection and agency or agencies with jurisdiction over the intersection noted for easier comprehension by the reviewer.

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

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

impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under Existing Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and contribute to LOS E operations and increase the intersection average delay by more than 3 seconds during the Saturday midday peak hour at the Alcatraz Avenue/College Avenue intersection. Mitigation Measure TRANS-2 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing these plans. The proposed improvements include the following: (a) provide left-turn lanes on northbound and southbound College Avenue by converting the existing angled parking spaces along College Avenue to parallel spaces, (b) convert signal control equipment from pre-timed to actuated-uncoordinated operations and provide protected/permissive left-turn phasing for the north/south approaches, (c) optimize signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection) and (d) consider moving the AC Transit bus stops on both northbound and southbound College Avenue from near-side to far-side of the intersection (i.e., from before the signal to after the signal). After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour and from LOS E to LOS D during the Saturday midday peak hour. Thus, if Mitigation Measure TRANS-2 were to be implemented, the impact would be reduced to a less than significant level. Converting the existing angled parking spaces on College Avenue to parallel spaces would result in the elimination of three metered on-street parking spaces based on the detailed design of the mitigation measures presented in the FEIR, which is less than the loss of six parking spaces estimated in the DEIR. Parking demand on this segment of College Avenue is currently at or above capacity. Thus, the loss of these parking spaces would contribute to the expected parking shortage in the area. However, parking demand is not considered a significant environmental impact unless the lack of sufficient parking spaces results in significant secondary traffic or air quality impacts as described in the FEIR. The loss of a relatively small number of parking spaces will not result in significant secondary traffic or air quality impacts as described in the FEIR. No secondary significant impacts would result from implementation of this measure. The mitigation measure would also improve pedestrian safety by providing protected/permissive left-turn phasing on College Avenue and reducing potential conflicts between left-turning automobiles and pedestrians crossing along College Avenue. This impact is considered significant and unavoidable because it is not certain that the measure could be implemented. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to file an encroachment permit application with the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-2. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-2, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under Existing Conditions, the proposed Project would contribute to LOS F operations at the side-street stop-controlled eastbound approach at the Alcatraz Avenue/Claremont Avenue intersection which would meet the peak hour signal warrant. Mitigation Measure TRANS-3 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing these plans. The proposed improvements include the following: (a) conduct a complete traffic signal warrant analysis to verify that this location meets the California Manual on Uniform Traffic Control Devices signal warrants, and assuming signal warrants are met. (b) signalize the intersection, providing actuated operation, with permitted left turns and communication conduit/cabling connecting the traffic signal to the proposed traffic signal on Claremont Avenue at Safeway Driveway/Mystic Street/Auburn Avenue. After implementation of this measure, the intersection would operate at LOS B during the weekday PM peak hour and LOS A during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-3 were to be implemented, the impact would be reduced to a less than significant level. Pedestrians crossing at this intersection may experience more delay because they would need to wait for the appropriate signal phase. Pedestrian delay is not a significant impact under CEQA. Moreover, the mitigation measure would improve pedestrian safety by providing a protected pedestrian crossing. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-3 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-3, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under 2015 Conditions, the Project would degrade intersection operations from LOS E to LOS F and increase the average intersection vehicle delay by more than 3 seconds during the weekday PM peak hour and contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the Saturday midday and PM peak hours at the Ashby Avenue/College Avenue intersection. Mitigation Measure TRANS-5 requires implementation of Mitigation Measure TRANS-1. After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour and continue to operate at LOS F during the Saturday midday and PM peak hours. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay or v/c ratio during the relevant peak periods would be less than under 2015 No Project Conditions. Thus, if Mitigation Measure TRANS-5 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of

Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-5 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-5, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under 2015 Conditions, the proposed Project would: contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour, degrade intersection operations from LOS E to LOS F and increase the intersection average delay by more than 3 seconds during the Saturday midday peak, and degrade intersection operations from LOS D to LOS E and increase intersection average delay by more than 2 seconds during the Saturday PM peak hour, all at the Alcatraz Avenue/College Avenue intersection. Mitigation Measure TRANS-6 requires implementation of Mitigation Measure-TRANS-2. After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour. Although this intersection would continue to operate at an unacceptable level, the average intersection vehicle delay would be less than under 2015 No Project Conditions. The intersection would improve from LOS F to LOS D during the Saturday midday peak hour and from LOS E to LOS C during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-6 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to file an encroachment permit application with the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-6. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-6, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under 2015 Conditions, the proposed Project would contribute to LOS F operations at the side-street stop-controlled eastbound approach at the Alcatraz Avenue/Claremont Avenue intersection. Mitigation Measure TRANS-7 requires the implementation of Mitigation Measure TRANS-3. After implementation of this measure, the intersection would operate at LOS B during the weekday PM peak hour and LOS A during the Saturday PM peak hour. Thus, if Mitigation Measure TRANS-7 were to be implemented, the impact would be reduced

to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-7 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-7, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under 2035 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the weekday PM peak hour, Saturday midday peak hour and Saturday PM peak hour at the Ashby Avenue/College Avenue intersection. Mitigation Measure TRANS-9 requires implementation of Mitigation Measure TRANS-1 and provision of a left-turn lane on southbound College Avenue. After implementation of this measure, the intersection would operate at LOS F during the weekday PM peak hour, Saturday midday peak hour and Saturday PM peak hour. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay during the relevant peak periods would be less than under 2035 No Project Conditions. Thus, if Mitigation Measure TRANS-9 were to be implemented, the impact would be reduced to a less than significant level. The DEIR stated that providing a left-turn lane on southbound College Avenue may result in secondary impacts. This segment of College Avenue currently provides adequate width to accommodate a southbound left-turn lane in addition to the existing southbound and northbound through lanes. However, provision of a southbound left-turn lane would narrow the northbound through lane. As a result, trucks may have difficulty turning right from westbound Ashby Avenue to northbound College Avenue. In addition, buses stopped at the existing bus stop on northbound College Avenue just north of Ashby Avenue may block northbound through traffic on the narrower travel lane. Because there is sufficient roadway width to add the left-turn lane and because the turn lane would improve overall operations at the intersection, the above-mentioned secondary impacts are not significant. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-9 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-9, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and

implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under 2035 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the weekday PM peak hour at the Ashby Avenue/Claremont Avenue intersection. This is a significant impact based on the City of Berkeley's significance criteria. Mitigation Measure TRANS-10 requires the applicant to prepare plans, specifications and estimates to modify the intersection and to fund the cost of preparing and implementing the plans. The proposed improvements include the following: (a) reconfigure the westbound approach on Ashby Avenue to provide a dedicated left-turn lane and a shared through/right-turn lane, (b) convert signal control equipment from pre-timed to actuated-uncoordinated operations and (c) optimize signal timing parameters (i.e., adjust the allocation of green time for each intersection approach). After implementation of this measure, the intersection would continue to operate at LOS F during the weekday PM peak hour. Although the intersection would continue to operate at an unacceptable level, the average intersection vehicle delay during both peak hours would be less than under 2035 No Project Conditions. Thus, if Mitigation Measure TRANS-10 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to either file an encroachment permit application with the City of Berkeley to install the improvements or commit funds to be used by the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-10 or other alternative traffic improvement measures within 1 year of receipt of the certificate of occupancy for the Project. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-10, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, as well as the need for Caltrans approval, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

Under 2035 Conditions, the proposed Project would contribute to LOS F operations and increase the v/c ratio by more than 0.01 during the PM peak hour and Saturday midday peak hour and degrade intersection operations from LOS E to LOS F and increase intersection average delay by more than 3 seconds during the Saturday PM peak hour at the Alcatraz Avenue/College Avenue intersection. This is a significant impact based on the City of Berkeley's significance criteria. Mitigation Measure TRANS-11 requires implementation of Mitigation Measure TRANS-2. After implementation of this measure, the intersection would operate at LOS F during the weekday PM peak hour, LOS E during the Saturday midday peak hour, and LOS D during the Saturday PM peak hour. Although the intersection would

continue to operate at an unacceptable level during the weekday PM and Saturday midday peak hours, the average intersection vehicle delay during both periods would be less than under 2035 No Project Conditions. Thus, if Mitigation Measure TRANS-11 were to be implemented, the impact would be reduced to a less than significant level. No secondary significant impacts would result from implementation of this measure. Because this intersection is located in Berkeley, the City of Oakland, as lead agency, does not have jurisdiction over this intersection. Condition of Approval No. 57 requires the applicant to file an encroachment permit application with the City of Berkeley to install the improvements identified in Mitigation Measure TRANS-11. While the substance of the condition reflects the results of prior collaboration between the applicant and Berkeley city staff, the Berkeley City Council has not yet embraced this proposal and has stated its opposition to the Project. Despite the possible implementation of the improvements identified in Mitigation Measure TRANS-11, given the uncertainty associated with the fact that Berkeley (and not Oakland) controls the timing and implementation of this mitigation measure, the impact is considered potentially significant and unavoidable. For the reasons set forth in the Statement of Overriding Considerations, Project benefits outweigh this potentially unavoidable significant environmental impact.

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

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

XI. FINDINGS REGARDING ALTERNATIVES

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

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

29. The EIR evaluated a reasonable range of alternatives to the Project that was described in the DEIR. The City of Oakland, as lead agency, specified seven Project alternatives plus the required No Project Alternative for evaluation in the EIR. This range of alternatives was based on applicable planning and zoning regulations, comments from the public received at the Planning Commission meeting on the IS, and the need to consider feasible alternatives with the potential to avoid or lessen significant Project impacts. Based on these considerations, the following alternatives to the proposed Project were evaluated in the EIR: Alternative 1a: Mixed-Use Alternative with Regular Apartments; Alternative 1b: Mixed-Use Alternative with Senior Housing; Alternative 2: 40,000 Square Foot Reduced-Size Project; Alternative 2a: 35,750 Square Foot Reduced-Size Project, Alternative 2b: 25,250 Square Foot Reduced-Size Project, Alternative 3: Full Project with No Curb Cut on College Avenue; Alternative 4: Full Project with Inbound Only Driveway on College Avenue; and Alternative 5: No Project Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project. CEQA Guidelines section 15126.6 requires that an EIR identify the environmentally superior alternative. Based on its avoidance of the Project's significant traffic impacts, the No Project Alternative would be considered to be the environmentally superior alternative. Pursuant to CEQA Guidelines section 15126.6(e)(2), if the environmentally superior alternative is the no project alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. In accordance with this provision, the EIR selects Alternative 2b, the 25,250 Square Foot Reduced-Size Project, as the next environmentally superior alternative. Unlike the proposed Project, Alternative 2b would not result in any significant unavoidable traffic impacts. However, Alternative 2b would not meet most of the basic Project objectives as required by CEQA Guidelines section 15126.6. Although Alternative 2, the 40,000 Square Foot Reduced-Size Project, would not avoid the Project's significant impacts to the same extent as Alternative 2b, it would meet the Project objectives to a greater degree than Alternative 2b. Therefore, after Alternative 2b, Alternative 2 would be considered to be the next environmentally superior alternative.

30. The Planning Commission certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project provides the best balance between the Project sponsor's objectives, the City's goals and objectives, and the Project's benefits as described in the Staff Report and in the Statement of Overriding Considerations below. While the Project does result in some significant and unavoidable environmental impacts, the mitigation measures and SCAs contained in the SCAMMRP mitigate these impacts to the extent feasible. Furthermore, based on the conditions of approval described above reflecting the results of collaboration between the applicant and City of Berkeley staff, it appears that the significant and unavoidable traffic impacts may be mitigated to a less than significant level. Since the City of Berkeley controls the timing and implementation of these mitigation measures, however, the impacts are still considered significant and

unavoidable. The alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the Project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

31. Alternative 1a: Mixed-Use Alternative with Regular Apartments: Under this alternative, the existing Safeway store would be replaced with a new 45,000 square foot store (i.e., larger than the existing store, but 6,150 square feet smaller than the store proposed as part of the Project) above parking and a row of seven small commercial shops along the College Avenue frontage. Up to 40 residential units, containing a mix of 1, 2 and 3 bedroom units, would be constructed along the Claremont Avenue frontage. This alternative would result in the same significant unavoidable impacts as the Project. All other impacts would be similar to the proposed Project although construction noise impacts would be increased compared to the Project due to a longer construction period. Like the Project, such construction noise impacts would be reduced to a less than significant level through implementation of SCA. Additional SCA would be applied to the housing component of this alternative to ensure that the City's interior noise standards would be met. Alternative 1a is rejected as infeasible because (a) it would not avoid or substantially lessen any significant environmental impacts of the Project; and/or (b) it would not achieve most of the basic Project objectives, including those related to: (i) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (ii) providing enhanced pedestrian amenities since the proposed walkthrough from College Avenue to Claremont Avenue would be eliminated under this alternative and (iii) establishing a gateway presence at this important intersection in the Rockridge neighborhood due to the elimination of the walkway and reduced prominence of the corner element and locational signage.

32. Alternative 1b: Mixed-Use Alternative with Senior Housing: Like Alternative 1a, Alternative 1b is a mixed-use alternative with a supermarket, small commercial spaces and housing. Under this alternative, the new Safeway store would be 30,000 square feet, i.e., roughly 17 percent larger than the existing store, but 41 percent smaller than the store proposed in the Project. There would be six commercial spaces, occupying 11,820 square feet, slightly more than the proposed Project, although the average size of the shops would be larger, as the Project includes eight storefront spaces. This alternative also includes 54 senior housing units (containing a mix of 1 and 2 bedroom units), 4 of which would be located on the ground floor along Claremont Avenue and 50 of which would be developed on the second and third floors along both the College and Claremont frontages. This alternative would result in most of the same significant unavoidable transportation-related impacts as the Project, although the magnitude of the impacts would be reduced compared to the proposed Project. This alternative would avoid the following significant and unavoidable traffic impacts: Impact TRANS-3, and -7. Impacts TRANS-1, -2, -5, -6, -9, -10, -11 and -12 would not be reclassified as they would all still require mitigation that is beyond the jurisdiction of the City of Oakland. All other impacts of this alternative would be similar to the proposed Project except for construction noise impacts, which would be increased due to a longer construction period. Like the Project, such construction noise impacts would be reduced to a less than significant level through implementation of SCA. Additional SCA would be applied to the housing component of this alternative to ensure that the City's interior noise standards would be met. Alternative 1b is rejected as infeasible because (a) it would not avoid or substantially lessen any significant environmental impacts of the Project; and/or (b) it would not achieve most of the basic Project objectives, including those related to: (i) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (ii) creating a more functional and efficient shopping area configuration to eliminate current "pinch points" in Safeway customers' path of travel, (iii) providing enhanced pedestrian amenities since the proposed walkthrough from College Avenue to Claremont Avenue would be eliminated under

this alternative, (iv) establishing a gateway presence at this important intersection in the Rockridge neighborhood due to the elimination of the walkway and reduced prominence of the corner element and locational signage and (v) adding approximately 77 full-time new union jobs at the Safeway store.

33. Alternative 2: 40,000 Square Foot Reduced-Size Project: Under this alternative, the proposed Safeway store would be reduced in size from 51,150 square feet to 40,000 square feet and certain retail and restaurant components of the proposed Project would be eliminated. All other aspects, including access driveways, would be the same as the proposed Project. Compared to the proposed Project, this alternative would avoid the following significant and unavoidable traffic impacts: Impacts TRANS-3, -7 and -10. Impacts TRANS-1, -2, -5, -6, -9, -11 and -12 would not be reclassified from significant and unavoidable as they would all still require mitigation that is beyond the jurisdiction of the City of Oakland. However, the magnitude of these impacts would be reduced compared to the proposed Project. All other impacts would be similar to the proposed Project. Alternative 2 is rejected as infeasible because (a) it would not avoid or substantially lessen several significant environmental impacts of the Project and/or (b) it would not achieve most of the basic Project objectives, including those related to: (i) replacing the existing 1960s suburban style development with a modern, urban design that de-emphasizes the prominence of surface-level parking as the existing store and site would likely be remodeled and reconfigured instead of redeveloped under this alternative, (ii) creating a mixed-use retail development project that promotes pedestrian activity and comparison shopping at the College/Claremont corner, (iii) providing more street-front retail opportunities similar in scope and scale to the retail frontage on College Avenue, (iv) providing sufficient store area for Safeway to offer a more comprehensive range of retail services and products, (v) creating a more functional and efficient shopping area configuration to eliminate current "pinch points" in Safeway customers' path of travel, and (vi) adding approximately 77 full-time new union jobs at the Safeway store.

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

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

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

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

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

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

39. The Planning Commission finds that each of the following specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations that follow. Each individual benefit/reason presented below constitutes a separate and independent basis to override each and every significant unavoidable environmental impact, and, when the benefits/reasons are viewed collectively, provide an overall basis to override each and every significant unavoidable environmental impact.

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

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

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

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

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

45. The Project will promote the City's transit-first goals by providing an enhanced selection of necessary household goods (as well as other small-scale merchandise and services) in a transit-rich

area near the Rockridge BART line and multiple AC Transit lines and will further promote the use of alternative transportation by providing new bus stops, constructing various pedestrian improvements (including bulbouts, walkways, crosswalks, widened/repared sidewalks, upgraded ramps and benches), and installing long-term and short-term bike parking in excess of City standards.

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

47. The Project will eliminate site access to and from 63rd Street, thus reducing the amount of traffic on this primarily residential street.

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

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

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

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

ATTACHMENT B

CONDITIONS OF APPROVAL

1. Approved Use

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and the revised plans dated July 2, 2012 and submitted on July 3, 2012, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall require prior written approval from the Director of City Planning or designee.
- b) This action by the Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes: Major Conditional use permits, Minor Variances, Regular Design Review, and Vesting Tentative Parcel Map.

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire two years from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

3. Scope of This Approval; Major and Minor Changes

Ongoing

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

4. Conformance with other Requirements

Prior to issuance of a demolition, grading, P-job, or other construction related permit

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

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

Ongoing.

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, Conditions/ Mitigation Measures or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions/ Mitigation Measures if it is found that there is violation of any of the Conditions/ Mitigation Measures or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions/ Mitigation Measures

With submittal of a demolition, grading, and building permit

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

7. Indemnification

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. Compliance with Conditions of Approval

Ongoing

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

9. Severability

Ongoing

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

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

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

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

Prior to issuance of a demolition, grading, and/or construction permit

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

12. Landscape Requirements for Street Frontages.

Prior to issuance of a final inspection of the building permit

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

13. Landscape Maintenance.

Ongoing

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

14. Underground Utilities

Prior to issuance of a building permit

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

15. Improvements in the Public Right-of-Way (General)

Approved prior to the issuance of a P-job or building permit

CONDITIONS OF APPROVAL

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

16. Improvements in the Public Right-of Way (Specific)

Approved prior to the issuance of a grading or building permit

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

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

17. Payment for Public Improvements

Prior to issuance of a final inspection of the building permit

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

18. Compliance Matrix

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

CONDITIONS OF APPROVAL

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

19. Construction Management Plan

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

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

20. Parking and Transportation Demand Management

Prior to issuance of a final inspection of the building permit.

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

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

parking spaces

**21. Construction Related Air Pollution Controls (Dust and Equipment Emissions
Ongoing throughout demolition, grading, and/or construction**

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

- a) Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- e) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f) Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.
- h) All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- i) Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.
- j) All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- k) All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.

CONDITIONS OF APPROVAL

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

22. Days/Hours of Construction Operation

Ongoing throughout demolition, grading, and/or construction

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

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.

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

23. Noise Control

Ongoing throughout demolition, grading, and/or construction

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

- a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- b) Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically

or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

24. Noise Complaint Procedures

Ongoing throughout demolition, grading, and/or construction

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

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

25. Interior Noise

Prior to issuance of a building permit and Certificate of Occupancy

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

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

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

26. Operational Noise-General
Ongoing.

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

27. Construction Traffic and Parking

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

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

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

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

Major Project Cases:

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

28. Erosion and Sedimentation Control

Ongoing throughout demolition grading, and/or construction activities

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

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29. Hazards Best Management Practices

Prior to commencement of demolition, grading, or construction

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

- a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
- b) Avoid overtopping construction equipment fuel gas tanks;
- c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d) Properly dispose of discarded containers of fuels and other chemicals.
- e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
- f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

30. Waste Reduction and Recycling

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

Prior to issuance of demolition, grading, or building permit

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

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

Ongoing

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

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

Ongoing

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

32. Pile Driving and Other Extreme Noise Generators

Ongoing *throughout demolition, grading, and/or construction*

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

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

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

33. Lighting Plan

Prior to the issuance of an electrical or building permit

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

34. Asbestos Removal in Structures

Prior to issuance of a demolition permit

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

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

35. Tree Removal During Breeding Season

Prior to issuance of a tree removal permit

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

36. Tree Removal Permit

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

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

37. Tree Replacement Plantings

Prior to issuance of a final inspection of the building permit

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

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

size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.

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

38. Tree Protection During Construction

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

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

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

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

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

39. Archaeological Resources

Ongoing throughout demolition, grading, and/or construction

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

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

40. Human Remains

Ongoing throughout demolition, grading, and/or construction

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

41. Paleontological Resources

Ongoing throughout demolition, grading, and/or construction

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

42. Erosion and Sedimentation Control Plan

Prior to any grading activities

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

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

Ongoing throughout grading and construction activities

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

43. Site Review by the Fire Services Division

Prior to the issuance of demolition, grading or building permit

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

44. Phase I and/or Phase II Reports

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

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

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

Prior to issuance of any demolition, grading or building permit

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

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

46. Environmental Site Assessment Reports Remediation

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

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

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

47. Lead-based Paint Remediation

Prior to issuance of any demolition, grading or building permit

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

48. Other Materials Classified as Hazardous Waste

Prior to issuance of any demolition, grading or building permit

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

49. Health and Safety Plan per Assessment

Prior to issuance of any demolition, grading or building permit

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

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

50. Best Management Practices for Soil and Groundwater Hazards

Ongoing throughout demolition, grading, and construction activities

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

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

51. Radon or Vapor Intrusion from Soil or Groundwater Sources

Ongoing

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

52. Stormwater Pollution Prevention Plan (SWPPP)

Prior to and ongoing throughout demolition, grading, and/or construction activities

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

53. Post-Construction Stormwater Management Plan

Prior to issuance of building permit (or other construction-related permit)

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

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

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

CONDITIONS OF APPROVAL

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

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

Prior to final permit inspection

The applicant shall implement the approved stormwater management plan.

54. Maintenance Agreement for Stormwater Treatment Measures

Prior to final zoning inspection

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

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

55. Stormwater and Sewer

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

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

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

PROJECT SPECIFIC CONDITIONS

56. Master Sign Program Required

Prior to Certificate of Occupancy

Prior to certificate of occupancy for the project the applicant shall submit a Master Sign Program pursuant to Planning Code Section 17.104.070 to develop a comprehensive sign program for all of the tenant spaces within the proposed development.

57. Transportation Improvements in the City of Berkeley

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

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

a. College Avenue / Alcatraz Avenue Intersection

Prior to Issuance of a Building Permit

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

- Provide left-turn lanes on northbound and southbound College Avenue by converting the existing angled parking spaces along College Avenue to parallel spaces.
- Convert signal control equipment from pre-timed to actuated-uncoordinated operations and provide protected (or protected/permitted, if

preferred by the City of Berkeley) left-turn phasing for the north-south approaches. The signal control equipment shall be designed to applicable standards in effect at the time of construction.

- Optimize signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection).
- Move the AC Transit bus stops on both northbound and southbound College Avenue from the near side to the far side of the intersection (i.e., from before the signal to after the signal).

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

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

b. Claremont Avenue/ Alcatraz Avenue Intersection

Prior to Issuance of a building permit

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

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

CONDITIONS OF APPROVAL

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

Prior to Issuance of a building permit

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

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

58. Parking

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

A. Time Limit on Parking

Ongoing

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

B. Automated Parking Counting System

Ongoing

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

C. Parking Meters on Claremont Avenue

Prior to Certificate of Occupancy

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

D. Availability of **Parking** in the Underground Garage
Ongoing

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

- Parking spaces shall be made available free of charge to the customers of all merchants in the College Avenue shopping district.
- There shall be no dedication or designations of any particular individual tenant, as all spaces shall be available to all customers (except for required disabled parking spaces).
- The owner of the project site shall have the right to further limit the duration of parking by restricting parking to one hour for non-grocery store customers. During peak grocery shopping seasons such as Thanksgiving and the Winter Holidays, the owner shall have the right to further restrict parking for non-grocery store customers to 30 minutes.
- If in the future the project site owner determines that it is necessary to request further parking limitations on non-grocery store customers, the property owners within 300 feet of the project site shall be notified and the request shall be subject to approval to the Director of Planning & Zoning with an appeal to the Planning Commission, if necessary.

59. Bicycle Parking

Prior to issuance of a building permit

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

- Consider relocating the long-term bicycle parking from proposed locations distributed throughout the underground parking garage to the edges of the garage or the upper level parking lot. Some of the currently proposed spaces would require bicyclists to dismount from bicycles in the drive aisle.
- Ensure the long-term bicycle parking in the underground parking garage do not block drivers sight distance.
- Ensure the short-term bicycle parking on sidewalks do not block pedestrian circulation.

60. Side Street Traffic Monitoring

Prior to issuance of a building permit

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

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

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

61. Limiting Operational Noise

Ongoing

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

- To eliminate the potential for noise impact from the ventilation openings, acoustical louvers shall be installed in these vent openings facing the northern adjacent properties to reduce the transmission of garage sounds.
- To further reduce the noise levels within the garage and further reduce noise emanating from the garage, the underside of the garage ceiling shall be fully lined with spray-on thermal/acoustic insulation. This additional noise control measure would typically be provided on the garage ceiling directly below the grocery store.
- The Claremont Avenue driveway ramp shall avoid use of a polished (squeaky) concrete slab surface. Application of a sound-absorptive material to the ramp walls to further reduce noise from vehicle movements on the ramp should also be considered.
- Shopping cart power washing activities shall be conducted within the enclosed loading dock area, or at the far end of the service deck, or other location away from residential neighbors.

APPROVED BY:

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

CONDITIONS OF APPROVAL

CONDITIONS OF APPROVAL

ATTACHMENT C

**STANDARD CONDITIONS OF APPROVAL AND MITIGATION
MONITORING AND
REPORTING PROGRAM**

This Standard Conditions of Approval and Mitigation Monitoring and Reporting Program (SCAMMRP) was formulated based on the findings of the Environmental Impact Report (EIR) prepared for the Safeway Shopping Center project at College and Claremont Avenues in the City of Oakland (referred to as "College and Claremont Safeway" in this document). This SCAMMRP is in compliance with Section 15097 of the CEQA Guidelines, which requires that the Lead Agency "adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects." The SCAMMRP lists mitigation measures recommended in the EIR and identifies mitigation monitoring requirements.

The table presents the mitigation measures identified in the College and Claremont Safeway EIR necessary to mitigate potentially significant impacts. Each mitigation measure is numbered according to the topical section to which it pertains in the EIR. As an example, Mitigation Measure TRANS-1 is the first mitigation measure identified in the EIR for the College and Claremont Safeway. The City's Standard Conditions of Approval (SCA) identified in the EIR or Initial Study as measures that would be imposed as conditions of approval on the project to ensure no significant impacts are also included in this SCAMMRP to ensure the conditions are implemented and monitored. The Standard Conditions are identified with a SCA prefix (e.g., SCA AES-1).

The first column of the table identifies the Standard Condition of Approval or Mitigation Measure. The second column identifies the monitoring schedule or timing, while the third column names the party responsible for monitoring the required action. The fourth column, "Monitoring Procedure," outlines the steps for monitoring the action identified in the mitigation measure. The fifth and sixth columns deal with reporting and provide spaces for comments and dates and initials. These last columns will be used by the City to ensure that individual mitigation measures have been monitored.

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
1. VISUAL QUALITY					
<i>No significant visual quality impacts were identified and no mitigation measures were identified in the EIR. The following SCA is included to ensure no significant impacts occur.</i>					
SCA AES-1, <i>Shielding of Lighting</i> : The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.	Prior to the issuance of an electrical or building permit	City of Oakland, CEDA, Planning and Zoning Division, and Electrical Services Division of the Public Works Agency	Project sponsor shall submit plans to the monitoring agencies for review and approval		
2. TRANSPORTATION, CIRCULATION AND PARKING					
SCA TRANS-1 <i>Parking and Transportation Demand Management</i> The property owner shall pay for and submit for review and approval by the City a Transportation Demand Management (TDM) plan containing strategies to: <ul style="list-style-type: none"> • Reduce the amount of traffic generated by new development and the expansion of existing development, pursuant to the City's police power and necessary in order to protect the public health, safety and welfare. • Ensure that expected increases in traffic resulting from growth in employment and housing opportunities in the City of Oakland will be adequately mitigated. • Reduce drive-alone commute trips during peak traffic periods by using a combination of services, incentives, and facilities. • Promote more efficient use of existing transportation facilities and ensure that new developments are designed in ways to maximize the potential for alternative transportation usage. • Establish an ongoing monitoring and enforcement program to ensure that the desired alternative mode use percentages are achieved. 	Prior to issuance of a final inspection of the building permit, and ongoing	City of Oakland, CEDA, Transportation Services Division	Review and approve TDM plan; review and approve annual compliance report thereafter for life of project.		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>The property owner shall implement the approved TDM plan. The TDM plan shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel shall be considered, and parking management and parking reduction strategies should be included. Actions to consider include the following:</p> <ul style="list-style-type: none"> a. 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 Bicycle Parking Ordinance, shower, and locker facilities in commercial developments that exceed the requirement. b. Construction of and/or access to bikeways per the Bicycle Master Plan; construction of priority Bikeway Projects, on-site signage and bike lane striping. c. Installation of safety elements per the Pedestrian Master Plan (such as cross walk striping, curb ramps, count-down signals, bulb outs, etc.) to encourage convenient and safe crossing at arterials. d. Installation of amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan. e. Construction and development of transit stops/shelters, pedestrian access, way finding signage, and lighting around transit stops per transit agency plans or negotiated improvements. f. 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). g. Employees or residents can be provided with a subsidy, determined by the property owner and subject to review by the City, if the employees or residents use transit or commute by other alternative modes. h. Provision of shuttle service between the development and nearest mass transit station, or ongoing contribution to existing shuttle or public transit services. i. Guaranteed ride home program for employees, either through S11.org or through separate program. j. Pre-tax commuter benefits (commuter checks) for employees. k. Free designated parking spaces for on-site car-sharing program (such as City Car Share, Zip Car, etc.) and/or car-share 					

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>membership for employees or tenants</p> <p>i. Onsite carpooling and/or vanpooling program that includes preferential (discounted or free) parking for carpools and vanpools.</p> <p>m. Distribution of information concerning alternative transportation options</p> <p>n. 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.</p> <p>o. Parking management strategies; including attendant/valet parking and shared parking spaces.</p> <p>p. Requiring tenants to provide opportunities and the ability to work off-site.</p> <p>q. 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.</p> <p>r. 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</p> <p>The property owner shall submit an annual compliance report for review and approval by the City. This report will be reviewed either by City staff (or a peer review consultant, chosen by the City and paid for by the property owner). If timely reports are not submitted, the reports indicate a failure to achieve the stated policy goals, or the required alternative mode split is still not achieved, staff will work with the property owner to find ways to meet their commitments and achieve trip reduction goals. If the issues cannot be resolved, the matter may be referred to the Planning Commission for resolution. Property owners shall be required, as a condition of approval, to reimburse the City for costs incurred in maintaining and enforcing the trip reduction program for the approved project.</p>					

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>SCA TRANS-2 Construction Traffic and Parking</p> <p>The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:</p> <p>a. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.</p> <p>b. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.</p> <p>c. Location of construction staging areas for materials, equipment, and vehicles at an approved location.</p> <p>d. A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.</p> <p>e. Provision for accommodation of pedestrian flow.</p> <p>Major Project Cases:</p> <p>a. Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.</p> <p>b. Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a</p>	<p>Prior to the issuance of a demolition, grading or building permit</p>	<p>City of Oakland, CEDA, Transportation Services Division</p>	<p>Verify that the Construction Management Plan has been prepared and that it meets the standards listed in the mitigation measure.</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.</p> <p>c. Any heavy equipment brought to the construction site shall be transported by truck, where feasible.</p> <p>d. No materials or equipment shall be stored on the traveled roadway at any time.</p> <p>e. Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.</p> <p>f. All equipment shall be equipped with mufflers.</p> <p>g. Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.</p>					
<p>Mitigation Measure TRANS-1: The impact at the Ashby Avenue/College Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> Convert signal control equipment from pre-timed to actuated-uncoordinated operations. The signal control equipment shall be designed to applicable standards in effect at the time of construction. Optimize signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection) <p>To implement this measure, the project sponsor shall submit the following to City of Berkeley and Caltrans for review and approval:</p> <ul style="list-style-type: none"> Plans, Specifications, and Estimates (PS&E) to modify the intersection to accommodate the signal timing changes supporting vehicle travel and alternative modes travel consistent with City of Berkeley and Caltrans requirements. Signal timing plans for the signals in the coordination group. 	<p><i>If measure is implemented,</i></p> <p>Submit plans prior to the issuance of first building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p><i>If measure is implemented,</i></p> <p>City of Berkeley and Caltrans</p>	<p>If measure is implemented,</p> <p>Verify that PS&E to convert signal control equipment at the Ashby/ College Avenues intersection from pre-timed to actuated-uncoordinated operations have been adequately prepared.</p> <p>Verify that PS&E to optimize signal timing parameters at this intersection have been adequately prepared.</p> <p>Verify that the signal</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>The project sponsor shall fund the cost of preparing and implementing these plans.</p> <p>After implementation of this measure, the intersection would continue to operate at LOS E during the weekday PM peak hour and improve from LOS F to LOS E during the Saturday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the average intersection vehicle delay during both peak hours would be less than under Existing Conditions. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Berkeley is planning improvements at this intersection. These improvements are currently in the preliminary feasibility study phase, do not have final design, and do not have approvals. The improvements may include providing a northbound left-turn lane on College Avenue, changing the left-turn signal phasing, and/or providing a pedestrian scramble phase. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measures would not conflict with these potential improvements. The implementation of the improvements under study at this intersection may increase delay experienced by automobiles. However, the potential increase in delay cannot be reasonably quantified because the details of the improvement that may be implemented at this intersection are not known at this time.</p>			<p>timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		
<p>Mitigation Measure TRANS-2: The impact at the Alcatraz Avenue/College Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> • Provide left-turn lanes on northbound and southbound College Avenue by converting the existing angled parking spaces along College Avenue to parallel spaces. • Convert signal control equipment from pre-timed to actuated-uncoordinated operations and provide protected/permissive left-turn phasing for the north/south approaches. The signal control equipment shall be designed to applicable standards in effect at the time of construction. • Optimize signal timing parameters (i.e., changing the amount of green time assigned to each lane of traffic approaching the intersection). 	<p><i>If measure is implemented,</i></p> <p>Submit plans prior to the issuance of building permit;</p> <p>implement measures according to timeframes</p>	<p><i>If measure is implemented,</i></p> <p>City of Berkeley and Caltrans</p>	<p><i>If measure is implemented,</i></p> <p>Verify that PS&E for the Alcatraz/College Avenues intersection have been adequately prepared and include left-turn lanes on northbound and southbound College Avenue by converting existing angled parking spaces along College into angled</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<ul style="list-style-type: none"> Consider moving the AC Transit bus stops on both northbound and southbound College Avenue from near-side to far-side of the intersection (i.e., from before the signal to after the signal). <p>To implement this measure, the project sponsor shall submit the following to City of Berkeley and Caltrans for review and approval:</p> <ul style="list-style-type: none"> Plans, Specifications, and Estimates (PS&E) to modify the intersection to accommodate the signal timing changes supporting vehicle travel and alternative modes travel consistent with City of Berkeley and Caltrans requirements. Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund the cost of preparing and implementing these plans.</p> <p>After implementation of this measure, the intersection would improve from LOS F to LOS D during the weekday PM peak hour.</p> <p>Converting the existing angled parking spaces on College Avenue to parallel spaces would result in elimination of six metered on-street parking spaces. Parking demand on this segment of College Avenue is currently at or above capacity. Thus, the loss of these parking spaces would contribute to the expected parking shortage in the area (see page 4.3-12). The mitigation measure would also improve pedestrian safety by providing protected left-turn phasing on College Avenue and reducing potential conflicts between left-turning automobiles and pedestrians crossing along College Avenue. No other secondary significant impacts would result from implementation of this measure.</p>	outlined in approved plan		<p>spaces.</p> <p>Verify that PS&E to convert signal control equipment from pre-timed to actuated-uncoordinated operations and provide protected/ permissive left-turn phasing for the north/south approaches have been adequately prepared.</p> <p>Verify that PS&E to Optimize signal timing parameters has been adequately prepared.</p> <p>Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		
<p>Mitigation Measure TRANS-3: Implement the following measures at the Alcatraz Avenue/Claremont Avenue intersection:</p> <ul style="list-style-type: none"> Signalize the intersection, providing actuated operation, with permitted left turns and communication conduit/cabling connecting the traffic signal to the proposed traffic signal on Claremont Avenue at Safeway Driveway/Mystic Street/Auburn Avenue. <p>To implement this measure, the project sponsor shall submit the following to City of Berkeley and Caltrans for review and approval:</p> <ul style="list-style-type: none"> Plans, Specifications, and Estimates (PS&E) to modify the intersection to accommodate the signal timing changes supporting vehicle travel and alternative modes travel 	<p><i>If measure is implemented,</i></p> <p>Submit plans prior to the issuance of building permit;</p> <p>Implement</p>	<p><i>If measure is implemented,</i></p> <p>City of Berkeley and Caltrans</p>	<p>If measure is implemented,</p> <p>Verify that PS&E to signalize the Alcatraz/ Claremont Avenues intersection have been adequately prepared and includes the specifications in the measure.</p> <p>Prior to installation of</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>consistent with City of Berkeley and Caltrans requirements.</p> <ul style="list-style-type: none"> Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund the cost of preparing and implementing these plans.</p> <p>Prior to the installation of the traffic signals, a complete traffic signal warrant analysis shall be conducted at this location to verify that this location meets the California Manual on Uniform Traffic Control Devices (MUTCD) signal warrants and be subject to review and approval of the City of Berkeley. After implementation of this measure, the intersection would operate at LOS B during the weekday PM peak hour and LOS A during the Saturday PM peak hour. Pedestrians crossing at this intersection would experience more delay because they would need to wait for the appropriate signal phase; however this mitigation measure would improve their safety by providing a protected pedestrian crossing. No other secondary significant impacts would result from implementation of this measure.</p>	<p>measures according to timeframes outlined in approved plan</p>		<p>traffic signals, verify that a complete traffic signal warrant analysis has been conducted to ensure that location meets signal warrants, subject to review and approval by the City of Berkeley.</p> <p>Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		
<p>Mitigation Measure TRANS-4: implement the following measures at the College Avenue/Claremont Avenue intersection:</p> <ul style="list-style-type: none"> Optimize signal timing parameters (i.e., adjust the allocation of green time for each intersection approach) Coordinate the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group. <p>To implement this measure, the project sponsor shall submit the following to City of Oakland's Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> Plans, Specifications, and Estimates (PS&E) to modify the intersection. All elements shall be designed to City standards in effect at the time of construction and all new or upgraded signals shall include these enhancements. All other facilities supporting vehicle travel and alternative modes through the intersection should 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>Submit plans prior to the issuance of building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p>City of Oakland, CEDA, Transportation Services Division</p>	<p>Verify that PS&E to optimize signal timing parameters for the College/ Claremont Avenues intersection have been adequately prepared.</p> <p>Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		

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<ul style="list-style-type: none"> o 2070L Type Controller o CPS communication (clock) o Accessible pedestrian crosswalks according to Federal and State Access Board guidelines o City Standard ADA wheelchair ramps o Full actuation (video detection, pedestrian push buttons, bicycle detection) o Accessible Pedestrian Signals, audible and tactile according to Federal Access Board guidelines o Signal interconnect and communication to City Traffic Management Center for corridors identified in the City's ITS Master Plan o Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund, prepare, and install the approved plans and improvements.</p> <p>After implementation of this measure, the intersection would continue to operate at LOS E during the weekday PM peak hour and improve from LOS F to LOS E during the Saturday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the project impact would be reduced to less than significant because the average intersection vehicle delay during both peak hours would be less than under Existing Conditions and the increase in delay for all critical movements would be less than four seconds higher than under 2015 No Project conditions. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Oakland is planning improvements at this intersection, consisting of installing bulbouts and upgrading traffic signal control equipment. These improvements are not currently expected to be funded. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measure would not conflict with the planned improvements. These improvements are not expected to affect traffic operations at this intersection or cause significant secondary impacts.</p>					

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<p>Mitigation Measure TRANS-5: The impact at the Ashby Avenue/College Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-1 <p>After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour and continue to operate at LOS F during the Saturday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the average intersection vehicle delay during both peak hours would be less than under 2015 No Project Conditions. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Berkeley is planning improvements at this intersection. These improvements are currently in the preliminary feasibility study phase, do not have final design, and do not have approvals. The improvements may include providing a northbound left-turn lane on College Avenue, changing the left-turn signal phasing, and/or providing a pedestrian scramble phase. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measures would not conflict with these potential improvements. The implementation of the improvements under study at this intersection may increase delay experienced by automobiles. However, the increase in delay cannot be reasonably quantified because the details of the improvement that may be implemented at this intersection are not known at this time.</p>				See Mitigation Measure TRANS-1	
<p>Mitigation Measure TRANS-6: The impact at the Alcatraz Avenue/College Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-2 <p>After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the average intersection vehicle delay would be less than under 2015 No Project Conditions. The intersection would improve from LOS E to LOS C during the Saturday peak hour. No secondary significant impacts would result from implementation of this measure.</p>				See Mitigation Measure TRANS-2	

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<p>Mitigation Measure TRANS-7: implement the following measures at the Alcatraz Avenue/Claremont Avenue Intersection:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-3. <p>Prior to the installation of the traffic signals, a complete traffic signal warrant analysis shall be conducted at this location to verify that this location meets MUTCD signal warrants and be subject to review and approval of the City of Berkeley. After implementation of this measure, the intersection would operate at LOS B during the weekday PM peak hour and LOS A during the Saturday PM peak hour. No secondary significant impacts would result from implementation of this measure.</p>	See Mitigation Measure TRANS-3				
<p>Mitigation Measure TRANS-8: implement the following measures at the College Avenue/Claremont Avenue Intersection:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-4. <p>After implementation of this measure, the intersection would continue to operate at LOS F during both weekday PM and Saturday PM peak hours. Although the intersection would continue to operate at unacceptable conditions, the project impact would be reduced to less than significant because the average intersection vehicle delay during both peak hours would be less than under 2015 No Project Conditions. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Oakland is planning improvements at this intersection, consisting of installing bulbouts and upgrading traffic signal control equipment. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measure would not conflict with the planned improvements. These improvements are not expected to affect traffic operations at this intersection or cause significant secondary impacts.</p>	See Mitigation Measure TRANS-4				
<p>Mitigation Measure TRANS-9: The impact at the Ashby Avenue/College Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-1 Provide a left-turn lane on southbound College Avenue <p>After implementation of this measure, the intersection would</p>	See Mitigation Measure TRANS-J				
	<i>If measure is implemented,</i>	<i>If measure is implemented,</i>	<i>If measure is implemented,</i>		

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<p>continue to operate at LOS F during both weekday and Saturday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the average intersection vehicle delay during both peak hours would be less than under 2035 No Project Conditions.</p> <p>Providing a left-turn lane on southbound College Avenue may result in secondary impacts. This segment of College Avenue currently provides adequate width to accommodate a southbound left-turn lane in addition to the existing southbound and northbound through lanes. However, provision of a southbound left-turn lane would narrow the northbound through lane. As a result, trucks may have difficulty turning right from westbound Ashby Avenue to northbound College Avenue. In addition, buses stopped at the existing bus stop on northbound College Avenue just north of Ashby Avenue may block northbound through traffic on the narrower travel lane.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Berkeley is planning improvements at this intersection. These improvements are currently in the preliminary feasibility study phase, do not have final design, and do not have approvals. The improvements may include providing a northbound left-turn lane on College Avenue, changing the left-turn signal phasing, and/or providing a pedestrian scramble phase. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measures would not conflict with these potential improvements. The implementation of the improvements under study at this intersection may increase delay experienced by automobiles. However, the potential increase in delay cannot be reasonably quantified because the details of the improvement that may be implemented at this intersection are not known at this time.</p>	<p>Submit plans prior to the issuance of building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p>City of Berkeley and Caltrans</p>	<p>Verify that PS&E to Ashby/College Avenues intersection by providing a left-turn lane on southbound College Avenue have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		
<p>Mitigation Measure TRANS-10: The impact at the Ashby Avenue/Claremont Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> Reconfigure the westbound approach on Ashby Avenue to provide a dedicated left-turn lane and a shared through/right-turn lane Convert signal control equipment from pre-timed to actuated-uncoordinated operations Optimize signal timing parameters (i.e., adjust the allocation 	<p><i>If measure is implemented,</i></p> <p>Submit plans prior to the issuance of building permit;</p>	<p><i>If measure is implemented,</i></p> <p>City of Berkeley and Caltrans</p>	<p><i>If measure is implemented,</i></p> <p>Verify that PS&E to reconfigure westbound approach to Claremont on Ashby to provide a</p>		

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<p>of green time for each intersection approach)</p> <p>To implement this measure, the project sponsor shall submit the following to City of Berkeley and Caltrans for review and approval:</p> <ul style="list-style-type: none"> Plans, Specifications, and Estimates (PS&E) to modify the intersection to accommodate the signal timing changes supporting vehicle travel and alternative modes travel consistent with City of Berkeley and Caltrans requirements. Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund the cost of preparing and implementing these plans.</p> <p>After implementation of this measure, the intersection would continue to operate at LOS F during the weekday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the average intersection vehicle delay during both peak hours would be less than under 2035 No Project Conditions. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Berkeley is planning improvements at this intersection. These improvements are currently in the preliminary feasibility study phase and do not have approvals. The improvements may include converting one of the through lanes on eastbound and/or westbound Ashby Avenue to a dedicated left-turn lane. The proposed mitigation measure is one of the improvements under study by City of Berkeley. The proposed mitigation measures would not conflict with other improvements under study at this intersection. The implementation of the improvements under study at this intersection may increase delay experienced by automobiles. However, the potential increase in delay cannot be reasonably quantified because the details of the improvement that may be implemented at this intersection are not known at this time.</p>	<p>Implement measures according to timeframes outlined in approved plan</p>		<p>dedicated left-turn lane and a shared through/right-turn lane have been adequately prepared.</p> <p>Verify that PS&E to convert signal control equipment from pre-timed to actuated-uncoordinated operations have been adequately prepared.</p> <p>Verify that PS&E to optimize signal timing parameters for the Ashby/ Claremont Avenues intersection have been adequately prepared.</p> <p>Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		
<p>Mitigation Measure TRANS-11: The impact at the Alcatraz Avenue/College Avenue intersection can be mitigated by implementing the following:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-2 <p>After implementation of this measure, the intersection would continue to operate at LOS F during the weekday PM peak hour. Although the intersection would continue to operate at</p>	<p>See Mitigation Measure TRANS-2</p>				

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<p>unacceptable conditions, the average intersection vehicle delay would be less than under 2035 No Project Conditions. The intersection would improve from LOS F to LOS D during the Saturday peak hour. No secondary significant impacts would result from implementation of this measure.</p>					
<p>Mitigation Measure TRANS-12: Implement the following measures at the Alcatraz Avenue/Claremont Avenue intersection:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-3. <p>Prior to the installation of the traffic signals, a complete traffic signal warrant analysis shall be conducted at this location to verify that this location meets MUTCD signal warrants and be subject to review and approval of the City of Berkeley. After implementation of this measure, the intersection would operate at LOS C during the weekday PM peak hour and LOS A during the Saturday PM peak hour. No secondary significant impacts would result from implementation of this measure.</p>				See Mitigation Measure TRANS-3	
<p>There is no Mitigation Measure TRANS-13.</p>			N/A		
<p>Mitigation Measure TRANS-14: Implement the following measures at the College Avenue/Claremont Avenue intersection:</p> <ul style="list-style-type: none"> Implement Mitigation Measure TRANS-4. <p>After implementation of this measure, the intersection would continue to operate at LOS F during both weekday PM and Saturday PM peak hours. Although the intersection would continue to operate at unacceptable conditions, the project impact would be reduced to less than significant because the average intersection vehicle delay and v/c ratio during both peak hours would be less than under 2035 No Project Conditions. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel Improvement Project Settlement Agreement, City of Oakland is planning improvements at this intersection, consisting of installing bulbouts and upgrading traffic signal control equipment. These improvements are not currently expected to be funded. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measure would not conflict with the planned improvements. These improvements are not expected to affect traffic operations at this intersection or cause significant secondary impacts.</p>				See Mitigation Measure TRANS-4	

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<p>Mitigation Measure TRANS-15: Implement the following measures at the Forest Street/Claremont Avenue intersection:</p> <ul style="list-style-type: none"> Optimize signal timing parameters (i.e., adjust the allocation of green time for each intersection approach). Coordinate the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group. <p>To implement this measure, the project sponsor shall submit the following to City of Oakland's Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> Plans, Specifications, and Estimates (PS&E) to modify intersection to accommodate the signal installation. All elements shall be designed to City standards in effect at the time of construction and all new or upgraded signals should include these enhancements. All other facilities supporting vehicle travel and alternative modes through the intersection should 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: <ul style="list-style-type: none"> 2070L Type Controller CPS communication (clock) Accessible pedestrian crosswalks according to Federal and State Access Board guidelines City Standard ADA wheelchair ramps Full actuation (video detection, pedestrian push buttons, bicycle detection) Accessible Pedestrian Signals, audible and tactile according to Federal Access Board guidelines Signal interconnect and communication to City Traffic Management Center for corridors identified in the City's ITS Master Plan Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund, prepare, and install the approved plans and improvements.</p>	<p>Submit plans prior to the issuance of first building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p>City of Oakland, CEDA, Transportation Services Division</p>	<p>Verify that PS&E to optimize signal timing parameters for the Forest Street/Claremont Avenue intersection have been adequately prepared.</p> <p>Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are implemented.</p>		

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<p>After implementation of this measure, the intersection would improve from LOS F to LOS E during the weekday PM peak hour. Although the intersection would continue to operate at unacceptable conditions, the project impact would be reduced to less than significant because the average intersection vehicle delay would be less than under 203S No Project Conditions. No secondary significant impacts would result from implementation of this measure.</p>					
<p>Mitigation Measure TRANS-16: Implement the following measures at the Hudson Street/Manila Avenue/College Avenue intersection:</p> <ul style="list-style-type: none"> • Optimize signal timing parameters (i.e., adjust the allocation of green time for each intersection approach). • Coordinate the signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group. <p>To implement this measure, the project sponsor shall submit the following to City of Oakland's Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> • Plans, Specifications, and Estimates (PS&E) to modify the intersection. All elements shall be designed to City standards in effect at the time of construction and all new or upgraded signals should include these enhancements. All other facilities supporting vehicle travel and alternative modes through the intersection should 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: <ul style="list-style-type: none"> o 2070L Type Controller. o CPS communication (clock). o Accessible pedestrian crosswalks according to Federal and State Access Board guidelines o City Standard ADA wheelchair ramps o Full actuation (video detection, pedestrian push buttons, bicycle detection) o Accessible Pedestrian Signals, audible and tactile according to Federal Access Board guidelines Signal 	<p>Submit plans prior to the issuance of first building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p>City of Oakland, CEDA, Transportation Services Division</p>	<p>Verify that PS&E to optimize signal timing parameters for the Hudson Street/Manila Avenue/College Avenue intersection have been adequately prepared.</p> <p>Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared.</p> <p>Ensure plan measures are being implemented.</p>		

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<p>interconnect and communication to City Traffic Management Center for corridors identified in the City's ITS Master Plan</p> <ul style="list-style-type: none"> o Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund, prepare, and install the approved plans and improvements.</p> <p>After implementation of this measure, the intersection would improve from LOS E to LOS D during the weekday PM peak hour. No secondary significant impacts would result from implementation of this measure.</p> <p>As part of the Caldecott Tunnel improvement Project Settlement Agreement, City of Oakland is planning improvements at this intersection, consisting of extending bulbouts at the west side of the intersection, installing new traffic signal control equipment to allow countdown pedestrian signal heads, and providing a new north-south crosswalk along the west side of College Avenue. These improvements are not currently expected to be funded. These planned improvements would not mitigate the project impacts; however, the proposed mitigation measure would not conflict with the planned improvements. These improvements are not expected to affect traffic operations at this intersection or cause significant secondary impacts.</p>					
3. AIR QUALITY					
<p>SCA Air-i Dust Control. During construction, the project applicant shall require the construction contractor to implement the following measures required as part of the City of Oakland's basic and enhanced dust control procedures required for construction sites. These include:</p> <ul style="list-style-type: none"> a) Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). Watering should be sufficient to prevent airborne dust from leaving the site. increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible. b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer). 	<p>Prior to issuance of a demolition, grading or building permit, and ongoing throughout construction activities.</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Make regular visits to the project site to ensure that all dust-control mitigation measures are being implemented.</p> <p>Verify that a designated dust control coordinator is on-call during construction periods.</p>		

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<p>c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</p> <p>d) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>e) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).</p> <p>f) Limit vehicle speeds on unpaved roads to 15 miles per hour.</p> <p>g) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.</p> <p>h) All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>i) Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.</p> <p>The following enhanced control measures would also be required due to the need for demolition and extensive soil export (approximately 15,500 cubic yards):</p> <p>a) 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.</p> <p>b) All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.</p>					

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<p>c) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</p> <p>d) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).</p> <p>e) 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.</p> <p>0 Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.</p> <p>g) Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.</p> <p>h) The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</p> <p>i) All trucks and equipment, including tires, shall be washed off prior to leaving the site.</p> <p>j) 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.</p> <p>k) Minimize the idling time of diesel-powered construction equipment to two minutes.</p> <p>l) The project applicant shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate matter (PM) reduction compared to the most recent California Air Resources Board (CARB) fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other</p>					

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<p>options as they become available.</p> <p>m) Use low VOC (i.e., ROC) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).</p> <p>n) All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM.</p> <p>o) Off-road heavy diesel engines shall meet the CARB's most recent certification standard.</p>					
<p>SCA AIR-2 Construction Emissions. Prior to issuance of a demolition, grading or building permit. To minimize construction equipment emissions during construction, the Project Applicant shall require the construction contractor to:</p> <p>a) Demonstrate compliance with BAAQMD Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "California Air Pollution Control Officers Association (CAPCOA) Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.</p> <p>b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.</p>	<p>Prior to issuance of a demolition, grading, or building permit; and ongoing throughout construction</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that applicable construction equipment meets requirements of SCA AIR-2.</p>		
<p>SCA AIR-3 Asbestos Removal in Structures Prior to issuance of a demolition permit. If asbestos-containing materials (ACM) are found to be present in building materials to be removed, demolished and disposed, the Project Applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in</p>	<p>Prior to issuance of a demolition permit; and ongoing</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>If ACM are present, verify that specifications for removal, encapsulation, or enclosure of ACM</p>		

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accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health & Safety Code 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.	throughout construction		have been adequately prepared. Ensure plan measures being implemented.		
Mitigation Measure AIR-1: The project applicant shall develop a Diesel Emission Reduction Plan including, but not limited to alternatively fueled equipment, engine retrofit technology, after-treatment products and add-on devices such as particulate filters, and/or other options as they become available, capable of achieving a project wide fleet-average of 70 percent particulate matter (PM) reduction compared to the most recent California Air Resources Board (CARB) fleet average. This Plan shall be submitted for review and approval by the City, and the Project applicant shall implement the approved Plan.	Prior to issuance of a demolition, grading or building permit; and ongoing throughout construction	City of Oakland, CEDA, Building Services Division	Verify that Diesel Emission Reduction Plan has been adequately prepared. Make regular visits to the project site to ensure that the Diesel Emission Reduction Plan is being implemented.		
4. NOISE AND VIBRATION					
<p>SCA NOISE-1 <i>Days/Hours of Construction Operation</i>. The project applicant shall require construction contractors to limit standard construction activities as follows:</p> <p>a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 AM and 4:00 PM Monday through Friday.</p> <p>b) Any construction activity proposed to occur outside of the standard hours of 7:00 AM to 7:00 PM Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.</p> <p>c) Construction activity shall not occur on Saturdays, with the following possible exceptions:</p> <ol style="list-style-type: none"> 1. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more 	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	Make regular visits to the construction site to ensure that construction activities are restricted to the hours designated in SCA NOISE-1.		

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<p>continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.</p> <p>ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.</p> <p>d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.</p> <p>e) No construction activity shall take place on Sundays or Federal holidays.</p> <p>f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.</p> <p>g) Applicant shall use temporary power poles instead of generators where feasible.</p>					
<p>SCA NOISE-2 Noise Control. To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:</p> <p>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> <p>b) Impact tools (e.g., jack hammers, 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</p>	<p>Prior to issuance of a demolition, grading or building permit; and ongoing throughout construction</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that a site-specific noise reduction program has been prepared and implemented.</p> <p>Make regular visits to the construction site to ensure that noise from construction activities is appropriately controlled.</p>		

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<p>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 where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.</p> <p>c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.</p> <p>d) If feasible, the noisiest phases of construction shall be limited to less than 10 days at a time.</p>					
<p>SCA NOISE-3 Noise Complaint Procedures. Ongoing throughout demolition, grading, and/or construction. Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:</p> <p>a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);</p> <p>b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);</p> <p>c) The designation of an on-site construction complaint and enforcement manager for the project;</p> <p>d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and</p> <p>e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices</p>	<p>Submit list prior to the issuance of a building permit;</p> <p>Ongoing throughout demolition, grading, and/or construction</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify submittal and implementation of the list of measures to respond to and track complaints pertaining to construction noise.</p>		

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(including construction hours, neighborhood notification, posted signs, etc.) are completed.					
<p>SCA NOISE-4 interior noise. If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls), and/or other appropriate features/measures, shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval prior to issuance of building permit. Final recommendations for sound-rated assemblies, and/or other appropriate features/measures, would depend on the specific building designs and layout of buildings on the site and shall be determined during the design phases. Written confirmation by the acoustical consultant, HVAC or HERS specialist, shall be submitted for City review and approval, prior to Certificate of Occupancy (or equivalent) that:</p> <p>a) Quality control was exercised during construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed; and</p> <p>b) Demonstrates compliance with interior noise standards based upon performance testing of a sample unit.</p> <p>c) Prohibition of Z-duct construction.</p>	<p>Submit noise recommendations prior to the issuance of a building permit for each phase of construction containing residential units</p> <p>Implement recommendations according to timeframes outlined in plan</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that appropriate sound-rated assemblies to reduce noise levels have been incorporated into the project building design.</p>		
<p>SCA NOISE-5 Extreme Noise Generators. Ongoing throughout demolition, grading, and/or construction. To further reduce extreme noise generating construction impacts greater than 90 dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation would be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and</p>	<p>Submit plan prior to commencing construction activities involving pile driving or other extreme noise generators;</p> <p>Implement measures according to timeframes outlined in the plan</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that a plan for reducing extreme noise generating construction impacts has been prepared.</p> <p>Verify that the plan will achieve the maximum feasible noise attenuation.</p> <p>Verify that a special inspection deposit has been submitted.</p> <p>Verify implementation of plan.</p>		

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<p>the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of the following measures. These attenuation measures shall include as many of the following control strategies as feasible:</p> <ul style="list-style-type: none"> a) Erect temporary plywood noise barriers around the construction site, pacticularly along on sites adjacent to residential buildings; b) Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions; c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site; d) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example; and e) Monitor the effectiveness of noise attenuation measures by taking noise measurements. 					
<p>SCA NOISE-6 <i>Operational Noise - General.</i> Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.</p>	Ongoing	City of Oakland, CEDA, Building Services Division	Verify that project applicant implements appropriate noise reduction measures after any noise exceedances		
5. BIOLOGICAL RESOURCES					
<p>SCA BIO-1 <i>Tree Removal During Breeding Season.</i> To the extent feasible, removal of any tree and /or vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 to August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to the stact of work from March 15 through May 31, and within 30 days prior to the stact of work from June 1</p>	Prior issuance of a tree removal permit	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division and Tree Services Division of the Public Works Agency	If construction is to take place during breeding season, review pre-removal survey prepared by a qualified biologist. Ensure that any potential nesting raptors have an		

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through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential 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 CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent the disturbance to birds nesting in the urban environment, but these may be increased or decreased, as appropriate, depending on the bird species and level of disturbance anticipated near the nest.			appropriate buffer zone, to be determined by the biologist in consultation with the CDFG.		
SCA BIO-2 Tree Removal Permit Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right of way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.	Prior issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division and Tree Services Division of the Public Works Agency	Verify project sponsor has secured a tree removal permit prior to removal of any tree		
SCA BIO-3 Tree Protection During Construction Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist: a) Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree. b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree,	Prior issuance of a demolition, grading, or building permit and ongoing throughout construction activities	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division and Tree Services Division of the Public Works Agency	City Tree Reviewer to ensure that any protected trees during construction activities are adequately protected		

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<p>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 City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.</p> <p>c) No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.</p> <p>d) Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.</p> <p>e) If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Agency of such damage. if, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.</p> <p>f) All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.</p>					

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6. CULTURAL AND PALEONTOLOGICAL RESOURCES					
<p>SCA CULT-1 Archaeological Resources</p> <p>Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.</p> <p>In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. Work may proceed on other parts of the project site while measures for mitigation for historic resources or unique archaeological resources is carried out.</p> <p>Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate mitigation measures recommended by the archaeologist. Should archaeologically significant materials be recovered, the qualified archaeologist</p>	<p>Ongoing throughout demolition, grading, and/or construction</p>	<p>City of Oakland, CEDA, Building Services Division and Planning and Zoning Division - Historic Preservation Staff</p>	<p>Ensure that all work within 50 feet of the site where any prehistoric or historic subsurface cultural resources are discovered is halted.</p>		

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would recommend appropriate analysis and treatment and would prepare a report on the findings for submittal to the Northwest Information Center.					
<p>SCA CULT-2 Paleontological Resources</p> <p>In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The Plan shall be submitted to the City for review and approval.</p>	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division and Planning and Zoning Division	Ensure that excavations within 50 feet of any paleontological resource discovery are halted and that a qualified paleontologist is notified.		
<p>SCA CULT-3 Human Remains</p> <p>In the event that human skeletal remains are uncovered at the project site during construction of ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Cuidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.</p>	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division and Planning and Zoning Division	Ensure that all work is halted if any human skeletal remains are uncovered at the project site and that the Alameda County Coroner is contacted.		

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7. GEOLOGY AND SOILS					
<p>SCA GEO-1 Grading Permit <i>Prior to any grading activities</i></p> <p>The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials onto lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.</p> <p><i>Ongoing throughout grading and construction activities</i></p> <p>The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.</p>	<p>Prior to any grading activities, and ongoing throughout construction activities</p>	<p>City of Oakland, Building Services Division</p>	<p>Review and approve grading permit and erosion and sedimentation control plan if required. Ensure project applicant implements plan</p>		
8. HAZARDS AND HAZARDOUS MATERIALS					
<p>SCA HAZ-1 Hazards Best Management Practices</p> <p>The project applicant and construction contractor shall ensure that construction best management practices are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:</p>	<p>Prior to commencement of demolition,</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and</p>	<p>Verify that construction BMPs are implemented.</p>		

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<p>a) Follow manufacturer's recommendations on use, storage, and disposal of chemical products used in construction;</p> <p>b) Avoid overtopping construction equipment fuel gas tanks;</p> <p>c) During routine maintenance of construction equipment, properly contain and remove grease and oils;</p> <p>d) Properly dispose of discarded containers of fuels and other chemicals.</p> <p>e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.</p> <p>f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in Standard Conditions of Approval 50 and 52, 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.</p>	grading or construction, and ongoing throughout construction activities	Zoning Division			
<p>SCA HAZ-2 Fire Safety Phasing Plan</p> <p>The project applicant shall submit plans for site review and approval to the Fire Prevention Bureau Hazardous Materials Unit. Property owner may be required to obtain or perform a Phase II hazard assessment.</p>	Submit plan prior to issuance of a demolition, grading, or building permit and	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division	Verify that a fire safety phasing plan has been prepared.		

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<p>SCA HAZ-3 Phase I and/or Phase II Reports Prior to issuance of demolition, grading, or building permits the project applicant shall submit to the Fire Prevention Bureau, Hazardous Materials Unit, a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer.</p>	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Prevention Bureau, Hazardous Materials Unit	Verify that a Phase I, and, if appropriate, Phase II, environmental site assessment report has been submitted to the Fire Prevention Bureau Hazardous Materials Unit. Ensure any approved recommended remediation actions are implemented.		
<p>SCA HAZ-4 Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment The project applicant shall submit a comprehensive assessment report to the Fire Prevention Bureau, Hazardous Materials Unit, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACM), lead-based paint, and any other building materials or stored materials classified as hazardous waste by State or federal law.</p>	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Prevention Bureau, Hazardous Materials Unit	Verify that a comprehensive assessment report detailing materials classified as hazardous waste has been submitted.		
<p>SCA HAZ-5 Lead-Based Paint Remediation If lead-based paint is present, the project applicant shall submit specifications to the Fire Prevention Bureau, Hazardous Materials Unit signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: Cal/OSHA's Construction Lead Standard, 8 CCR1532.1 and DHS regulation 17 CCR Sections 35001 through 36100, as may be amended.</p>	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	Verify that specifications for the stabilization or removal of any lead paint have been submitted.		

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<p>SCA HAZ-6 Other Materials Classified as Hazardous Waste if other materials classified as hazardous waste by State or federal law are present, the project applicant shall submit written confirmation to Fire Prevention Bureau, Hazardous Materials Unit that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of such materials.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that written confirmation has been obtained that all State and federal laws will be followed when profiling, handling, treating, transporting and/or disposing of all hazardous waste.</p>		
<p>SCA HAZ-7 Health and Safety Plan per Assessment If the required lead-based paint/coatings, asbestos, or PCB assessment finds presence of such materials, the project applicant shall create and implement a health and safety plan to protect workers from risks associated with hazardous materials during demolition, renovation of affected structures, and transport and disposal.</p>	<p>Submit plan prior to issuance of a demolition, grading, or building permit;</p> <p>Implement measures in accordance with timeframes outlined in plan</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that a health and safety plan to protect workers from hazardous waste has been adequately prepared.</p>		
<p>SCA HAZ-8 Best Management Practices for Soil and Groundwater Hazards The project applicant shall implement all of the following Best Management Practices (BMPs) regarding potential soil and groundwater hazards.</p> <p>a) Soil generated by construction activities shall be stockpiled onsite in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local,</p>	<p>Ongoing throughout demolition, grading, and construction activities</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that BMPs for soil and groundwater have been adequately implemented</p>		

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<p>state and federal agencies laws, in particular, the Regional Water Quality Control Board (RWQCB) and/or the Alameda County Department of Environmental Health (ACDEH) and policies of the City of Oakland.</p> <p>b) Groundwater pumped from the subsurface shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Oakland, the RWQCB and/or the ACDEH. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building (pursuant to the Standard Condition of Approval regarding Radon or Vapor Intrusion from Soil and Groundwater Sources</p> <p>c) Prior to issuance of any demolition, grading, or building permit, the applicant shall submit for review and approval by the City of Oakland, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the ACDEH, have granted all required clearances and confirmed that the all applicable standards, regulations and conditions for all previous contamination at the site. The applicant also shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the Standard Condition of Approval requiring a Site Review by the Fire Services Division pursuant to City Ordinance No. 12323, and compliance with the Standard Condition of Approval requiring a Phase I and/or Phase II Reports.</p>					
<p>SCA HAZ-9 Radon or Vapor Intrusion from Soil or Groundwater Sources</p> <p>The project applicant shall submit documentation to determine whether radon or vapor intrusion from the groundwater and soil is located on-site as part of the Phase I documents. The Phase I analysis shall be submitted to the Fire Prevention Bureau, Hazardous Materials Unit, for review and approval, along with a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer. Applicant shall implement the approved recommendations.</p>	Ongoing	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division, and Fire Prevention Bureau, Hazardous Materials Unit	Review and approve Phase I report and if warranted Phase 2 report; verify that approved recommendations are implemented		

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<p>SCA HAZ-10 Environmental Site Assessment Reports Remediation If the environmental site assessment reports recommend remedial action, the project applicant shall:</p> <p>1) Consult with the appropriate local, State, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps.</p> <p>2) Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.</p> <p>3) Submit a copy of all applicable documentation required by local, State, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II environmental site assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that written evidence of approval and related documentation for any remedial actions required has been obtained.</p>		
<p>9. HYDROLOGY AND WATER QUALITY</p>					
<p>SCA HYD-1 Post-Construction Stormwater Pollution Management Plan Prior to issuance of building permit (or other construction-related permit)</p> <p>The applicant shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The applicant shall submit with the application for a building permit (or other construction-related permit) a completed Stormwater Supplemental Form for the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater pollution management plan, for review and approval by the City, to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.</p> <p>The post-construction stormwater pollution management plan shall include and identify the following:</p> <ul style="list-style-type: none"> All proposed impervious surface on the site; 	<p>Submit plan prior to issuance of building permit (or other construction-related permit)</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<p>Verify that the applicant complies with the requirements of Provision C.3 of the NPDES permit issued to the Alameda Countywide Clean Water Program.</p> <p>Verify that a completed Stormwater Supplemental Form and a stormwater pollution management plan have been adequately prepared.</p> <p>Prior to final permit</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<ul style="list-style-type: none"> Anticipated directional flows of on-site stormwater runoff; and Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and Source control measures to limit the potential for stormwater pollution; and Stormwater treatment measures to remove pollutants from stormwater runoff. <p>2) The following additional information shall be submitted with the post-construction stormwater pollution management plan:</p> <ul style="list-style-type: none"> Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e., non-landscape-based) stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures. <p>All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The applicant is not required to include on-site stormwater treatment measures in the post-construction stormwater pollution management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.</p> <p>Prior to final permit inspection The applicant shall implement the approved stormwater pollution management plan.</p>			inspection, verify that the stormwater pollution management plan is implemented.		
<p>SCA HYD-2 Stormwater Pollution Prevention Plan (SWPPP)</p> <p>The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction</p>	Prior to and ongoing throughout	City of Oakland, CEDA, Building Services Division;	Verify that the applicant obtains coverage under the		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.</p>	<p>demolition, grading, and/or construction activities</p>	<p>Planning and Zoning Division</p>	<p>General Construction permit issued by the State Water Resources Control Board Verify that applicant follows the specifications in the SWPPP</p>		
<p>SCA HYD-3 Maintenance Agreement for Stormwater Treatment Measures</p> <p>For projects incorporating stormwater treatment measures, the applicant shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.B.e of the NPDES permit, which provides, in part, for the following:</p> <ul style="list-style-type: none"> • The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and • Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense. 	<p>Prior to final zoning inspection for each phase of development</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<p>Verify that the applicant has entered into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit.</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>SCA HYD-4 Erosion and Sedimentation Control Plan Prior to any grading activities</p> <p>1) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.</p> <p>Ongoing throughout grading and construction activities</p> <p>2) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.</p>	<p>Prior to any grading activities, and ongoing throughout grading and construction activities</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<p>Ensure project applicant obtains a grading permit if required.</p> <p>Ensure project applicant implements the approved erosion and sedimentation plan. Ensure no grading occurs during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.</p>		
<p>SCA HYD-5 Site Design Measures for Post-Construction Stormwater Management Prior to issuance of building permit (or other construction-related permit)</p> <p>The project drawings submitted for a building permit (or other construction-related permit) shall contain a final site plan to be reviewed and approved by Planning and Zoning. The final site plan shall incorporate appropriate site design measures to</p>	<p>Prior to issuance of building permit (or other construction-related permit); and</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division; Public Works Agency, Environmental</p>	<p>Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project are</p>		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

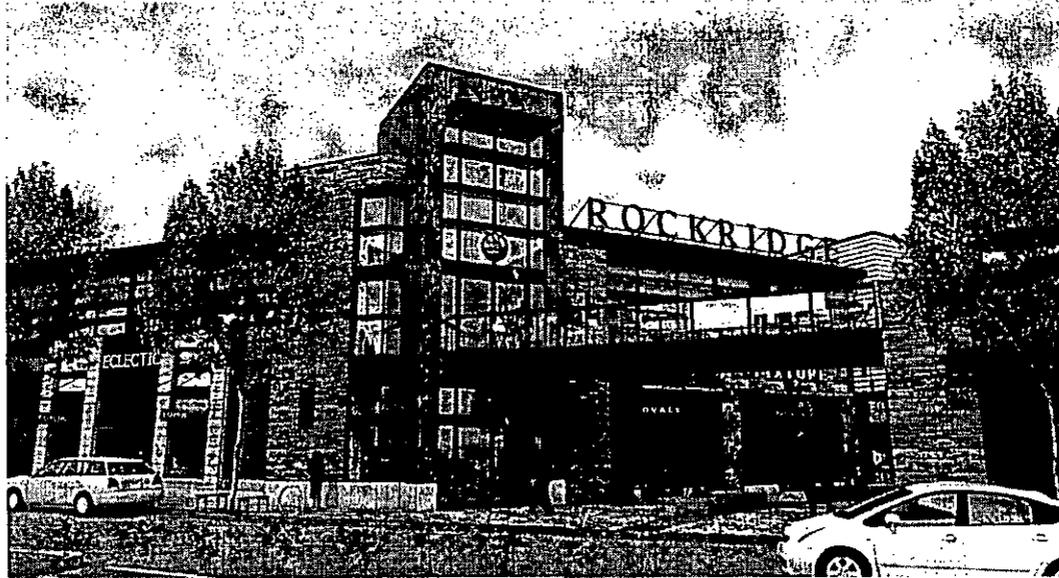
Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>manage stormwater runoff and minimize impacts to water quality after the construction of the project. These measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> i. Minimize impervious surfaces, especially directly connected impervious surfaces; ii. Utilize permeable paving in place of impervious paving where appropriate; iii. Cluster buildings; iv. Preserve quality open space; and v. Establish vegetated buffer areas. <p>Ongoing The approved plan shall be implemented and the site design measures shown on the plan shall be permanently maintained.</p>	ongoing	Services Division	implemented.		
<p>SCA HYD-6 Source Control Measures to Limit Stormwater Pollution Prior to issuance of building permit (or other construction-related permit) The applicant shall implement and maintain all structural source control measures imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution. Ongoing The applicant, or his or her successor, shall implement all operational Best Management Practices (BMPs) imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.</p>	Prior to issuance of building permit (or other construction-related permit); and ongoing	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division; Public Works Agency, Environmental Services Division	Confirm that any necessary structural source control measures improvements are implemented.		
<p>SCA HYD-Z Stormwater and Sewer Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the City. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to</p>	Prior to completing the final design for the project's sewer service	City of Oakland, CEDA, Building Services Division	Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project are implemented. Verify that the project		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/initials
control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.			applicant pays additional fees for any City improvements to the sanitary sewer system, as well as any fees to the affected service providers. Ensure that BMPs to reduce stormwater runoff are implemented.		
10. UTILITIES AND INFRASTRUCTURE					
<p>SCA UTIL-1 (Same as SCA HYD-7) Stormwater and Sewer Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the City. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.</p>					
<p>SCA UTIL-2: Waste Reduction and Recycling Prior to issuance of demolition, grading, or building permit The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency. Chapter 15.34 of the Oakland Municipal Code outlines</p>	Submit plan prior to issuance of demolition, grading, or building	City of Oakland, CEDA, Building Services Division	Verify that a Construction & Demolition Waste Reduction and Recycling Plan and an Operational Diversion		

Standard Conditions of Approval & Mitigation Monitoring and Reporting Program

Standard SCA/MM	Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at www.oaklandpw.com/Page39.aspx or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.</p> <p>Ongoing</p> <p>The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.</p>	<p>permit;</p> <p>Implement plan according to timeframes outlined in plan</p> <p>Ongoing</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Plan have been submitted.</p> <p>Verify that the proposed program is implemented and maintained for the duration of the proposed activity or facility.</p>		



SAFeway - OAKLAND, CALIFORNIA

PLANNING RESUBMITTAL
JULY 02, 2012



PROJECT NAME



SAFeway.
6318 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2870

CURRENT OWNER SAFeway
DESIGNER SAFeway

CONTACT PERSON
TODD FRANKS
800 STEPHENSON HALL ROAD
ALBANY, CA 94706-2229
PH 925 863 2800
FAX 925 863 2801
E-MAIL: Todd.Franks@safeway.com

AMERICAN PACER NUMBER: 00A0000001

COMMENTS

NOT FOR CONSTRUCTION

NO. DATE ISSUED AND REVISIONS BY

1. 04.29.2008 COMMUNITY PRESENTATION
2. 06.26.2009 PLANNING DEPT SUBMITTAL
3. 07.26.2009 PLANNING DEPARTMENT
4. 07.26.2009 PLANNING DEPARTMENT

DATE: 06/27/12
DRAWN BY: TBT/V

PROJECT NUMBER: 0-08
SHEET TITLE: COVER

SHEET NUMBER: A0.0

ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED. MATERIAL SPECIFICATIONS ARE SUBJECT TO THE MANUFACTURER'S CATALOG AND MAY VARY WITHOUT NOTICE. USE OF UNUSUAL MATERIALS MUST BE APPROVED BY THE ARCHITECT.

BIKE PARKING CALCULATIONS

GENERAL FOOD AND FULL SERVICE RESTAURANT:

LONG TERM BIKE STORAGE 1:12,000 = 4.5 STALLS
 SHORT TERM BIKE RACKS 1:2,000 = 27.0 STALLS

GENERAL RETAIL SALES
 LONG TERM BIKE STORAGE 1:12,000 = 2 STALLS
 SHORT TERM BIKE RACKS 1:5,000 = 2 STALLS

TOTAL REQUIRED
 LONG TERM = 7
 SHORT TERM = 29

BIKE PARKING PROVIDED

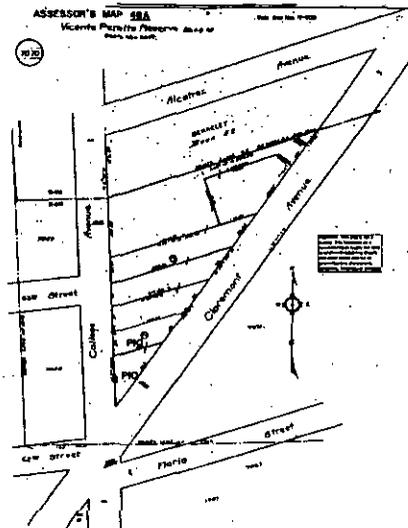
LONG TERM = 15 (WITH AN EXCESS OF 8)
 SHORT TERM = 68 (WITH AN EXCESS OF 39)

MAXIMUM AUTOMOBILE CREDIT 7.8 AUTO STALLS

*SHORT TERM BIKE RACKS ARE ON-SITE AND OFF-SITE ALONG COLLEGE AND ELAREMONT STREETS. EACH RACK ACCOMMODATES AT LEAST(2) BIKES

EXISTING BUILDING INFORMATION

EXISTING BUILDING AREA: 24,255 SF
 EXISTING PARKING SPACES: 96 (INCLUDING 5 ACCESSIBLE SPACES)



ZONING AND PLANNING SUMMARY

ZONING: C-3I, NEIGHBORHOOD CENTER MIXED USE*

PROJECT FLOOR AREA**:
 62,182 SF
 FLOOR AREA RATIO
 FAR MAX.: 4.0
 PROPOSED FAR: 82,152 SF PROJECT FLOOR AREA /
 99,999 SF LOT AREA =
 0.69

- CONDITIONAL USE PERMITS**
- GENERAL FOOD SALES
 - RESTRICTIONS ON GROUND FLOOR USE - OFF STREET PARKING, LOADING AREA OR DRIVEWAY (17,48,070)
 - HEIGHT LIMITATION - 35'
 - SIZE LIMITATION 7,500 SF
 - ALCOHOL SALES

PARKING**

AREA NAME	NET AREA (SF)	STALL RATIO	PARKING STALLS
SAFeway (INCLUDING GROUND LEVEL LOBBIES)	6,591	1:500	171
RESTAURANT	2,729	1:300	9
RETAIL	8,052	1:600	13

SUBTOTAL 193 STALLS
 AUTOMOBILE PARKING CREDIT (17,117,150) (-7.8)
 TOTAL PARKING REQUIRED 185 STALLS

TOTAL PROVIDED:
 GROUND LEVEL 130
 GROUND LEVEL - ADA 6
 GROUND LEVEL - COMPACT 8
 UPPER LEVEL 25
 UPPER LEVEL - ADA 2
 171 STALLS

B COMPACT PARKING SPACES / 171 TOTAL PARKING SPACES < 5% COMPACT

* CURRENT ZONING LOCATES THIS PROPERTY IN "C-N" ZONE. DUE TO SUBMITTAL DATE OF THIS PROJECT, "C-3I" ZONING APPLIES.

** CALCULATED PER CITY OF OAKLAND MUNICIPAL CODE

VICINITY MAP



SHEET NUMBER	SHEET INDEX	SHEET NAME
A0.0		COVER
A0.1		PROJECT INFORMATION
A0.2		COMMUNITY INVOLVEMENT
A0.3		SITE PHOTOS
A0.4		SITE PHOTOS
A0.5		SITE PHOTOS
A1.0		EXISTING SITE PLAN
A1.1		EXISTING PLAN - FOR REFERENCE ONLY
A1.2		PROPOSED SITE PLAN
A2.1		GRADING FLOOR PLANS
A2.2		SAFeway FLOOR PLAN
A3.1		EXTERIOR ELEVATIONS
A3.2		EXTERIOR ELEVATIONS
A3.3		ENLARGED EXTERIOR ELEVATIONS
A3.4		SECTIONS
A3.5		SECTIONS
A3.6		ENLARGED SECTIONS
A3.7		SITE SECTIONS
A3.8		SITE SECTIONS
A3.10		ENLARGED PLANS - PUBLIC SPACE
A3.11		PUBLIC SPACE DIAGRAMS
A10.0		PERSPECTIVE VIEWS
A10.1		PERSPECTIVE VIEWS
A10.2		PERSPECTIVE VIEWS
A10.3		PERSPECTIVE VIEWS
L1.0		PRELIMINARY LANDSCAPE PLAN
L1.1		PRELIMINARY ROOF GARDEN PLAN
L1.2		ENLARGED STREET WALK PLAN
L1.3		ENLARGED RETAIL CORNER PLAN
L1.4		ENLARGED COLLECTOR AND CLAREMONT CORNER PLAN
L1.5		SECTION AND ELEVATIONS
L1.8		IN IE MATERIALS
C.1		BOUNDARY, TOPOGRAPHIC, & UTILITY SURVEY
C.2.1		PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN
C.2.2		PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN
C.3		EROSION CONTROL PLAN
C.4		STORM WATER QUALITY CONTROL PLAN



SAFeway.
 0310 COLLEGE AVENUE
 OAKLAND, CA 94615
 STORE #2810

CURRENT OWNER: SAFeway
 TENANT: SAFeway
 STORE NUMBER: 2810
 CONTACT PERSON: BOB PARSONS
 800 S FOWLER STREET, SUITE 100
 OAKLAND, CA 94608
 PHONE: 415.762.3870
 FAX: 415.762.3871
 E-MAIL: Todd.Pearson@safeway.com

CONSULTANTS

NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS BY
1.	04-28-2009	COMMUNITY PRESENTATION
2.	05-08-2009	PLANNING DEPT SUBMITTAL
3.	05-28-2009	PLANNING DEPARTMENT 1
4.	07-02-2009	PLANNING DEPARTMENT 1

DATE: 07/06/12
 DRAWN BY: TV

PROJECT NUMBER: 09-008
 SHEET TITLE: PROJECT INFORMATION

SHEET NUMBER: **A0.1**

ALL DIMENSIONS AND SPACES ARE APPROXIMATE. THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND SPACES. THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND SPACES.



1. 6039 COLLEGE AVE



2. 8099 CLAREMONT AVE



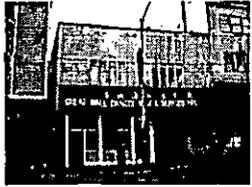
3. 320 62ND ST



4. 6201 COLLEGE AVE



5. 6259 COLLEGE AVE



6. 6243-S COLLEGE AVE



7. 6251-3 COLLEGE AVE/307 63RD ST



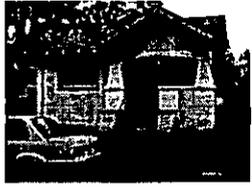
8. 321 63RD ST



9. 321 63RD ST



10. 323 63RD ST



11. 324 63RD ST



12. 320 63RD ST



13. 316 63RD ST



14. 310 63RD ST



15. 6301-7 COLLEGE AVE



15. 6309-11 COLLEGE AVE



16. 6317-19 COLLEGE AVE



16. 6321-23 COLLEGE AVE



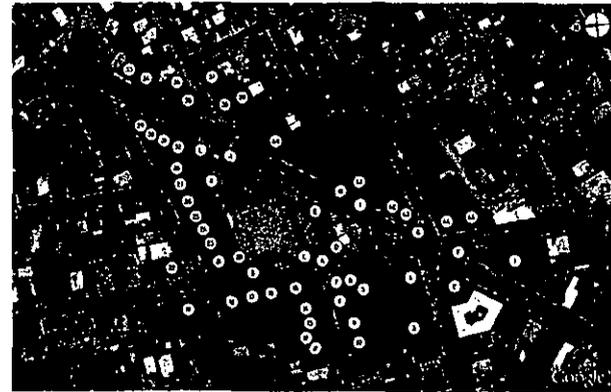
17. 3210-14 COLLEGE AVE



18. 3202-6 COLLEGE AVE



19. 3190 COLLEGE AVE



SITE KEY PLAN



SAFeway.
6310 COLLEGE AVENUE
OAKLAND, CA 94619
STORE #2070

CLIENT OWNER: SAFEWAY
STORE NUMBER: 2070
CONTACT PERSON:
EUGEN PARKER
1829 STEWARTS HALL ROAD
PLUMMERVILLE, CA 94662-1228
PH 925 462 2070
FAX 925 462 2069
EMAIL: Eug.Parker@safeway.com

ARCHITECT'S PROJECT NUMBER: 08-000-0001

COMMENTS

NOTICE FOR CONSTRUCTION

NO. DATE ISSUED AND REVISION BY

- 1. 04 29 2008 COMMUNITY PRESENTATION
- 2. 06 06 2008 PLANNING DEPT SUBMITTAL
- 3. 07 26 2008 PLANNING DEPARTMENT
- 4. 07 26 2008 PLANNING DEPARTMENT

DATE: 08/24/08
DRAWN BY: JSP/V

PROJECT NUMBER: 08-000
SHEET TITLE:

SITE PHOTOS

SHEET NUMBER: A0.3

ALL DIMENSIONS AND LOCATIONS ARE APPROXIMATE AND SHOWN FOR INFORMATION ONLY. VERIFY ALL DIMENSIONS AND LOCATIONS ON THE GROUND. USE OF THIS SHEET WITHOUT THE SIGNATURE OF THE ARCHITECT IS PROHIBITED.

08/23/08 11:46 AM



20. 3217 COLLEGE AVE



21. 3201-11 COLLEGE AVE



21. 3201-11 COLLEGE AVE



22. 3188 COLLEGE AVE



23. 2704 ALCATRAZ AVE



24. 2712 ALCATRAZ AVE



25. 2714 ALCATRAZ AVE



26. 2716 ALCATRAZ AVE



27. 2720 ALCATRAZ AVE



28. 2724 ALCATRAZ AVE



29. 3300 CLAREMONT AVE



30. 3302 CLAREMONT AVE



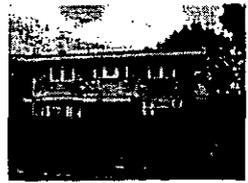
31. 3304 CLAREMONT AVE



32. 3306 CLAREMONT AVE



33. 3315 CLAREMONT AVE



34. 3323 CLAREMONT AVE



35. 6300 MYSTIC ST



38. 6384 MYSTIC ST



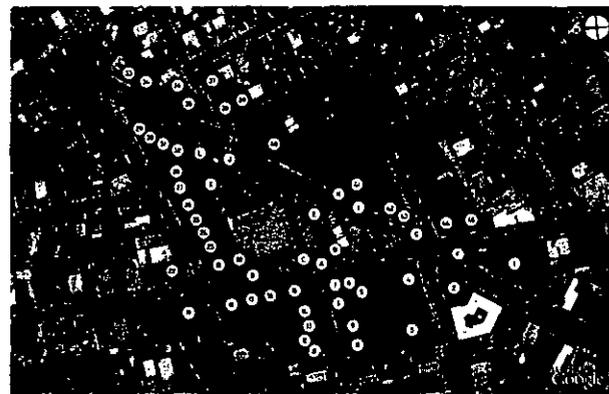
37. 6249 MYSTIC ST



39. 6248 AUBURN AVE



39. 6240 AUBURN AVE



SITE KEY PLAN



PRIORITY MARK



SAFeway

8310 COLLEGE AVENUE
OAKLAND, CA 94610
STORE #2370

CURRENT OWNER: SAFeway
TITLE: SAFeway

CONTACT PERSON:
1030 PARKER
2010 STEVENAGE HALL ROAD
PLACENTIA, CA 94666-3538
PL 949 488 3076
F1 949 488 3094
E: SALES, Trust.Priorities@lowney.com

APPROVER'S FAVICIL NUMBER: 04/24/2010

COMMENTS:

NOT FOR CONSTRUCTION

NO. DATE ISSUED AND REVISIONS BY

1. 04/29/2010 COMMUNITY PRESENTATION

2. 04/29/2010 PLANNING COME SUBMITTAL

3. 05/20/2010 PLANNING REVISIONS 1

4. 05/20/2010 PLANNING REVISIONS 2

DATE: 04/29/10

DRAWN BY: YBY

PRIORITY NUMBER: 04-08

SHEET TITLE: SITE PHOTOS

SHEET NUMBER:

A0.4

ALL DIMENSIONS AND DISTANCES INDICATED ARE APPROXIMATE AND MAY VARY FROM THE ACTUAL DIMENSIONS AND DISTANCES. THE USER OF THIS DOCUMENT SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION.

PHOTOGRAPH BY SA



40. 8250 CLAREMONT AVE



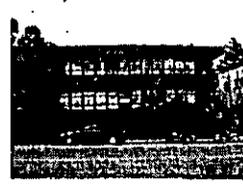
40. 6250 CLAREMONT AVE



41. 8230 CLAREMONT AVE



41. 8230 CLAREMONT AVE



41. 8230 CLAREMONT AVE



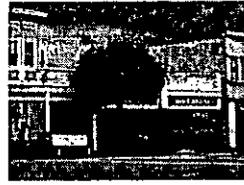
42. 8208-12 CLAREMONT AVE



43. 6200-02 CLAREMONT AVE



44. 8058 COLLEGE AVE



45. 8050-2 COLLEGE AVE



A CROSSWALK - 63RD & COLLEGE



B. SAFEWAY WALL ON COLLEGE



C. SAFEWAY WALL ON COLLEGE



D. SAFEWAY & SURFACE PARKING



E. SAFEWAY SURFACE PARKING



F. 76' GAS & SERVICE STATION



G. 76' & SAFEWAY SITE BEYOND



H. 76' GAS A SERVICE STATION



I. SAFEWAY FROM CLAREMONT



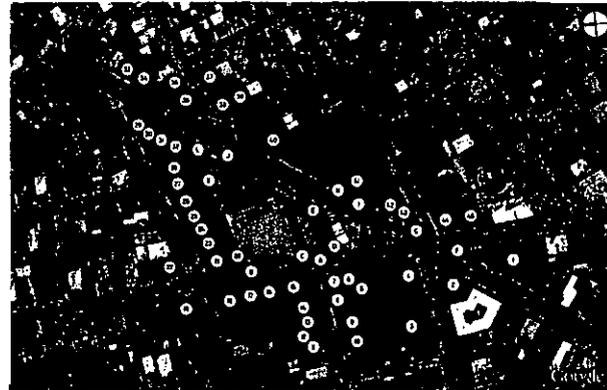
J. SIDEWALK AT CLAREMONT



K. SAFEWAY - CLAREMONT SIDE



L. NORTH SIDE PROPERTY EDGE



SITE KEY PLAN



PROJECT NAME



SAFEWAY.
8310 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2370

CLIENT OWNER: Safeway
PROPERTY: Safeway
PHONE NUMBER: 510

CONTACT PERSON:
TODD PIERCE
888 BYCHURCH HALL ROAD
PLACENTIA, CA 95662
PI 956 441 2076
PI 956 441 2077
E-MAIL: Todd.Pierce@safeway.com

ARCHITECT'S PROJECT NUMBER: 08-008

COMMENTS

NO.	DATE	REVISED AND REVISIONS	BY
1	04.29.2008	COMMUNITY PRESENTATION	
2	04.29.2008	PLANNING DEPT SUBMITTAL	
3	07.28.2008	PLANNING REVISIONS 1	
4	07.28.2008	PLANNING REVISIONS 2	

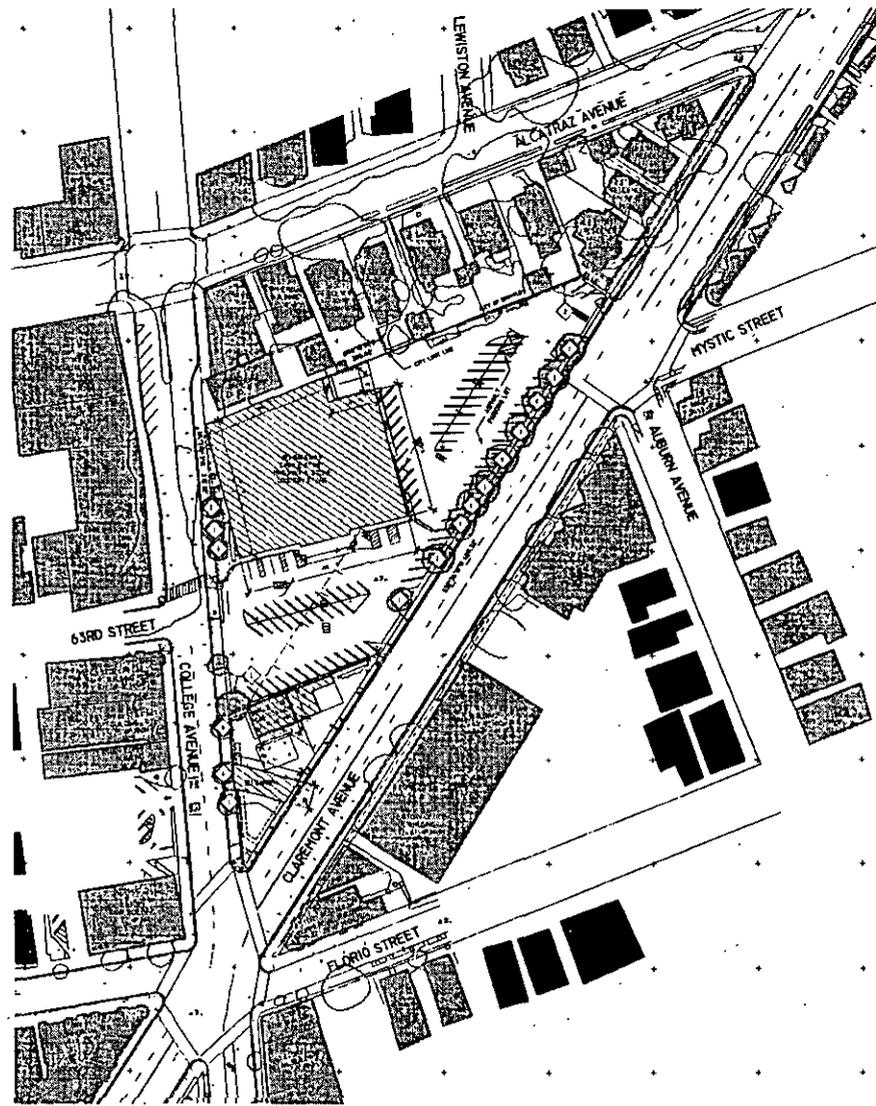
DATE: 08-04-08
DRAWN BY: TBPV

PROJECT NUMBER: 08-008
SHEET TITLE: SITE PHOTOS

SHEET NUMBER: **A0.5**

ALL DIMENSIONS AND SPACES UNLESS OTHERWISE SPECIFIED ARE IN FEET AND INCHES. DIMENSIONS SHOWN ON THIS SHEET ARE THE RESULT OF THE ARCHITECT'S FIELD SURVEY AND SHOULD BE USED AS A GUIDE ONLY. THE ARCHITECT'S FIELD SURVEY IS THE BASIS FOR THE DESIGN.

PHOTO BY TBPV



EXISTING SITE PLAN
1" = 50'-0"

KEYNOTES

- ◆ EXISTING STRUCTURE TO BE REMOVED, SEE THE SURVEY FOR ADDITIONAL TREE INFORMATION
- ◆ EXISTING STRUCTURE TO BE REPLACED

LEGEND

- EXISTING STRUCTURE TO BE REMOVED
- ▨ EXISTING STRUCTURE TO BE REPLACED



PROJECT NAME
SAFeway.
6316 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #287D

CLIENT: SAFeway
DESIGNER: SAFeway
PROJECT NUMBER: 09-003

CONTACT PERSON:
TODD PARRISH
1010 BROADWAY HALL ROAD
PLACENTIA, CA 94666-2028
PH: 916.862.2830
F: 916.862.2831
E-MAIL: Todd.Parrish@safeway.com

ARCHITECT'S OFFICE: HANSON, 694/7070501

COMMENTS



NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS	BY
1	04.28.2008	COMMUNITY PRESENTATION	
2	05.20.2008	PLANNING DEPT SUBMITTAL	
3	05.28.2008	PLANNING REVISIONS 1	
4	05.28.2008	PLANNING REVISIONS 2	

DATE: 06-04-09
DRAWN BY: TPTV

PROJECT NUMBER: 09-003
SHEET TITLE: EXISTING SITE PLAN

SHEET NUMBER: A1.0

ALL DRAWINGS AND LETTERS MUST BE APPROVED AND SIGNED BY THE ARCHITECT AND SEAL. THE ARCHITECT'S SEAL AND SIGNATURE SHALL BE PLACED ON THE DRAWING FOR THE ARCHITECT'S OFFICE.



PROJECT NAME
SAFeway.
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2370

CURRENT OWNER: SAFeway
 TENANT: SAFeway
 STORE NUMBER: 2370
 CONTACT PERSON:
 TODD PARSONS
 876 STONEMORE HALL ROAD
 FLEMINGTON, NJ 08822
 P: 908.487.2070
 F: 908.487.2081
 E: MAIL: Todd.Parsons@safeway.com
 AGENCY'S PARCEL NUMBER: CHAIRMAN

CONSULTANTS

NOT FOR CONSTRUCTION

REV.	DATE	ISSUE AND REVISIONS	BY
1	04.28.2009	COMMUNITY PRESENTATION	
2	05.29.2009	PLANNING DEPT SUBMITTAL	
3	07.29.2009	PLANNING DEPARTMENT 1	
4	08.28.2009	PLANNING DEPARTMENT 2	

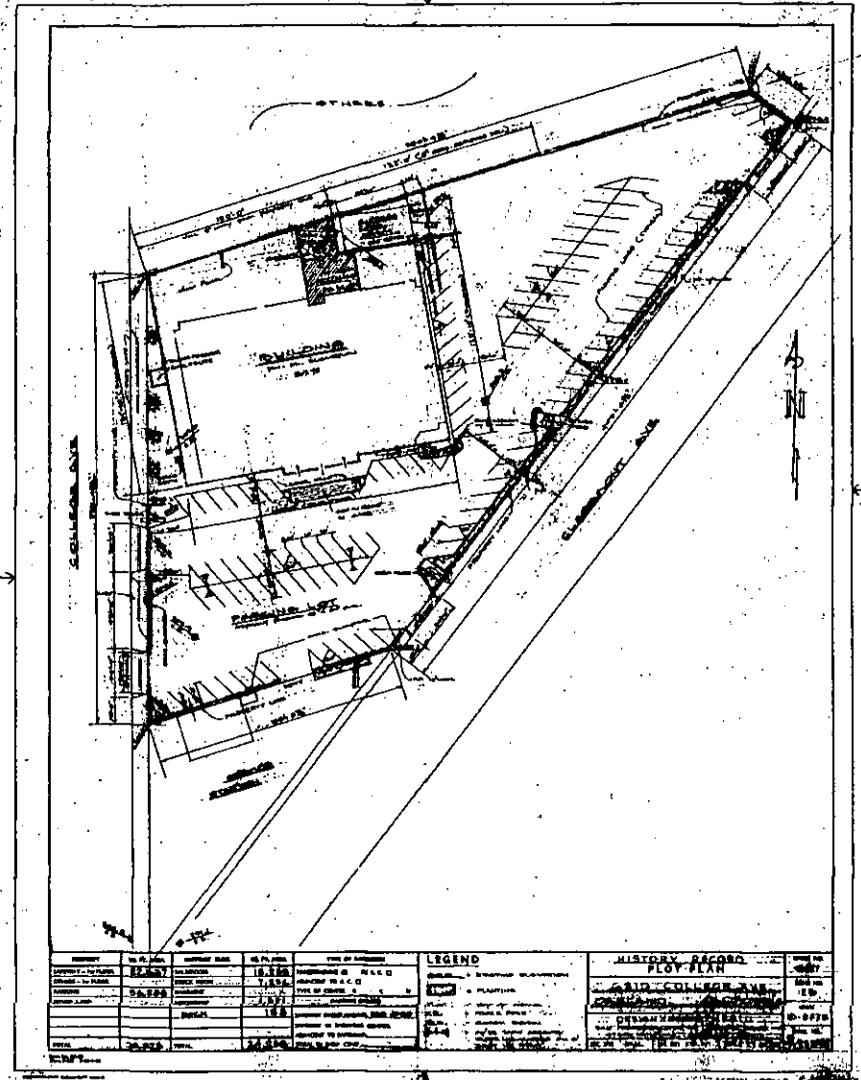
DATE: 08/04/12
 DRAWN BY: TBT/V

PROJECT NUMBER: 08-08
 SHEET TITLE:

EXISTING PLAN - FOR REFERENCE ONLY

SHEET NUMBER:
A1.1

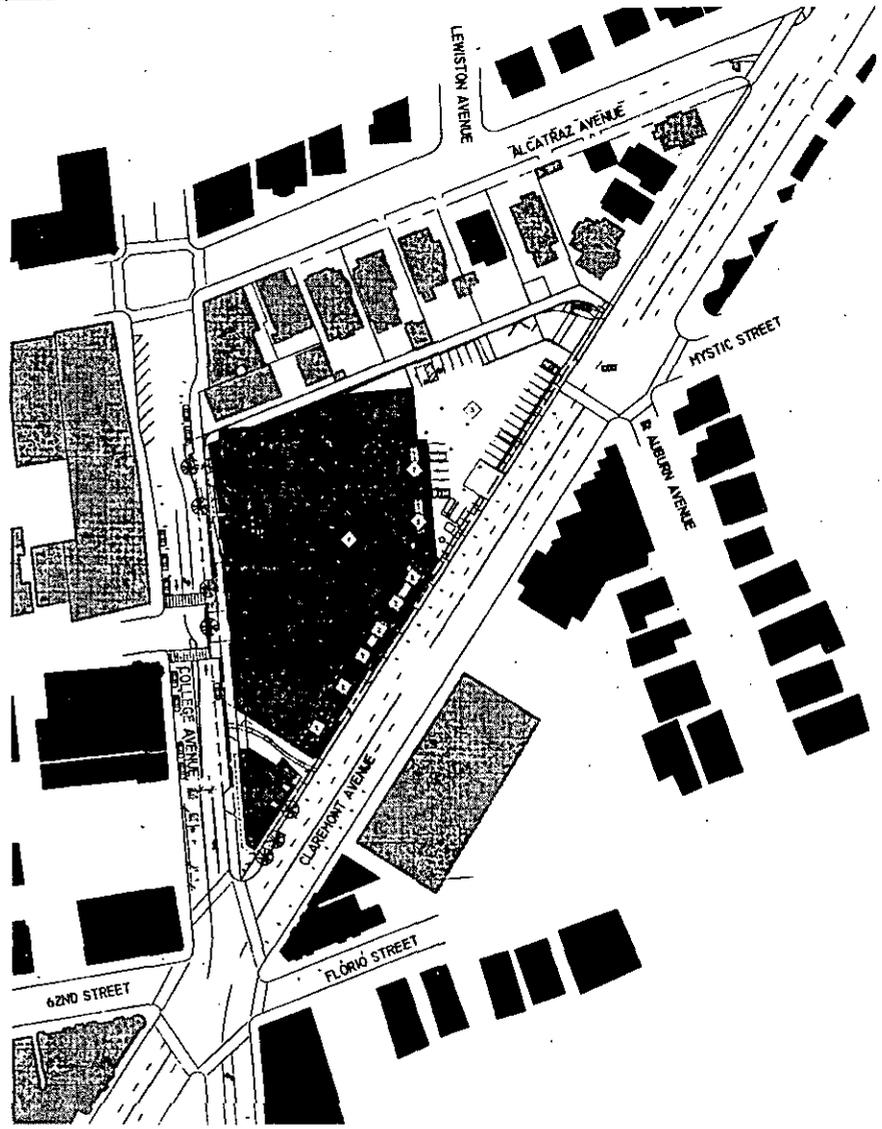
ALL DIMENSIONS AND NOTED TO BE EXISTING UNLESS OTHERWISE NOTED. THESE DIMENSIONS AND NOTATIONS SHALL BE THE PROPERTY OF THE ARCHITECT AND NOT BE SUBJECT TO ANY OTHER PARTY'S RIGHTS OR INTERESTS.



REVISION	DATE	BY	DESCRIPTION
1	08/04/12	TBT/V	ISSUED FOR PERMITTING
2	08/04/12	TBT/V	ISSUED FOR PERMITTING
3	08/04/12	TBT/V	ISSUED FOR PERMITTING
4	08/04/12	TBT/V	ISSUED FOR PERMITTING
5	08/04/12	TBT/V	ISSUED FOR PERMITTING
6	08/04/12	TBT/V	ISSUED FOR PERMITTING
7	08/04/12	TBT/V	ISSUED FOR PERMITTING
8	08/04/12	TBT/V	ISSUED FOR PERMITTING
9	08/04/12	TBT/V	ISSUED FOR PERMITTING
10	08/04/12	TBT/V	ISSUED FOR PERMITTING
11	08/04/12	TBT/V	ISSUED FOR PERMITTING
12	08/04/12	TBT/V	ISSUED FOR PERMITTING
13	08/04/12	TBT/V	ISSUED FOR PERMITTING
14	08/04/12	TBT/V	ISSUED FOR PERMITTING
15	08/04/12	TBT/V	ISSUED FOR PERMITTING
16	08/04/12	TBT/V	ISSUED FOR PERMITTING
17	08/04/12	TBT/V	ISSUED FOR PERMITTING
18	08/04/12	TBT/V	ISSUED FOR PERMITTING
19	08/04/12	TBT/V	ISSUED FOR PERMITTING
20	08/04/12	TBT/V	ISSUED FOR PERMITTING
21	08/04/12	TBT/V	ISSUED FOR PERMITTING
22	08/04/12	TBT/V	ISSUED FOR PERMITTING
23	08/04/12	TBT/V	ISSUED FOR PERMITTING
24	08/04/12	TBT/V	ISSUED FOR PERMITTING
25	08/04/12	TBT/V	ISSUED FOR PERMITTING
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27	08/04/12	TBT/V	ISSUED FOR PERMITTING
28	08/04/12	TBT/V	ISSUED FOR PERMITTING
29	08/04/12	TBT/V	ISSUED FOR PERMITTING
30	08/04/12	TBT/V	ISSUED FOR PERMITTING

NO.	DATE	DESCRIPTION	BY
1	08/04/12	ISSUED FOR PERMITTING	TBT/V
2	08/04/12	ISSUED FOR PERMITTING	TBT/V
3	08/04/12	ISSUED FOR PERMITTING	TBT/V
4	08/04/12	ISSUED FOR PERMITTING	TBT/V
5	08/04/12	ISSUED FOR PERMITTING	TBT/V
6	08/04/12	ISSUED FOR PERMITTING	TBT/V
7	08/04/12	ISSUED FOR PERMITTING	TBT/V
8	08/04/12	ISSUED FOR PERMITTING	TBT/V
9	08/04/12	ISSUED FOR PERMITTING	TBT/V
10	08/04/12	ISSUED FOR PERMITTING	TBT/V
11	08/04/12	ISSUED FOR PERMITTING	TBT/V
12	08/04/12	ISSUED FOR PERMITTING	TBT/V
13	08/04/12	ISSUED FOR PERMITTING	TBT/V
14	08/04/12	ISSUED FOR PERMITTING	TBT/V
15	08/04/12	ISSUED FOR PERMITTING	TBT/V
16	08/04/12	ISSUED FOR PERMITTING	TBT/V
17	08/04/12	ISSUED FOR PERMITTING	TBT/V
18	08/04/12	ISSUED FOR PERMITTING	TBT/V
19	08/04/12	ISSUED FOR PERMITTING	TBT/V
20	08/04/12	ISSUED FOR PERMITTING	TBT/V
21	08/04/12	ISSUED FOR PERMITTING	TBT/V
22	08/04/12	ISSUED FOR PERMITTING	TBT/V
23	08/04/12	ISSUED FOR PERMITTING	TBT/V
24	08/04/12	ISSUED FOR PERMITTING	TBT/V
25	08/04/12	ISSUED FOR PERMITTING	TBT/V
26	08/04/12	ISSUED FOR PERMITTING	TBT/V
27	08/04/12	ISSUED FOR PERMITTING	TBT/V
28	08/04/12	ISSUED FOR PERMITTING	TBT/V
29	08/04/12	ISSUED FOR PERMITTING	TBT/V
30	08/04/12	ISSUED FOR PERMITTING	TBT/V

EXISTING PLAN - FOR REFERENCE ONLY
 1/2" = 1'-0"



- KEYNOTES**
- ◇ PROPOSED SAFEWAY PROJECT
 - ◇ PROPOSED LOCATION OF TECHNICAL EQUIPMENT
 - ◇ EXISTING PAVING AT UPPER LEVEL



PROJECT NAME

SAFeway.
 6318 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2878

CURRENT OWNER: SAFEWAY
 DESIGNER: SAFEWAY
 STORE NUMBER: 2878

CONTACT PERSON:
 TODD PARKER
 3945 STEVENAGE MALL ROAD
 PLEASANTON, CA 94588-5538
 P: 925.467.2075
 F: 925.467.2061
 E: MAIL - Todd.Parker@Safeway.com

ARCHITECT'S FENCE, NUMBER: 0845750000

CONSULTANTS



NOT FOR CONSTRUCTION

REV.	DATE	ISSUED AND REVISIONS	BY
1.	04.26.2008	COMMUNITY PRESENTATION	
2.	06.02.2008	PLANNING DEPT SUBMITTAL	
3.	07.28.2008	PLANNING REVISIONS 1	
4.	07.28.2008	PLANNING PRESENTATION	

DATE: 08/01/12
 DRAWN BY: TBPV

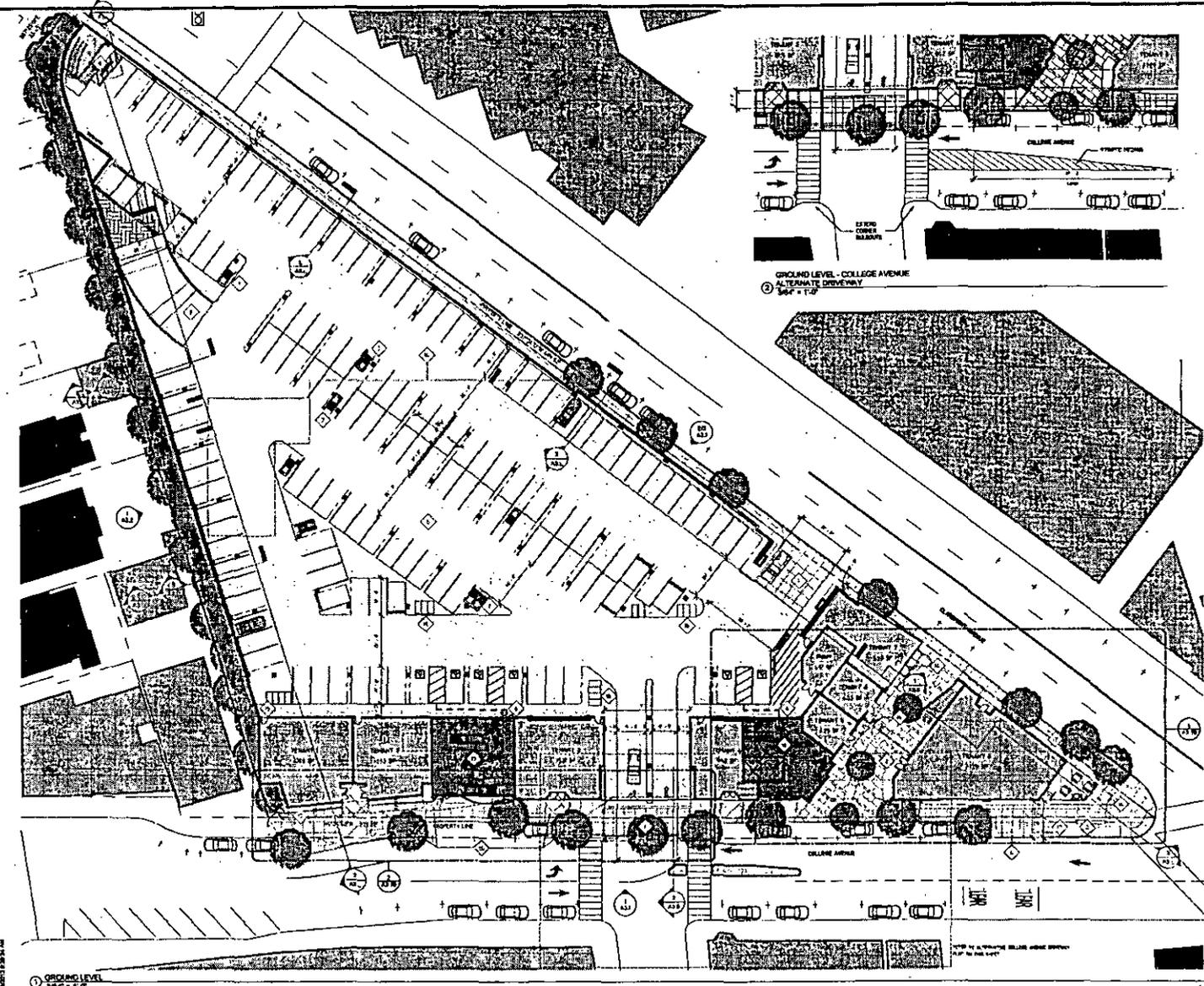
PROJECT NUMBER: 08-008
 SHEET TITLE: PROPOSED SITE PLAN

SHEET NUMBER: **A1.2**

ALL DIMENSIONS AND NOTES ARE BASED ON THE PLANS AND SPECIFICATIONS. THE ARCHITECT AND LOWNEY ARCHITECTURE ASSUME NO LIABILITY FOR THE ACCURACY OF THE INFORMATION AND DATA PROVIDED BY OTHERS. THE ARCHITECT AND LOWNEY ARCHITECTURE SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE PLANS OR SPECIFICATIONS.

PROJECT NUMBER: 08-008

① SITE
 P = 57-2



LEGNOTES

- ◇ NO CURB CUT FOR VEHICLE ACCESS
- ◇ NO PEDESTRIAN STREET
- ◇ PROPOSED BUS STOP LOCATION
- ◇ PROPOSED BUS STOP LOCATION
- ◇ NO PARKING
- ◇ ACCESSIBLE PATH OF TRAVEL
- ◇ CURB CORNELL
- ◇ NO SIGNAGE OR AMP
- ◇ STAIRWAY AND LIFT WELL
- ◇ NO PEDESTRIAN BRIDGE
- ◇ DELIVERY VEHICLE ENTRANCE
- ◇ EMPLOYEE PARKING
- ◇ OPEN TO BELOW
- ◇ LINE UP BUILDING ABOVE
- ◇ LONG TERM USE STORAGE
- ◇ DELIVERY TRUCK LANE
- ◇ WIRE LOOP - SEE LANDSCAPE PLAN
- ◇ ELEVATOR LOBBY
- ◇ ESCALATOR & LOBBY

PLAN LEGEND

- RESTAURANT
- RETAIL
- SAFEWAY
- PLAZA
- PARKING
- TREES / LANDSCAPE
- SERVICE



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

CLIENT OWNER: SAFEWAY
 TRACHT, SAFEWAY
 STORE NUMBER: 2870

CONTACT PERSON:
 TODD PARSONS
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 P: 510.437.2870
 F: 510.437.2881
 E: TPA@LOWNEYARCHITECTURE.COM

COMMENTS

NO. DATE REVISIONS AND REVISIONS BY

1. 04.28.2008 COMPLETION PRESENTATION
2. 05.08.2008 PLANNING DEPT SUBMITTAL
3. 07.01.2008 PLANNING DEPT REVIEW 1
4. 07.08.2008 PLANNING DEPT SUBMITTAL

DATE: _____ REVISION: _____

DRAWN BY: _____ T&PV

PROJECT NUMBER: 04-02

SHEET TITLE: _____

NO. FOR CONSTRUCTION

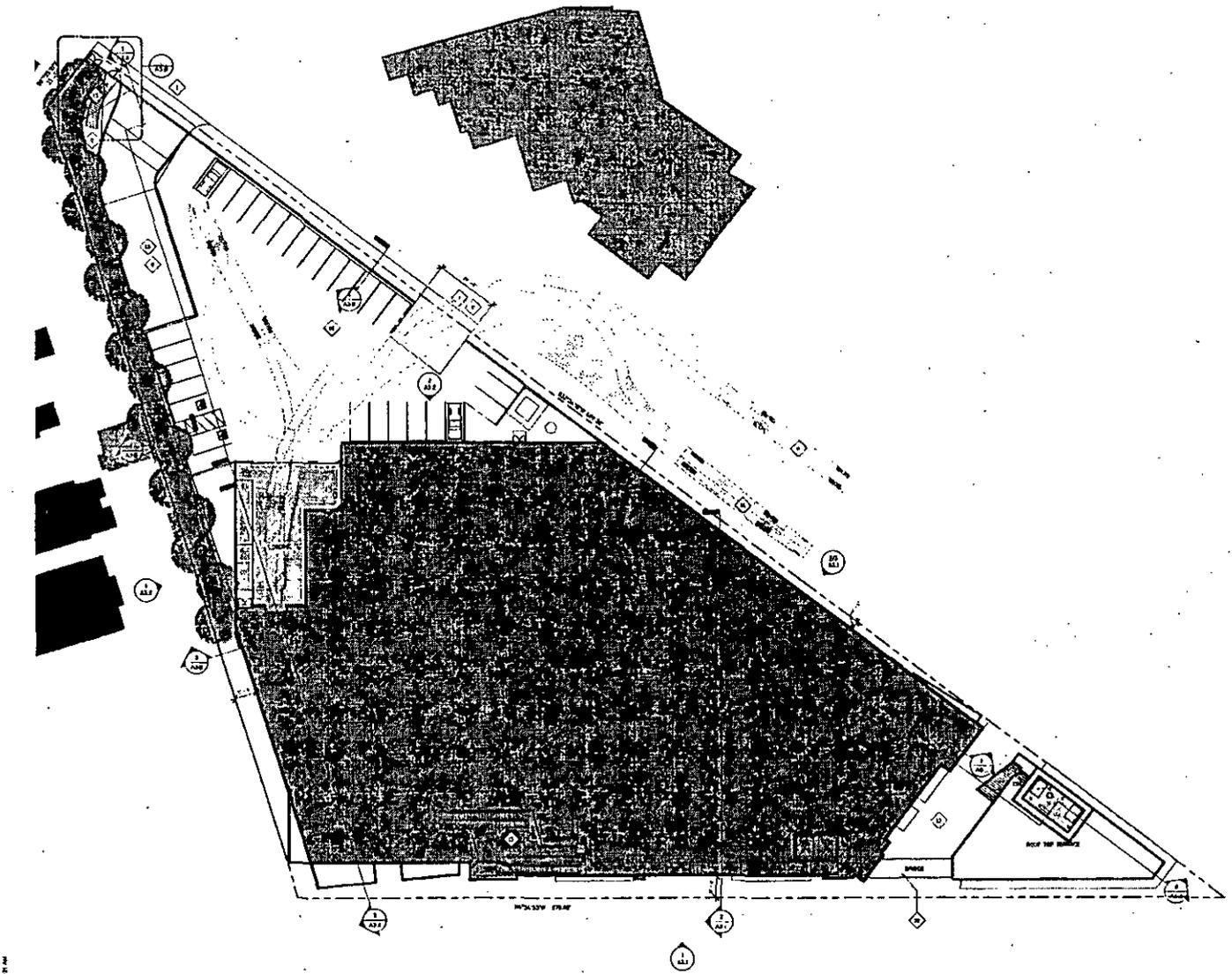
DATE: _____

PROJECT NUMBER: 04-02

SHEET TITLE: **GROUND FLOOR PLAN**

SHEET NUMBER: **A2.1**

ALL DIMENSIONS AND DETAILS UNLESS OTHERWISE SPECIFIED SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE AMERICAN INSTITUTE OF ARCHITECTS' ARCHITECTURAL PRACTICE GUIDE AND THE LATEST EDITIONS OF THE AMERICAN INSTITUTE OF ARCHITECTS' ARCHITECTURAL PRACTICE GUIDE.



- KEYNOTES**
- ◇ ON CURB CUT FOR WHEEL-UP ACCESS
 - ◇ 90 DEGREE STREET
 - ◇ PROPOSED BUS BAY LOCATION
 - ◇ PROPOSED BUS STOP LOCATION
 - ◇ BIOPARKING
 - ◇ ACCESSIBLE PARK OF 10% MIN.
 - ◇ CANY CORNER
 - ◇ ON WHEEL-UP RAMP
 - ◇ STAIRWAY AND LIFT WELL
 - ◇ IN FLOOR TRIM GROOVE
 - ◇ DELIVERY TRUCK ENTRANCE
 - ◇ OFFICE PARKING
 - ◇ OFFICE IN BUILDING
 - ◇ LINE OF BUILDING ADJACENT
 - ◇ LONG TERM BICYCLE STORAGE
 - ◇ DELIVERY TRUCK EXIT
 - ◇ BIKE LOCK - SEE LANDSCAPE PLAN
 - ◇ ELEVATOR LOBBY
 - ◇ ESCALATOR & LOBBY

- PLAN LEGEND**
- RETAIL
 - RETAIL
 - SAFEWAY
 - PAVA
 - PARKING
 - TREES / LANDSCAPE
 - SERVICE



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

CLIENT OWNER: SAFEWAY
 TRACHT: SAFEWAY
 STORE NUMBER: 2870

CONTACT PERSON:
 TONY PHILLIPS
 8310 STONEMORE HALL ROAD
 PLACEMONT, CA 94668
 P: 925.467.3270
 F: 925.467.3841
 E: SALES - Tony.Phillips@safeway.com

CONSULTANTS



NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS	BY
1.	04.28.2010	COMMUNITY PRESENTATION	
2.	05.05.2010	PLANNING COMPT & SUBMITTAL	
3.	07.28.2010	PLANNING REVISIONS 1	
4.	07.28.2010	PLANNING REVISIONS 2	

DATE: 08/04/12
 DRAWN BY: TSP/TV

PROJECT NUMBER: 08-008
 SHEET TITLE: SAFEWAY FLOOR PLAN

SHEET NUMBER: **A2.2**

ALL DIMENSIONS AND DISTANCES INDICATED UNLESS OTHERWISE NOTED. CONSULT WITH ARCHITECT FOR ANY CHANGES TO THE ARCHITECT'S ORIGINAL AND CAPTIONED PLANS. ANY CHANGES TO THE ARCHITECT'S ORIGINAL AND CAPTIONED PLANS SHALL BE MADE IN WRITING AND SHALL BE APPROVED BY THE ARCHITECT.

PROJECT # 08-008

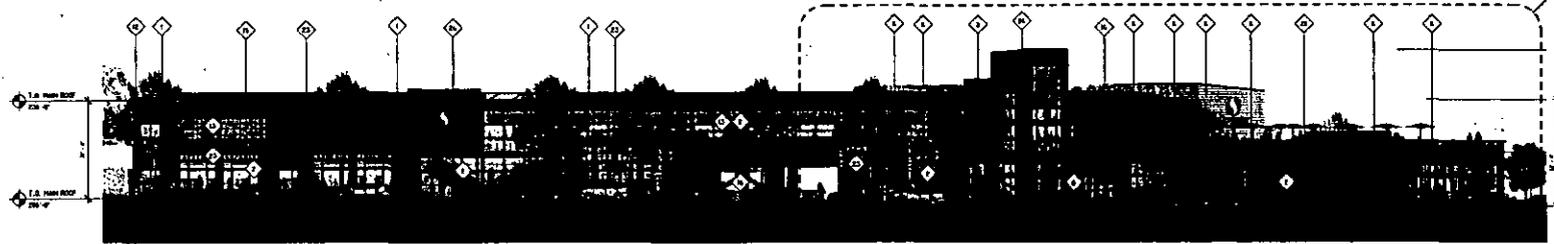
SAFeway MATERIALS PALETTE



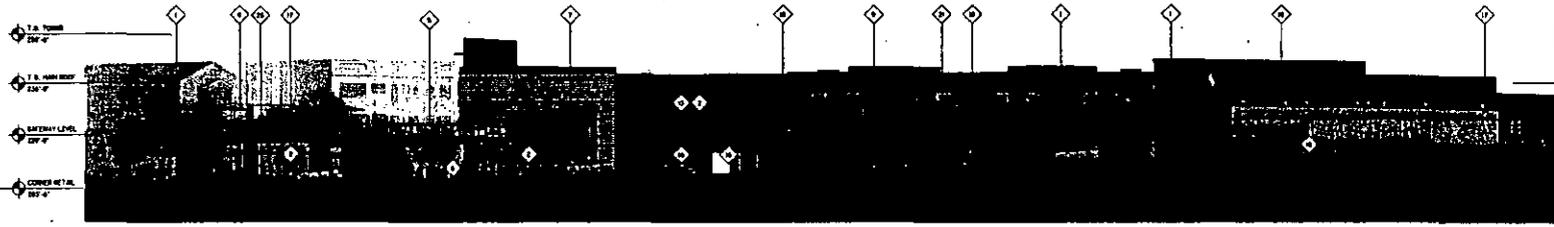
WOOD COMPOSITE PANELING
 PAINTED PLASTER
 PAINTED PLASTER
 PAINTED PLASTER
 PAINTED PLASTER
 PAINTED PLASTER
 BRICK STACK Limestone

KEYNOTES

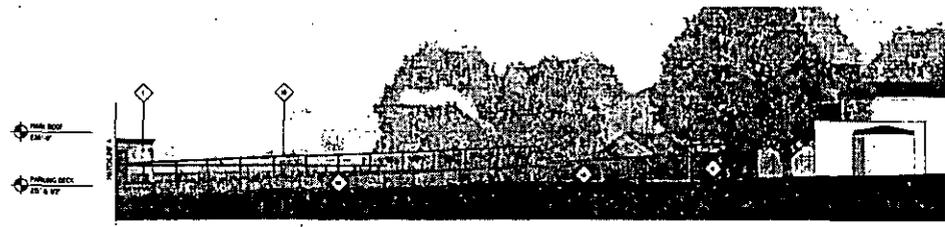
- ◇ PAINTED BRICK & REED
- ◇ POPPING BRICK WITH
GLASS BRICKWORK
- ◇ FLUENT METAL FINISH
SUSSEX
- ◇ LEASE SYSTEM
- ◇ METAL SCREEN
- ◇ WOOD TRANSPARENT GLASS
- ◇ DARK BRICKED ALUMINUM
STOREFRONT / TOP
- ◇ WALL SYSTEM
- ◇ STEEL TRUSS
- ◇ CLUTCH BROWNE
- ◇ LINEAR PLASTER
- ◇ SPANNELED ALLOY OF METAL
FRAME
- ◇ DRY-STACK Limestone
- ◇ CORRUGATED METAL
- ◇ LANDSCAPED W BRICK
AND TERRAZZO
- ◇ SONGS T.S.B.
- ◇ WINDOW SYSTEM
- ◇ METAL AND GLASS PERISTYLE
CORNER
- ◇ METAL PANEL
- ◇ ROOF TERRACE
- ◇ HIGH SCREEN METAL W/ET
LANDSCAPE BRICKWORK
- ◇ PARKING DRIVE / CUT
- ◇ CLEAR GLASS
- ◇ WOOD COMPOSITE PANELING
- ◇ STAIRS CONCRETE WALL BASE



① COLLEGE AVENUE ELEVATION
VIEW = T-2'



② CLAREMONT AVENUE ELEVATION
VIEW = T-2'



③ CLAREMONT AVENUE ELEVATION
(CONTINUED)
VIEW = T-2'



SAFeway.
 8318 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2878

PROJECT NAME
 CURRENT OWNER: SAFeway
 TENANT: SAFeway
 STORE NUMBER: 2878
 CONTACT PERSON:
 TODD PARSONS
 800 S BROADWAY BALL ROOM
 PLACEMINTON, CA 94642
 P: 925.467.2878
 F: 925.467.2881
 E: Todd.Parsons@safeway.com

ARCHITECT'S FEE: 10% OF GROSS CONTRACT VALUE

COMMENTS

NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS BY
1.	04.26.2016	COMMUNITY PRESENTATION
2.	05.03.2016	PLANNING DEPT SUBMITTAL
3.	07.26.2016	PLANNING DEPARTMENT
4.	08.26.2016	PLANNING DEPARTMENT

DATE: 08/01/12
 DRAWN BY: TSV/TV

PROJECT NUMBER: 8480
 SHEET TITLE: EXTERIOR ELEVATIONS

SHEET NUMBER: **A3.1**

ALL DIMENSIONS AND MATERIALS APPEARING
 HEREON UNLESS OTHERWISE SPECIFIED
 SHALL BE IN ACCORDANCE WITH THE
 2012 IBC, UNLESS OTHERWISE SPECIFIED
 (SEE NOTE 1 OF THE GENERAL NOTES)

SAFeway MATERIALS PALETTE



KEYNOTES

- ◇ PAINTED DRYBRICK BRICK
- ◇ PAINTED BRICK BRICK
- ◇ PLANTED METAL PANELING
- ◇ LAMINATED GLASS
- ◇ METAL SCREEN
- ◇ DRY TRANSPARENT GLASS
- ◇ SAME ANGLEZ ALUMINUM STRUCTURE / 7" / 1"
- ◇ WALL STREET
- ◇ STEEL WALLS
- ◇ CLAY BRICK
- ◇ LINEAR PLASTER
- ◇ SPANISH GLASS OR METAL PANEL
- ◇ DRY STACK LONESTONE
- ◇ COMBUSTIBLE METAL
- ◇ LAMINATED GLASS AND POLYCARBONATE
- ◇ MIRROR / 1/4"
- ◇ BRUSH BRICK
- ◇ METAL AND GLASS PEDESTAL GROUPS
- ◇ METAL PANEL
- ◇ DRY BRICK
- ◇ NEW SCREEN TREE BRICK LAMINATE BRICK
- ◇ PARKING BRICK / 1/4"
- ◇ CLEAR GLASS
- ◇ WOOD COMPOSITE PANELING
- ◇ STAINED CONCRETE WALL BRICK



PROJECT NAME

SAFeway.
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2878

CLIENT OWNER: SAFeway
 DESIGNER: SAFeway
 STORE NUMBER: 2878
 CONTACT PERSON:
 TERRY SPRADLEY
 6310 COLLEGE AVENUE
 OAKLAND, CA 94618
 PHONE: 510.438.2878
 FAX: 510.438.2878
 EMAIL: Terry.Spradley@safeway.com
 ARCHITECT'S PROJECT NUMBER: 04-07070707

CONSULTANTS

NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS	BY
1.	04.28.2008	COMMUNITY PRESENTATION	
2.	05.06.2008	PLANNING DEPT. PRESENTATION	
3.	02.28.2010	PLANNING DEPARTMENT	
4.	07.05.2011	PLANNING DEPARTMENT	

DATE: 08/21/12
 DRAWN BY: TSPV

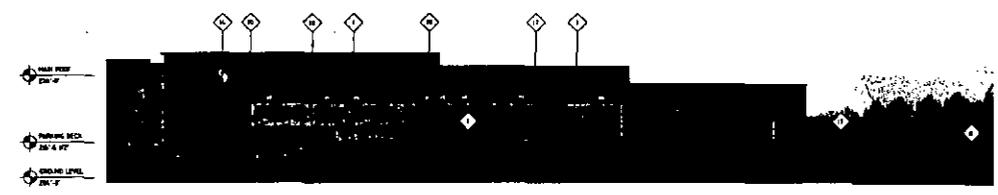
PROJECT NUMBER: 04-07070707
 SHEET TITLE: EXTERIOR ELEVATIONS

SHEET NUMBER: **A3.2**

ALL DIMENSIONS AND NOTES ARE IN METERS UNLESS OTHERWISE SPECIFIED. CONSULT THE ARCHITECT FOR ANY QUESTIONS OR CLARIFICATIONS. THIS DOCUMENT IS THE PROPERTY OF THE ARCHITECT.



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



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

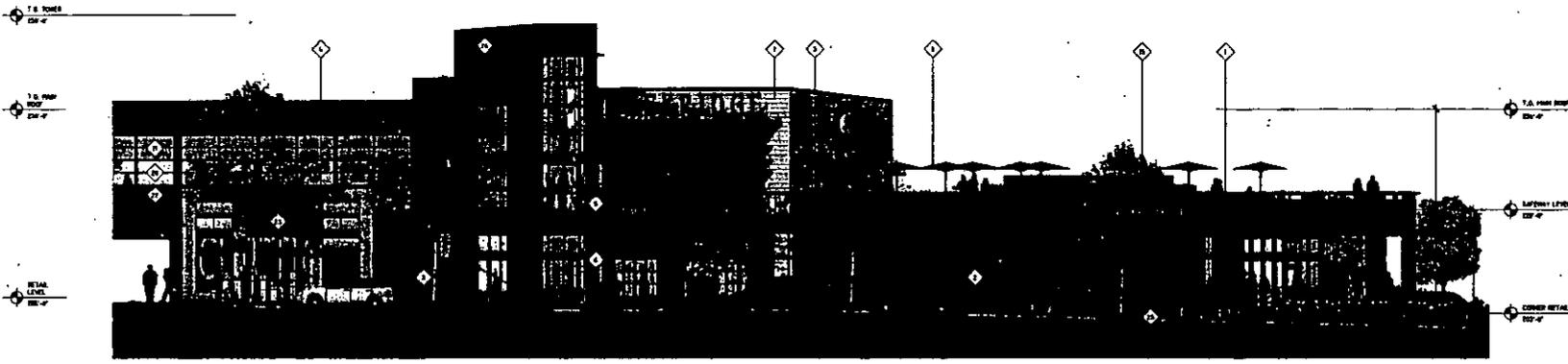
PROJECT NO. 04-07070707

SCHEDULED MATERIALS PALETTE

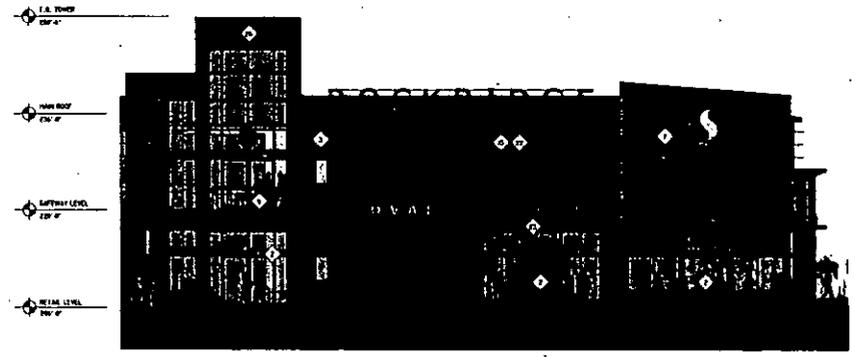


KEYNOTES

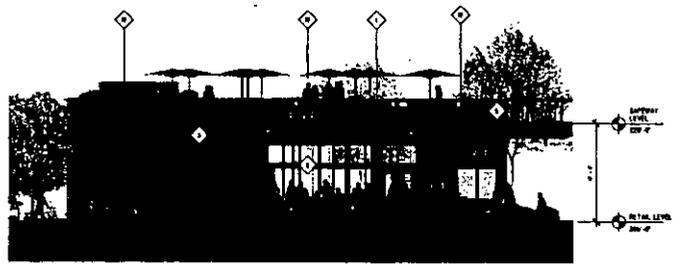
- ◆ PAINTED BRICKS BRICKS
- ◆ PAINTED BRICKS WITH GLASS BRICKS
- ◆ SAND BRICKS ALUMINUM STORMDOOR 7' 10"
- ◆ SAND BRICKS LIGNESTONE
- ◆ METAL PANELS
- ◆ POLYURETHANE GLASS WITH GLASS BRICKS
- ◆ WALK STREET
- ◆ CORRUGATED METAL
- ◆ BRICK FINISH
- ◆ PLASTER METAL FINISH BRICKS
- ◆ STEEL WALLS
- ◆ LIGNESTONE BRICKS AND FINISHES
- ◆ NEW BRICKS FINISH LIGNESTONE FINISHES
- ◆ LOWER BRICKS
- ◆ CUSTOM BRICKS
- ◆ BRICKS 1.5.5.
- ◆ FINISHES ENTRY / EXIT
- ◆ METAL BRICKS
- ◆ LINEAR PLASTER
- ◆ BRICK SYSTEM
- ◆ GLASS BRICKS
- ◆ 50% TRANSPARENT GLASS
- ◆ BRICKS GLASS OF METAL PANELS
- ◆ METAL AND GLASS POLYURETHANE COMPLEX
- ◆ WOOD COMPOSITE PANELS
- ◆ STAINLESS STEEL WALL BRICKS



1 COLLEGE AVENUE ELEVATION - ENLARGED
VF = 1/8"



2 WALK STREET ELEVATION - NORTH
VF = 1/8"



3 WALK STREET ELEVATION - SOUTH
VF = 1/8"



PROJECT NAME
SAFeway.
0310 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2310

CLIENT: SAFeway
ARCHITECT: LOWNEY ARCHITECTURE
DATE: 2010
SCALE: 1/8" = 1'-0"

CONTACT PERSON:
TODD FINN
1000 BROADWAY
SAN FRANCISCO, CA 94103
PH: 415.774.2000
WWW.LOWNEYARCHITECTURE.COM

CONTRACT NO.

NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS	BY
1	04.28.2010	COMMUNITY PRESENTATION	
2	05.05.2010	PLANNING DEPT SUBMITTAL	
3	05.20.2010	PLANNING DEPARTMENT	
4	05.20.2010	PLANNING DEPARTMENT	

DATE: 09/24/12
DRAWN BY: TMTV

PROJECT NUMBER: 0940
SHEET TITLE: ENLARGED EXTERIOR ELEVATIONS

SHEET NUMBER: A3.3

ALL DRAWINGS ARE INTENDED TO BE USED AS A GUIDE ONLY. THE ARCHITECT'S OFFICE AND LOWNEY ARCHITECTURE ARE NOT RESPONSIBLE FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY CAUSED BY THE USE OF THESE DRAWINGS WITHOUT THE EXPRESS CONSENT OF THE ARCHITECT.



PROJECT NAME
SAFeway.
 6319 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2878

CURRENT OWNER: SAFeway
 DESIGNER: SAFeway
 STORE NUMBER: 2878
 CONTRACT NUMBER:
 1030 PARKER
 3000 STEWARTS HALL ROAD
 PLASANTON, CA 94666
 PHONE: 415 287-1000
 FAX: 415 287-1001
 E-MAIL: TAM.PETER@safeway.com
 ARCHITECT'S PHONE NUMBER: 946-7883100

CONSULTANTS

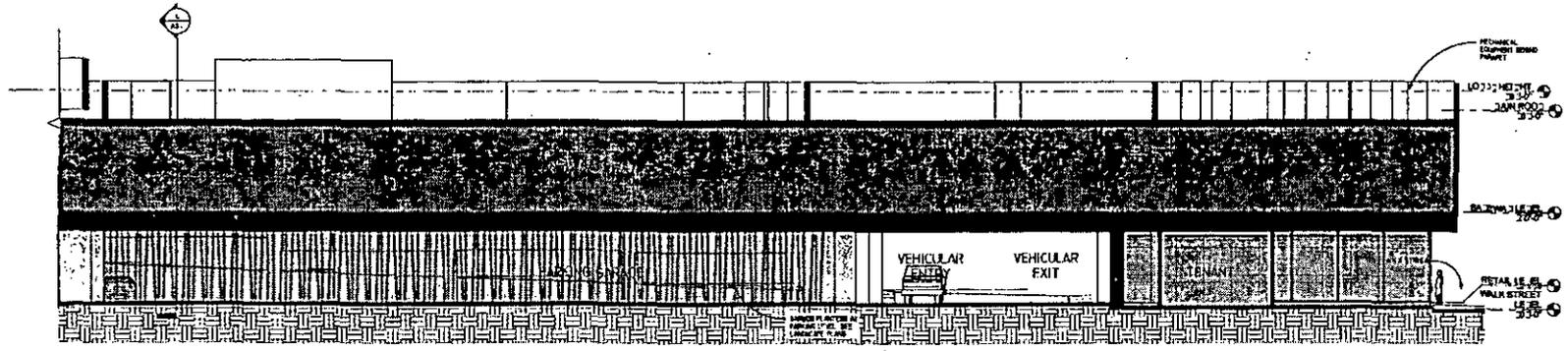
NOT FOR CONSTRUCTION
 NO. DATE ISSUED AND REVISION BY
 1. 04-28-2008 COMMUNITY PRESENTATION
 2. 06-02-2008 PLANNING DEPT SUBMITTAL
 3. 07-02-2008 PLANNING DEPARTMENT
 4. 07-29-2008 PLANNING DEPARTMENT

DATE: 09/09/12
 DRAWN BY: TSPV

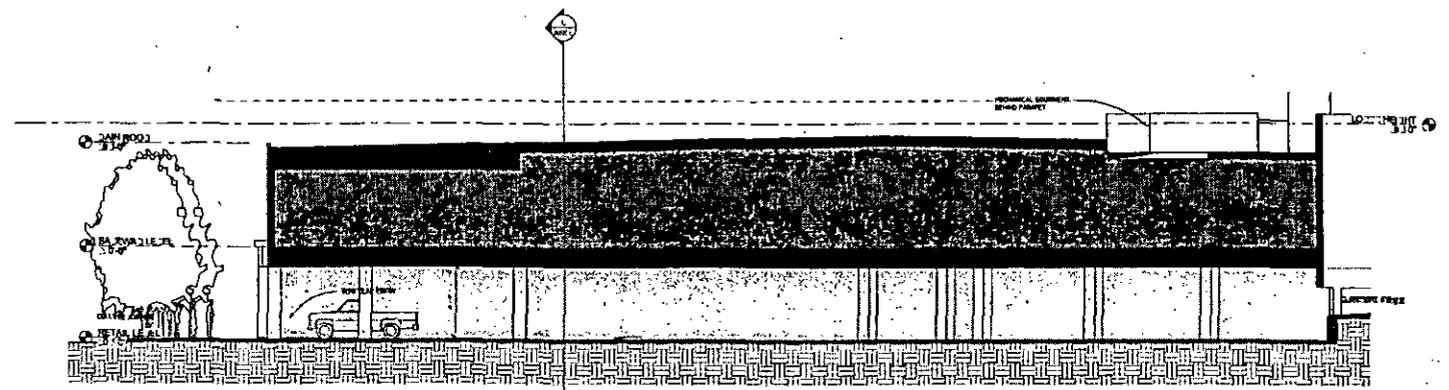
PROJECT NUMBER: 08-08
 SHEET TITLE: SECTIONS

SHEET NUMBER: **A3.5**

ALL DIMENSIONS AND WRITTEN MATERIAL APPEARANCES
 ON THIS SHEET ARE APPROVED AND SHALL BE
 BINDING ON THE CONTRACTOR AND NOT BE
 CHANGED WITHOUT WRITTEN
 CONSENT OF THE ARCHITECT

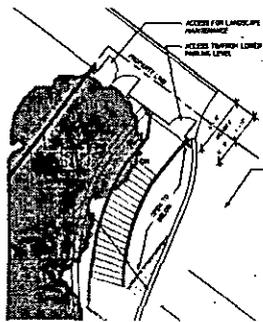


SECTION THRU REAR OF GROCERY
 WP-12'

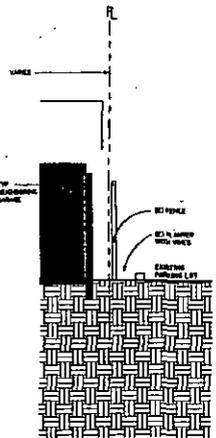


SECTION THRU COLLEGE VEHICULAR
 ENTRY
 WP-12'

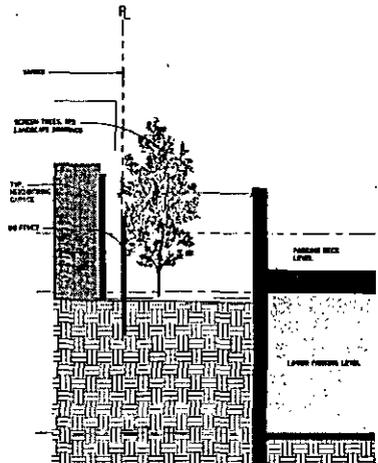
CONSULTANTS



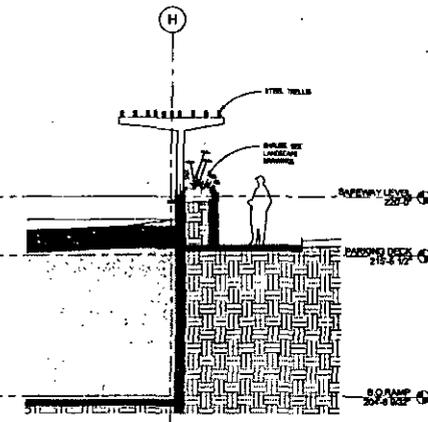
ENLARGED PLAN AT NORTHEAST CORNER
1/4" = 1'-0"



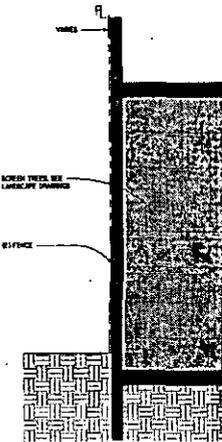
SECTION AT NORTH NEIGHBOR 2 - EXISTING CONDITION
1/4" = 1'-0"



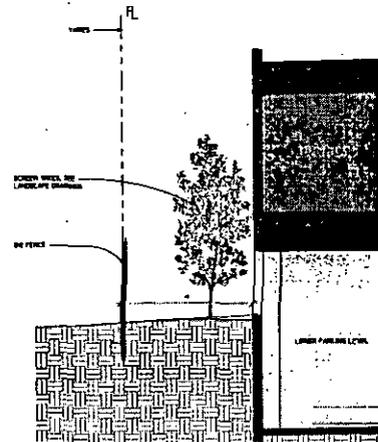
SECTION AT NORTH NEIGHBOR 2
1/4" = 1'-0"



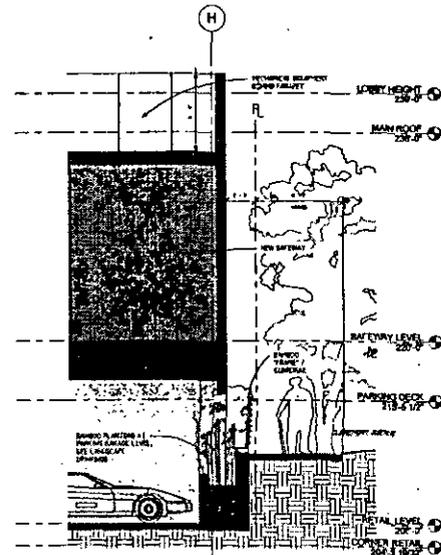
SECTION AT CLAREMONT SIDEWALK
1/4" = 1'-0"



SECTION AT NORTH NEIGHBOR 1 - EXISTING CONDITION
1/4" = 1'-0"



SECTION AT NORTH NEIGHBOR 1
1/4" = 1'-0"



SECTION AT CLAREMONT SIDEWALK
1/4" = 1'-0"



PROJECT NAME
SAFeway.
8316 COLLEGE AVENUE
OAKLAND, CA 94616
STORE #2870

CURRENT OWNER: SAFeway
TRUSTEY: SAFeway
STORE NUMBER: 2870
CONTACT PERSON: TODD PARAGOS
8754 STONEMORRIS BULL ROAD
PLACEMONT, CA 94626
P: 925 497 3270
F: 925 497 3269
E-MAIL: Todd.Paragos@safeway.com
ARCHITECT'S PROJECT NUMBER: 04-008

CONSULTANTS

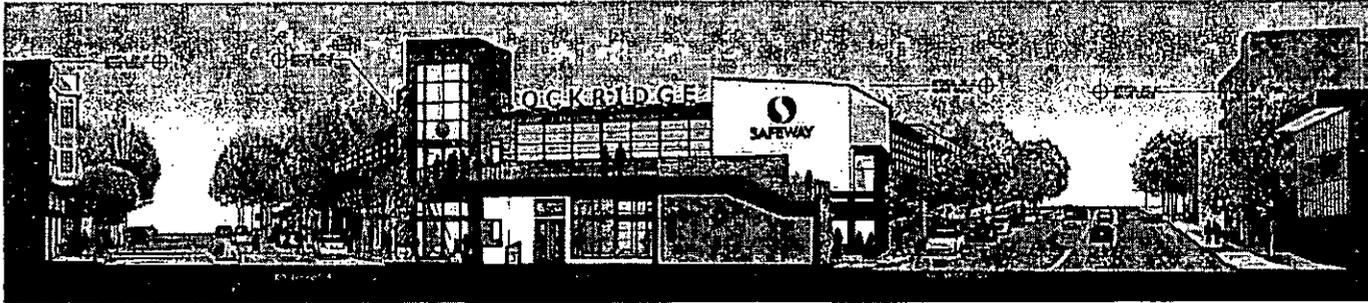
NOT FOR CONSTRUCTION
NO DATE ISSUED AND REVISIONS BY
1. 04.28.2008 COMMUNITY PRESENTATION
2. 05.09.2008 PLANNING COMMITTEE SUBMITTAL
3. 07.28.2008 PLANNING REVISIONS 1
4. 07.28.2008 PLANNING REVISIONS 2

DATE: 08/07/08
DRAWN BY: TBYV

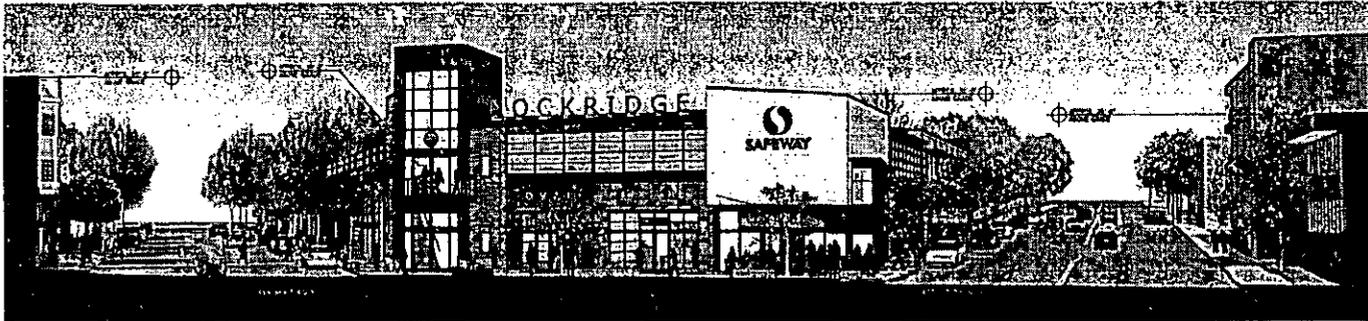
PROJECT NUMBER: 04-008
SHEET TITLE: ENLARGED SECTIONS

SHEET NUMBER: **A3.6**

ALL DIMENSIONS AND NOTES, UNLESS OTHERWISE SPECIFIED, ARE IN FEET AND INCHES. DIMENSIONS SHOWN ON THIS SHEET ARE NOT TO BE CONSIDERED AS SUPPLEMENTARY, UNLESS SO INDICATED OTHERWISE. CONSULT THE ARCHITECT FOR THE NECESSARY.



SITE SECTION AT CORNER BUILDING (N.T.S.)



SITE SECTION AT WALK STREET (N.T.S.)



SITE SECTION NEAR 63RD STREET (N.T.S.)



PROJECT NAME



SAFWAY.

8310 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2670

CURRENT OWNER SAFWAY
DESIGNER SAFWAY

STORE NUMBER 2670

CONTACT PERSON

YVES PARADE
8015 STEVENSON GALL ROAD
PLACENTIA, CA 92669
PHONE 949.269.1100
FAX 949.269.1100
E MAIL Yves.Parade@safeway.com

APPLICANT'S PARCEL NUMBER: 0840700010

COMMENTS

NOT FOR CONSTRUCTION

NO DATE REVISED AND REVISION BY

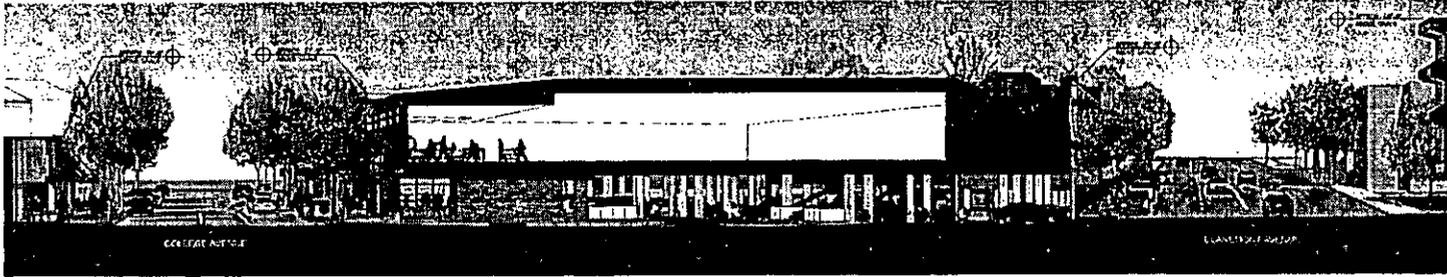
1. 04 29 2008 COMMUNITY PRESENTATION
2. 06 09 2008 PLANNING DEPT SUBMITTAL
3. 07 20 2008 PLANNING DEPT WORKSHEET 1
4. 07 28 2008 PLANNING DEPT SUBMITTAL

DATE: 08/04/13
DRAWN BY: YWV

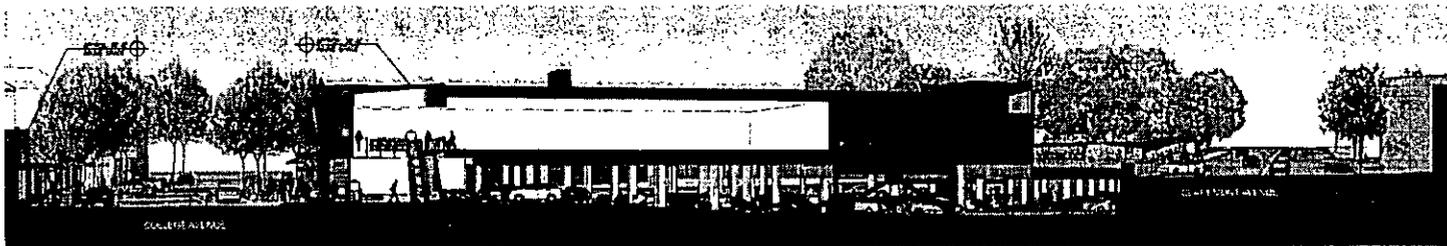
PROJECT NUMBER: 08-008
SHEET TITLE: SITE SECTIONS

SHEET NUMBER: **A3.7**

ALL MEASUREMENTS AND DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE SPECIFIED. DIMENSIONS ARE APPROXIMATE AND SHOULD BE USED AS A GUIDE ONLY. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS, WHETHER CAUSED BY NEGLIGENCE OR OTHERWISE, IN ANY DESIGN OR CONSTRUCTION OF THE PROJECT.



SITE SECTION AT PARKING ENTRANCE (N.T.S.)



SITE SECTION THROUGH STORE AT NORTH END OF RETAIL (N.T.S.)



SITE SECTION AT NORTH END OF RETAIL (N.T.S.)



PROJECT NAME

SAFeway.
 8310 COLLEGE AVENUE
 OAKLAND, CA 94818
 STORE 02870

CONTRACT OWNER: SAFeway
 ARCHITECT: LOWNEY
 STORE NUMBER: 02870
 CONTACT PERSON:
 TODD PERKINS
 800 S TOWNSHIP HALL ROAD
 PLACERVILLE, CA 95667-2228
 P: 530.867.2800
 F: 530.867.2801
 E: TPerkins@safeway.com

APPROXIMATE PARCEL NUMBER: 0846700010

COMMENTS

NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS	BY
1.	04.28.2009	COMPLIANCE PRESENTATION	
2.	05.05.2009	PLANNING DEPT. SUBMITTAL	
3.	07.27.2009	PLANNING REVISIONS 1	
4.	07.28.2009	PLANNING REVISIONS 2	

DATE: 08/07/09
 DRAWN BY: TSTV

PROJECT NUMBER: 08-08
 SHEET TITLE: SITE SECTIONS

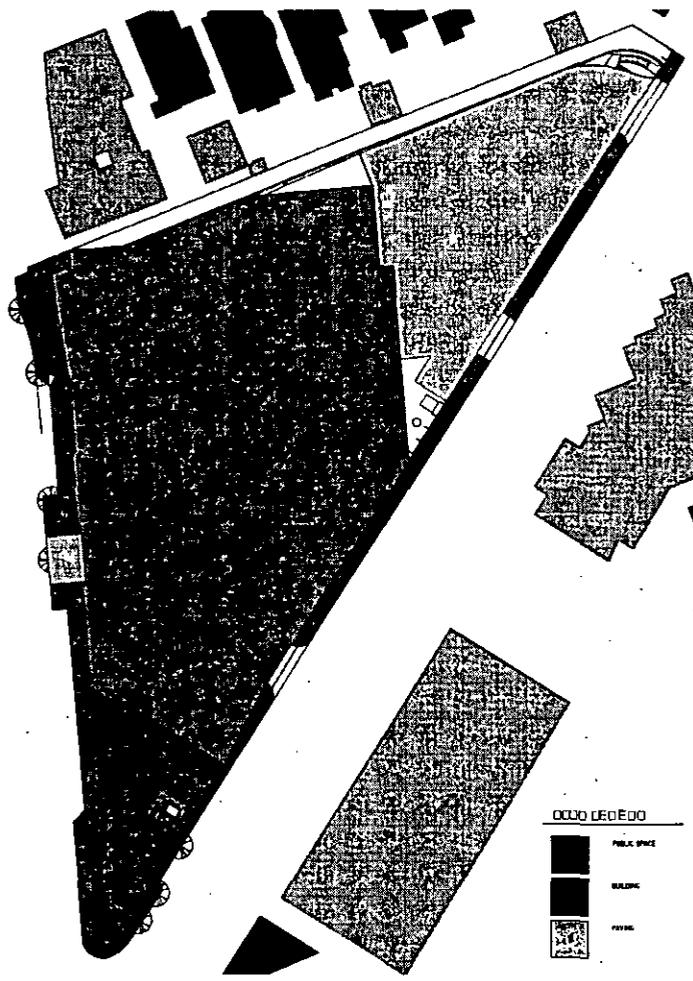
SHEET NUMBER: **A3.8**

ALL DRAWINGS AND INSTRUMENTS NATIONAL APPLICABLE
 ENGINEERING TITLE REQUIREMENTS SHALL BE FULFILLED
 BY THE ARCHITECT AND MAY NOT BE
 TRANSFERRED, REPRODUCED OR OTHERWISE USED
 WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT

PROJECT NUMBER: 08-08



1 PUBLIC SPACE SITE DIAGRAM - EXISTING
 1/32" = 1'-0"



2 PUBLIC SPACE SITE DIAGRAM - NEW
 1/32" = 1'-0"

0000 000000



PROJECT NAME

SAFeway.
 8310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE 02870

CURRENT OWNER: SAFeway
 DESIGNER: SAFeway
 PHONE NUMBER: 510
 CONTACT PERSON: EDDY PARRINO
 8705 STEWARTS HALL ROAD
 PLACENTIA, CA 92659-2028
 PHONE: 714.992.2000
 F: 714.992.2001
 E-MAIL: Todd.Parrino@safeway.com
 PARCEL'S PARCEL NUMBER: 08447000101

CONSTRUCTION

NOT FOR CONSTRUCTION

NO.	DATE	ISSUES AND REVISIONS	BY
1.	04.28.2009	COMMUNITY PRESENTATION	
2.	05.26.2009	PLANNING COM. PRESENTATION	
3.	07.22.2009	PLANNING REVISIONS 1	
4.	07.22.2009	PLANNING REVISIONS 2	

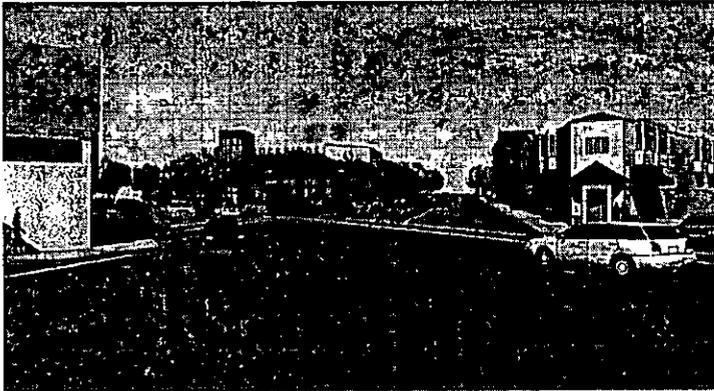
DATE: 08/07/11
 DRAWN BY: TSPV

PROJECT NUMBER: 08-02
 SHEET TITLE: PUBLIC SPACE DIAGRAM

SHEET NUMBER: A3.11

ALL DIMENSIONS AND LOCATIONS SHOWN ARE APPROXIMATE AND SUBJECT TO FIELD SURVEY AND RECORD DRAWING. OWNER SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LOCATIONS SHOWN ON THIS DRAWING.

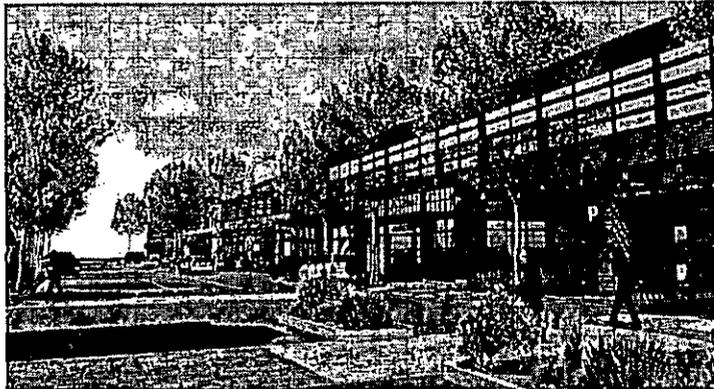
08/07/11 10:53 AM



SOUTH CORNER OF PROJECT AS SEEN FROM INTERSECTION OF COLLEGE AVE. AND CLAREMONT AVE.



VIEW OF WALK STREET ENTRANCE FROM SOUTH CORNER OF 63RD ST. AND COLLEGE AVE.



LOOKING NORTH UP COLLEGE AVE. FROM CORNER OF 63RD ST.



LOOKING SOUTH DOWN COLLEGE AVE. FROM WOOD TAVERN



SAFeway.
 6318 COLLEGE AVENUE
 OAKLAND, CA 94616
 STORE #2878

CLIENT: SAFeway
 ARCHITECT: LOWNEY ARCHITECTURE
 CONTACT PERSON: TERRY PETERSON
 1525 PARKWAY
 9015 BROADMOOR HALL ROAD
 PLUMMERVILLE, CA 94662-2229
 PH: 415-437-2878
 FX: 415-437-2881
 EMAIL: Terry.Peterson@safeway.com
 PROJECT'S PARCEL NUMBER: 0845475000

COMMENTS

DATE FOR CONSTRUCTION

NO. DATE RELEASE AND REVISION BY

- 1. 04.28.2008 COMMUNITY PRESENTATION
- 2. 05.08.2008 PLANNING DEPT SUBMITTAL
- 3. 05.28.2008 PLANNING DEPARTMENT
- 4. 07.08.2008 PLANNING PRESENTATION

DATE: 08/04/08
 DRAWN BY: TSPV

PROJECT NUMBER: 08-03
 SHEET TITLE: PERSPECTIVE VIEWS

SHEET NUMBER: A10.0

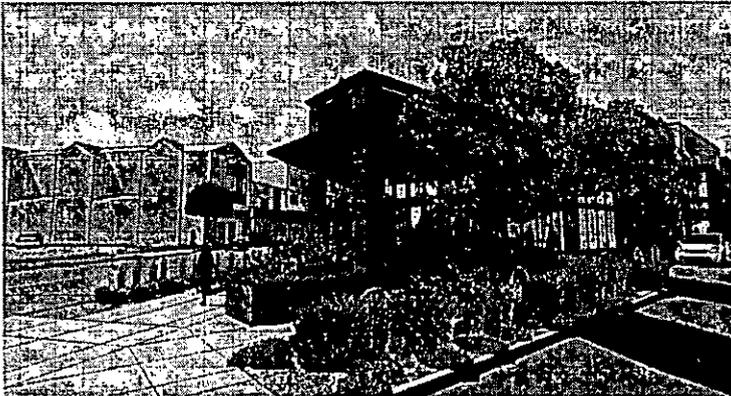
ALL DIMENSIONS AND HEIGHTS UNLESS OTHERWISE SPECIFIED ARE IN FEET AND INCHES. DIMENSIONS AND HEIGHTS SHALL BE AS SHOWN ON THE CONTRACT AND SHALL NOT BE DULCATED, VARIED OR MODIFIED WITHOUT THE CONSENT OF THE ARCHITECT.



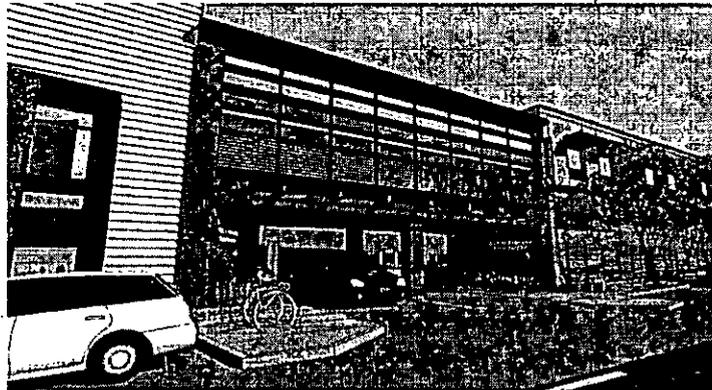
LOOKING SOUTH DOWN COLLEGE AVE. FROM SAFEWAY ENTRANCE



LOOKING EAST THROUGH WALK STREET FROM COLLEGE AVE.



VIEW OF RETAIL BUILDING AT CORNER OF CLAREMONT AVE. AND COLLEGE AVE.



SAFEWAY FACADE AND GARAGE ENTRANCE ALONG CLAREMONT AVE.



PROJECT NAME

SAFEWAY.
 6318 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE 62876

CLIENT/OWNER: SAFEWAY
 DESIGNER: SAFEWAY
 STORE NUMBER: 62876
 CONTACT PERSON:
 TERRY PARSONS
 1849 B'CHMUNDRUM HALL ROAD
 PLEASANTON, CA 94566
 P: 925-467-2676
 F: 925-467-2681
 EMAIL: TERRY.PARSONS@SAFEWAY.COM
 OWNER'S PARCEL NUMBER: 06A07000901

COMMENTS

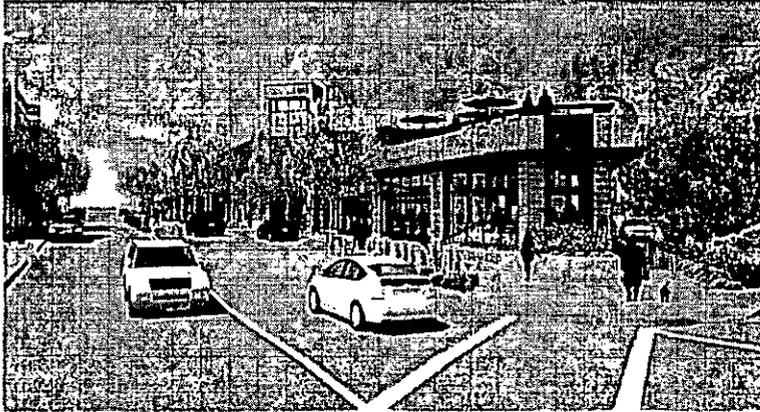
NOT FOR CONSTRUCTION			
NO.	DATE	ISSUED FOR REVISION	BY
1.	04.28.2008	COMMUNITY PRESENTATION	
2.	06.06.2008	PLANNING DEPT SUBMITTAL	
3.	07.28.2008	PLANNING REVISIONS I	
4.	07.28.2008	PLANNING REVISIONS II	

DATE: 08/01/13
 DRAWN BY: TMTV

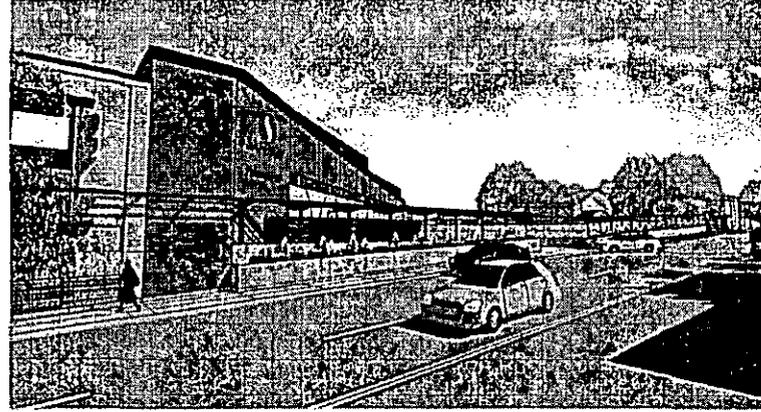
PROJECT NUMBER: 06-008
 SHEET TITLE: PERSPECTIVE VIEWS

SHEET NUMBER: **A10.1**

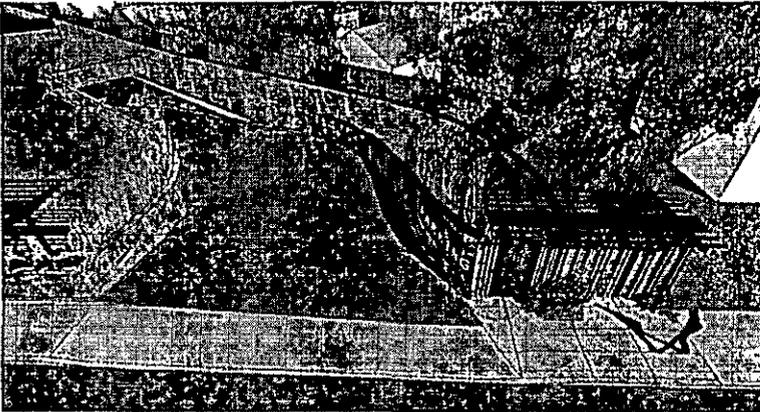
ALL DIMENSIONS AND SPACING UNLESS OTHERWISE NOTED. DIMENSIONS AND SPACING SHOWN BY THE ARCHITECT'S LINE SHALL BE DISPLAYED UNLESS OTHERWISE NOTED. UNLESS OTHERWISE NOTED, ALL DIMENSIONS SHALL BE IN METERS UNLESS OTHERWISE NOTED.



VIEW OF RETAIL BUILDING AT CORNER OF COLLEGE AVE.



SAFEWAY REAR FACADE AND EMPLOYEE PARKING ALONG CLAREMONT AVE.



AERIAL VIEW OF PARKING RAMP AND SETBACK AT NEIGHBORS



AERIAL VIEW OF ROOF TERRACE AT CORNER OF COLLEGE AVE. AND CLAREMONT AVE.



PROJECT NAME

SAFEWAY.
 8310 COLLEGE AVENUE
 OAKLAND, CA 04818
 STORE #2870

CLIENT/OWNER: SAFEWAY
 TRACT: SAFEWAY
 SITE NUMBER: 2870
 CONTACT PERSON:
 TERRY FERRIS
 875 BAYVIEW DRIVE, SUITE 100
 OAKLAND, CA 94612
 P: 510.437.2000
 F: 510.437.2001
 E-MAIL: Terry.Ferris@safeway.com
 ARCHITECT'S PROJECT NUMBER: 0404750001

CONTRACTS

NOT FOR CONSTRUCTION
 NO. DATE REVISION AND REVISION BY
 1. 04.20.2008 COMMUNITY PRESENTATION
 2. 06.03.2008 PLANNING DEPT SUBMITAL
 3. 07.20.2008 PLANNING DEPT PHASE 1
 4. 07.20.2008 PLANNING DEPARTMENT

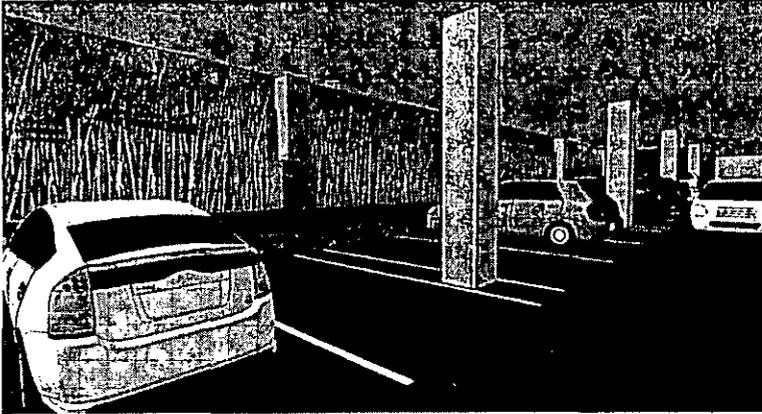
DATE: 08/04/12
 DRAWN BY: TMTV

PROJECT NUMBER: 0404
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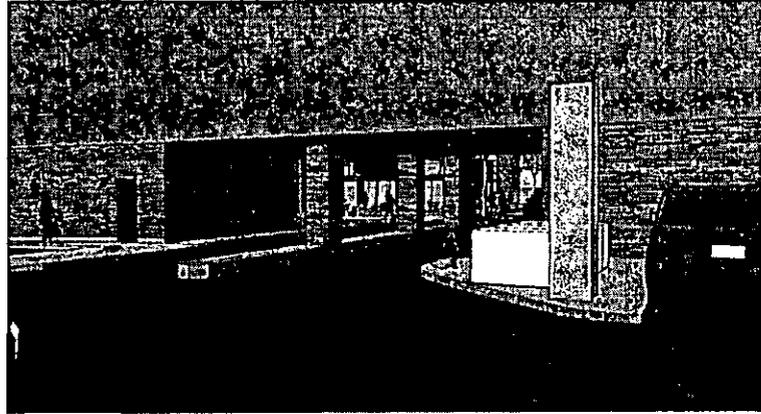
PERSPECTIVE VIEWS

SHEET NUMBER
A10.2

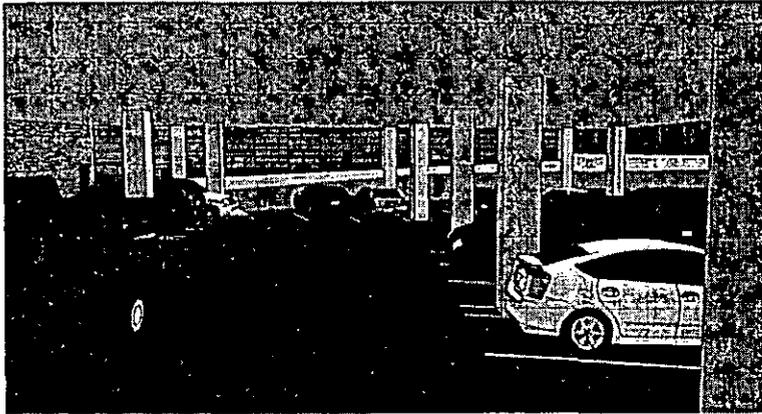
ALL DIMENSIONS AND SPACING NOTATIONS REFERENCED
 UNLESS OTHERWISE SPECIFIED AND UNLESS SHOWN
 TO THE CONTRARY AND ARE TO BE
 MAINTAINED, UNLESS OTHERWISE NOTED
 WITHOUT CONSENT OF THE ARCHITECT



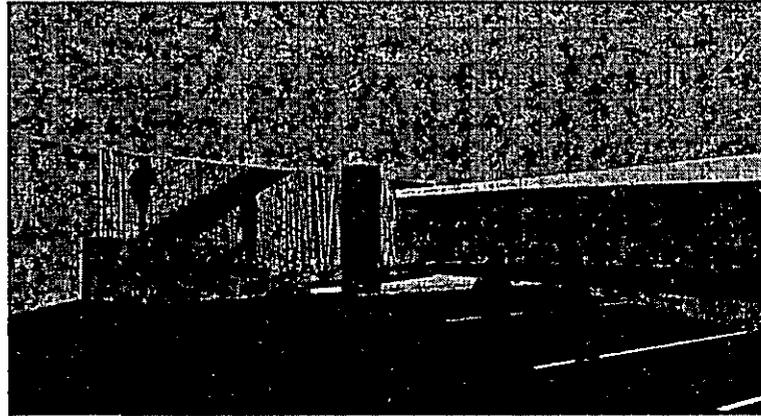
INTERIOR OF PARKING GARAGE ALONG CLAREMONT AVE.



INTERIOR OF PARKING GARAGE ALONG COLLEGE AVE ENTRANCE / EXIT



INTERIOR OF PARKING GARAGE TOWARD NORTH NEIGHBOR



INTERIOR OF PARKING GARAGE AT CLAREMONT AVE PEDESTRIAN ENTRANCE / EXIT



PROJECT NAME
SAFeway.
 0310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE 02870

CLIENT OWNER: SAFeway
 DESIGN: ARCHITECT
 STORE NUMBER: 02870
 CONTACT PERSON: TODD PARADIS
 8700 STEVENSON HALL ROAD
 PLUMMERVILLE, CA 94629
 PHONE: 415.762.2011
 FAX: 415.762.2011
 E-MAIL: Todd.Paradis@safeway.com
 ARCHITECT'S PROJECT NUMBER: 0404000001

COMMENTS

NOT FOR CONSTRUCTION
 NO. DATE ISSUES AND REVISIONS BY
 1. 02.20.2010 COMMUNITY PRESENTATION
 2. 03.02.2010 PLANNING HOIST SUBMITTAL
 3. 07.20.2010 PLANNING REVISIONS 1
 4. 07.20.2010 PLANNING REVISIONS 2

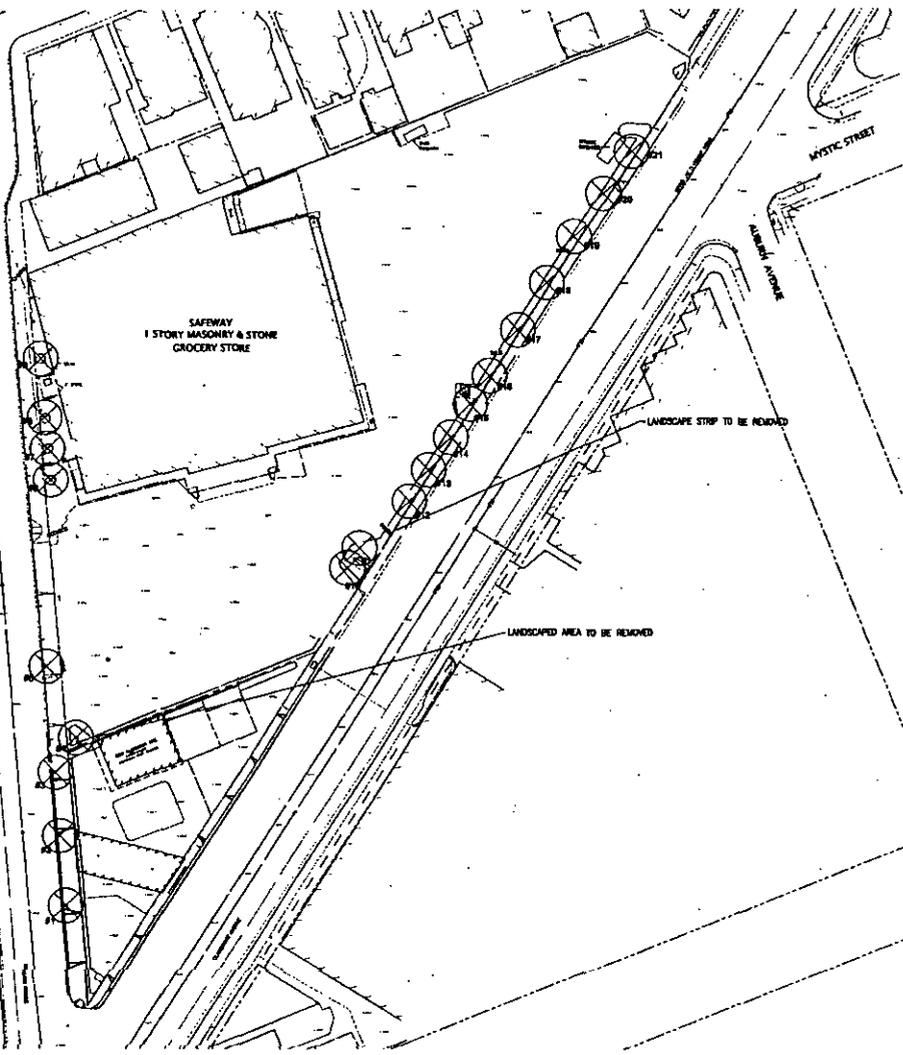
DATE: 08/20/10
 DRAWN BY: TBT/v

PROJECT NUMBER: 10-09
 SHEET TITLE:

PERSPECTIVE VIEWS

SHEET NUMBER: **A10.3**

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TREE SURVEY		
TREES PROPOSED FOR REMOVAL		
#	SPECIES	DBH
1*	CALLISTEMON RIGIDUS	1'-1"
2*	CALLISTEMON RIGIDUS	0'-10"
3	CALLISTEMON RIGIDUS	0'-8"
4*	MAYTENUS BOARIA	1'-0"
5*	CALLISTEMON RIGIDUS	1'-0"
6	MAYTENUS BOARIA	0'-8"
7	MAYTENUS BOARIA	0'-8"
8	MAYTENUS BOARIA	0'-0"
9*	MAYTENUS BOARIA	1'-4"
10*	PINUS RADIATA	MULTI 4'-11"
11	PRUNUS CERASIFERA	9'-1"
12	MAGNOLIA GRANDIFLORA	0'-8"
13	PHOTINIA CRASSIFOLIA	MULTI 2"
14	MAGNOLIA GRANDIFLORA	0'-8"
15	PHOTINIA CRASSIFOLIA	MULTI 8"
16	MAGNOLIA GRANDIFLORA	0'-9"
17	MAGNOLIA GRANDIFLORA	0'-0"
18	MAGNOLIA GRANDIFLORA	0'-0"
19	MAGNOLIA GRANDIFLORA	0'-8"
20*	MAGNOLIA GRANDIFLORA	1'-0"
21	MAGNOLIA GRANDIFLORA	0'-9"

* INDICATES PROTECTED TREES THAT HAVE DBH THAT IS LARGER THAN 8" TO BE REMOVED

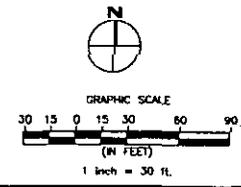
LEGEND:

- TREES**
- TREES TO REMAIN
 - ⊗ TREES TO BE REMOVED

NOTES

TOTAL NUMBER OF TREES TO REMAIN: 8
 TOTAL NUMBER OF TREES TO BE REMOVED: 21
 TOTAL NUMBER OF PROPOSED NEW TREES: 43

SEE PRELIMINARY LANDSCAPE PLAN L1.0 FOR PROPOSED NEW TREE LOCATIONS.



PROJECT NAME

SAFeway
 8310 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2870

CURRENT OWNER: SAFeway
 DESIGNER: SAFeway
 PROJECT NUMBER: 2018
 CONTACT PERSON: BOB STODOLSKI, 949-250-0000
 1000 PARKWAY, SUITE 200, OAKLAND, CA 94612
 EMAIL: BOB@STODOLSKI.COM
 ADDRESS: 1000 PARKWAY, SUITE 200, OAKLAND, CA 94612

CONSULTANT
 BRUCE JETT ASSOCIATE
 landscape architect
 1000 PARKWAY, SUITE 200, OAKLAND, CA 94612
 TEL: 949-250-0000
 WWW: WWW.BJASSOCIATE.COM



NOT FOR CONSTRUCTION

NO. DATE REVISION AND PREPARED BY

1. BRUCE JETT ASSOCIATE, OAKLAND, CA

DATE: _____

DESIGNED BY: _____

PROJECT NUMBER: _____ LOW 000

SHEET TITLE: TREE SURVEY

SHEET NUMBER: **L0.1**

ALL DIMENSIONS AND OFFSETS SHOWN UNLESS OTHERWISE SPECIFIED. CONSTRUCTION AND INSTALLATION SHALL BE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS, LATEST EDITION. ANY CHANGES TO THIS PLAN SHALL BE MADE BY A SEPARATE PLAN OR A CORRECTIVE SHEET. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.



PROJECT NAME
SAFEWAY
 8318 COLLEGE AVENUE
 OAKLAND, CA 94618
 STORE #2878

CLIENT OWNER: SAFEWAY
 PROJECT NUMBER: 2878
 STORE NUMBER: 2878
 CONTACT PERSON: JIM FERRIS
 JIM.FERRIS@SAFEWAY.COM
 415.503.0000 (CALL)
 415.503.0000 (FAX)
 415.503.0000 (CELL)
 415.503.0000 (HOME)

ARCHITECT'S PANEL NUMBER: 2878/2878/2878

CONSULTANTS
 BRUCE JETT ASSOCIATES
 LANDSCAPE ARCHITECTS
 1000 COLLEGE AVENUE
 OAKLAND, CA 94618
 415.503.0000 (CALL)
 415.503.0000 (FAX)



NOT FOR CONSTRUCTION
 ALL DATA SHALL BE REVIEWED BY
 THE CLIENT'S PLANNING DEPT. AND/OR
 OTHER APPROPRIATE DEPARTMENTS

DATE: _____
 DRAWN BY: _____
 PROJECT NUMBER: _____
 SHEET TITLE: _____

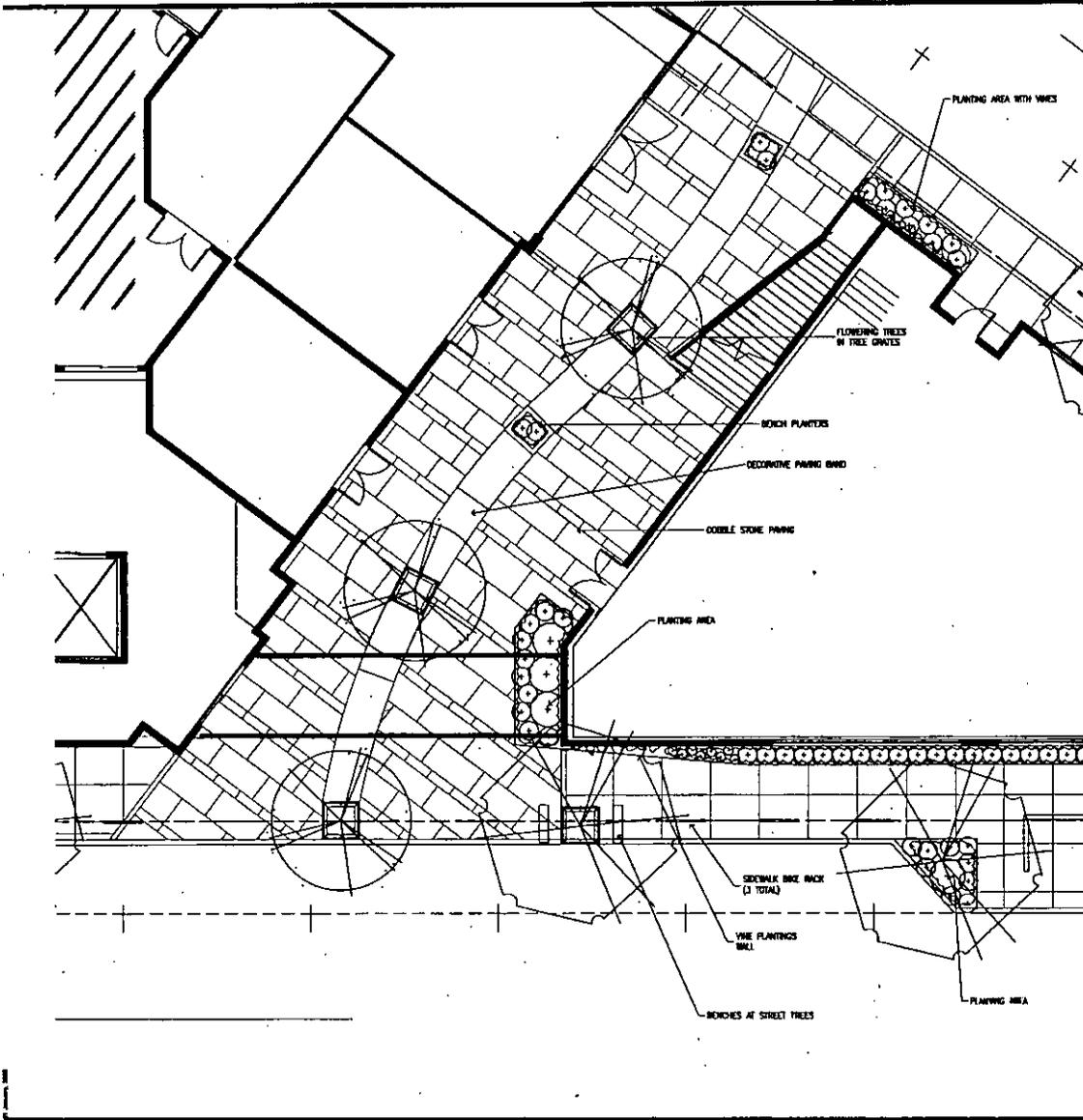
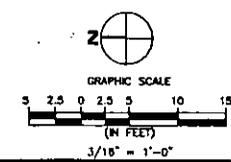
ENLARGED STREET WALK PLAN
 SHEET NUMBER: **L1.2**
 ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM THE ARCHITECT. THIS DOCUMENT IS THE PROPERTY OF THE ARCHITECT AND IS TO BE KEPT IN CONFIDENCE.

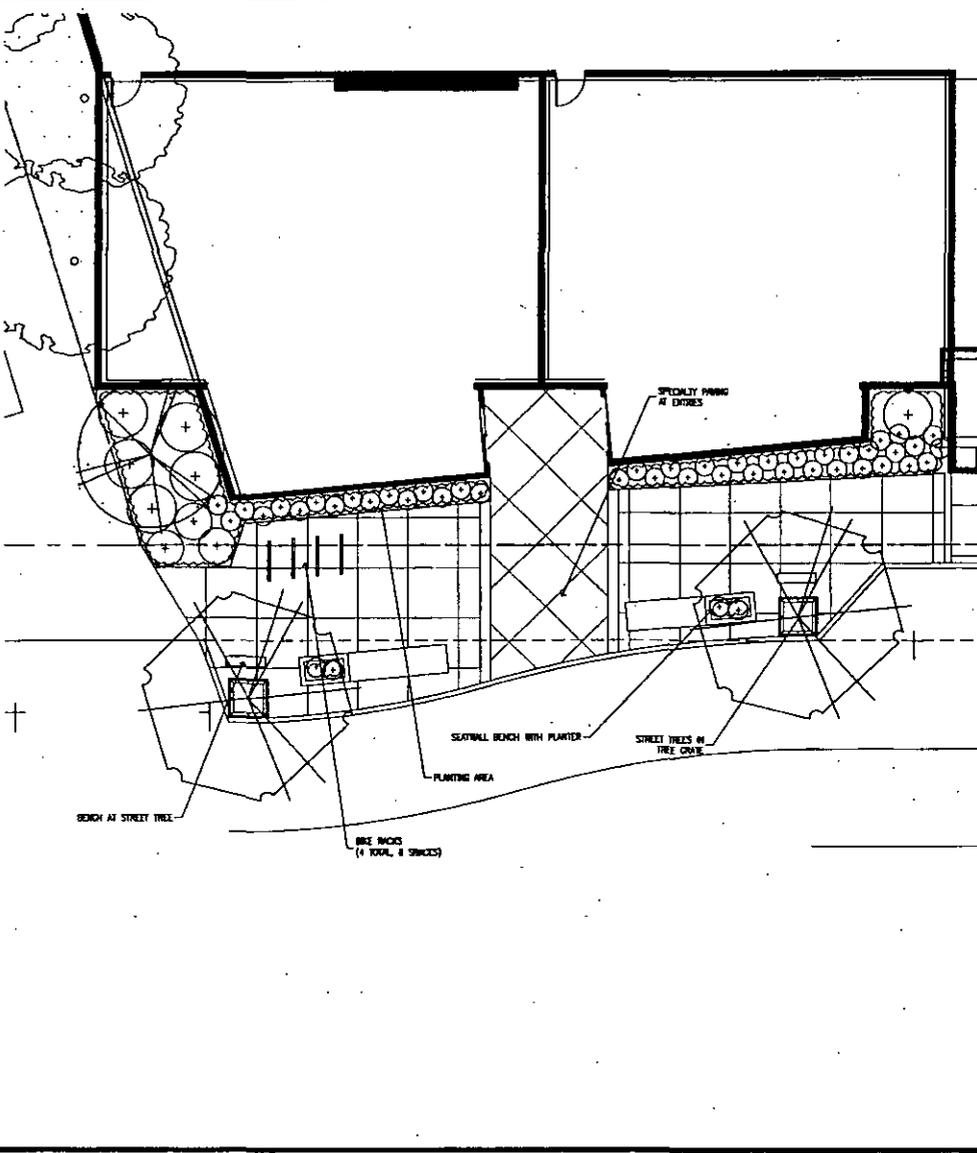
PLANT LIST (ALL SPECIES ARE TO BE APPROVED BY CITY LANDSCAPE SUPERVISOR)

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	SPACING
STREET TREES				
	CLAREMONT AVENUE	SOUTHERN MAGNOLIA	24" BOX	4' O.C.
	MAGNOLIA GRANDIFLORA	SOUTHERN MAGNOLIA	24" BOX	AS SHOWN
	FILICULUS ACERIFOLIA	LONDON PLANE TREE	24" BOX	AS SHOWN
WALK STREET TREES				
	LAGERSTROEMIA INDICA	GRAPE MYRTLE	24" BOX	AS SHOWN
	PYRUS CALLERYANA	FLOWERING PEAR	24" BOX	AS SHOWN
SCREEN TREES				
	CELTIS BIONENSIS	CHINESE HACKBERRY	24" BOX	AS SHOWN
	MAGNOLIA GRANDIFLORA	SOUTHERN MAGNOLIA	24" BOX	AS SHOWN
	LOPHOSTEMON COMERTII	BRUSHANE BOX	24" BOX	AS SHOWN
SHRUBS				
	PHORMIUM SPP.	NEW ZEALAND FLAX	8 GAL	8' O.C.
	DIETERIA VEGETA	FORTNIGHT LILY	8 GAL	8' O.C.
	PITTOSPORUM ELAEAGNOIDES	SEAL	15 GAL	AS SHOWN
	PITTOSPORUM TOBIRA	VANDERKAT TERNRA	8 GAL	8' O.C.
	MYRICA COMPLANATA	MYRWIL	8 GAL	8' O.C.
	EURYOPS PECTINATUS	YELLOW BUSH DAIRY	8 GAL	8' O.C.
	ASPIDISTRA ELATIOR	CHAT-PON PLANT	8 GAL	8' O.C.
BAMBOO				
	PHYLLOSTACHYA PUBERULA	YELLOW DRUM BAMBOO	30" BOX	4' O.C.
	PHYLLOSTACHYA PUBERULA	BLACK BAMBOO	30" BOX	4' O.C.
GROUND COVERS				
	SANTANIA MONTEVIDENSIS	LANTANA	1 GAL	4' O.C.
	NOLINA X CARPET NAUTIFERA	CARPET NOBE	1 GAL	2' O.C.
	VINCA MINOR	PERIWINKLE		
VINES				
	FICUS PUMILA	CREEPING FIG	3 GAL	AS SHOWN
MULCH				

LEGEND

- FURNITURE**
- TREE GRATE - AT ALL STREET TREES
 - BENCH
 - BIKE RACK
- PAVING**
- SPECIALTY PAVING AT RETAIL ENTRIES
 - SIDEWALK PAVING
 - SPECIALTY PAVING AT FACADE
 - SPECIALTY PAVED AT FACADE
 - ACCESS BUMPERS





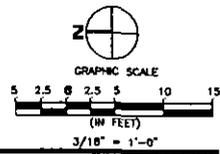
PLANT LIST (ALL SPECIES ARE TO BE APPROVED BY CITY LANDSCAPE SUPERVISOR)

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	SPACING
STREET TREES				
	CLARENDON AVENUE	SOUTHERN MAGNOLIA	24" BOX	30' O.C.
	MANRICO IN GRAY OPIFERA			
	COLLERE AVENUE			
	PLATANUS ACERIFOLIA	LONDON PLANE TREE	24" BOX	AS SHOWN
MILK BARK TREES				
	LADERSTROEMIA INDICA	GRAPE MYRTLE	24" BOX	AS SHOWN
	PYRUS CALLERYANA	FLOWERING PEAR	24" BOX	AS SHOWN
SCREEN TREES				
	CELTIS BAIRDII	CHINESE HACKBERRY	24" BOX	AS SHOWN
	MARUBIUM GRANDIFOLIA	SOUTHERN MAGNOLIA	24" BOX	AS SHOWN
	LOPHOTEMUM COMPLANATUM	BROSBANE BOX	24" BOX	AS SHOWN
SHRUBS				
	PHORARIA SPP.	NEW ZEALAND FLAX	5 GAL	7' O.C.
	DIETES VEGETA	FORTNIGHT LILY	5 GAL	7' O.C.
	PITTOSPORUM EUGENIODES	NOR	16 GAL	AS SHOWN
	PITTOSPORUM TOBIRA	VANEGATED TORIA	5 GAL	7' O.C.
	MYRTUS COMMUNIS	MYRTLE	5 GAL	7' O.C.
	SURURUS PECTINATUS	YELLOW BUSH DAWY	5 GAL	7' O.C.
	ASPENIUM ADNIGRUM	CYST-RICH PLANT	5 GAL	7' O.C.
BAMBOO				
	PHYLLOSTACHYS AUROSULCATA 'YELLOW GROOVE'	YELLOW GROOVE BAMBOO	30" BOX	4' O.C.
	PHYLLOSTACHYS NIGRA 'BLACK BAMBOO'	BLACK BAMBOO	30" BOX	8' O.C.
GROUND COVERS				
	LANTANA MONTEVIDENSIS	LANTANA	1 GAL	7' O.C.
	ROSA X CARPET 'MOATRUM'	CARPET ROSE	1 GAL	7' O.C.
	VINCA MINOR	PERIWINKLE		
VINES				
	FICUS PUMILA	CREEPING FIG	5 GAL	AS SHOWN



LEGEND

- FURNITURE**
- TREE GRATE - AT ALL STREET TREES
 - BENCH
 - BIKE RACK
- PAVING**
- SPECIALTY PAVING AT RETAIL ENTRY'S
 - SIDEWALK PAVING
 - SPECIALTY PAVING AT PAVED
 - SPECIALTY PAVING AT PARK
 - ADJACENT AREAS



PROJECT NAME

SAFeway.
6316 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2876

CLIENT: SAFeway
PROJECT: SAFeway STORE #2876
STORE NUMBER: 2876

CONTACT PERSON: TERRY PRITCHARD
1915 STOCKTON HALL ROAD
FLEMINGTON, CA 94508
PH 925 467 2876
F 925 467 2876
E TERRY.PRITCHARD@SAFeway.com

ARCHITECT: LOWNEY ARCHITECTURE
1915 STOCKTON HALL ROAD
FLEMINGTON, CA 94508
PH 925 467 2876
F 925 467 2876
E TERRY.PRITCHARD@SAFeway.com

CONSULTANTS

BRUCE JETT ASSOCIATES
LANDSCAPE ARCHITECTS
1000 14TH STREET
SAN FRANCISCO, CA 94103
PH 415 774 1111
WWW.BRUCEJETT.COM

NOT FOR CONSTRUCTION

NO. DATE REVISION AND REVISION BY

1. 01/15/10 BRUCE JETT ASSOCIATES

DATE: _____

DESIGN BY: _____

PROJECT NUMBER: _____ LOW 2876

SHEET TITLE: EXCAVATED RETAIL CORNER PLAN

SHEET NUMBER: **L1.3**

ALL DIMENSIONS AND SPACING ARE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS AND SPACING ARE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS AND SPACING ARE TO FACE UNLESS OTHERWISE NOTED.



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

CLIENT: SAFEWAY
 PROJECT: SAFEWAY
 STORE NUMBER: 2870
 CONTACT PERSON: [Name]
 STORE ADDRESS: 6310 COLLEGE AVENUE, OAKLAND, CA 94618
 PHONE: (415) 764-2870
 FAX: (415) 764-2870
 ARCHITECT'S PORTAL, PLANS, AND ELEVATIONS

CONSULTANTS
BRUCE JETT ASSOCIATES
 LANDSCAPE ARCHITECTS
 1000 14TH AVENUE, SUITE 200
 BERKELEY, CA 94710
 PHONE: (415) 841-1000
 FAX: (415) 841-1001



NOT FOR CONSTRUCTION

REV. DATE DRAWN AND REVISIONS BY

1. BRUCE JETT ASSOCIATES (BY) [Name]

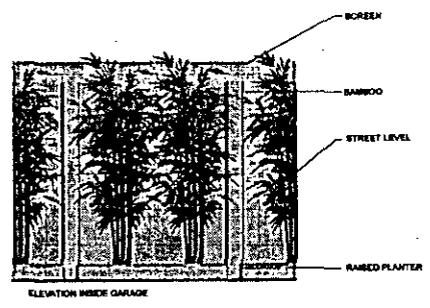
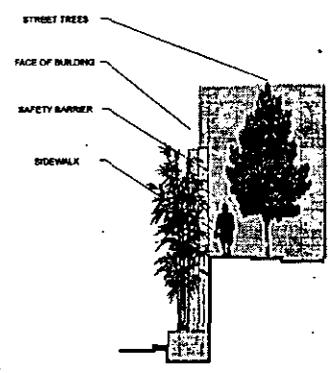
DATE: _____
 COVER BY: _____

PROJECT NUMBER: L15-002

SHEET TITLE: SECTIONS AND ELEVATIONS

SHEET NUMBER: L1.5

ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED
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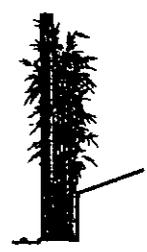


SECTION AT CLAREMONT

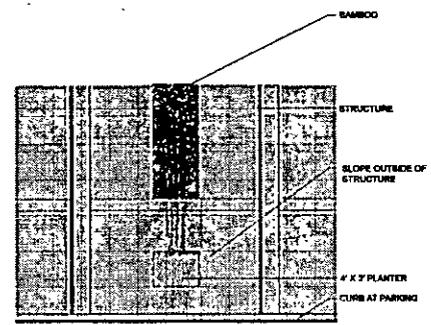


PLAN

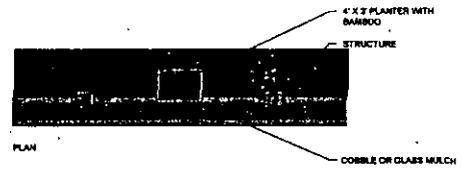
BAMBOO AT CLAREMONT
 SECTION SCALE: 1/4"=1'-0"



SECTION



ELEVATION INSIDE GARAGE



PLAN

BAMBOO NORTH OF GARAGE
 SECTION SCALE: 1/4"=1'-0"

PASEO TREES



LAGERSTROEMIA INDICA
CRAPE MYRTLE

SCREEN TREES

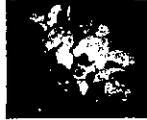


LOPHOSTEMON CONFERTUS
BRISBANE BOX

STREET TREES



MAGNOLIA GRANDIFLORA
SOUTHERN MAGNOLIA

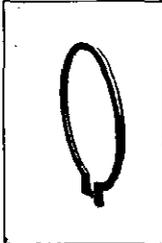


PLANTANUS ACERFOLIA
LONDON PLANE TREE



SITE FURNISHINGS

BIKE RACKS



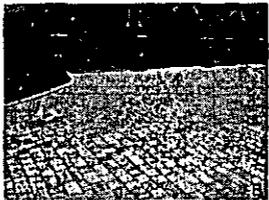
BENCHES AT STREET TREES



PAVING



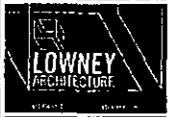
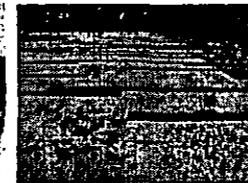
STEPSTONE
Modular Linear Paver



PORPHYRY
Image above for texture
NOT color



Black Basalt at "S" Band



SAFEWAY
6310 COLLEGE AVENUE
OAKLAND, CA 94618
STORE #2670

CLASSIFY OWNER: SAFEWAY
DESIGNER: SAFEWAY
STORE NUMBER: 2670

CONTACT PERSON: TERRY PARRISH
1000 PARKWAY
1000 STEVENSON HALL ROAD
PLACENTIA, CA 92669
TEL: 714.991.2200
FAX: 714.991.2200
WWW: www.safeway.com

ARCHITECT: PAVEL, HANSEN, WATKINSON

SCALE: 1/8"=1'-0"
BRUCE JETT ASSOCIATES
LANDSCAPE ARCHITECTS
1015 12TH STREET
SAN FRANCISCO, CA 94103
TEL: 415.398.1100
WWW: www.brucejett.com



NOT FOR CONSTRUCTION

NO. DATE REVISIONS AND REVISIONS BY

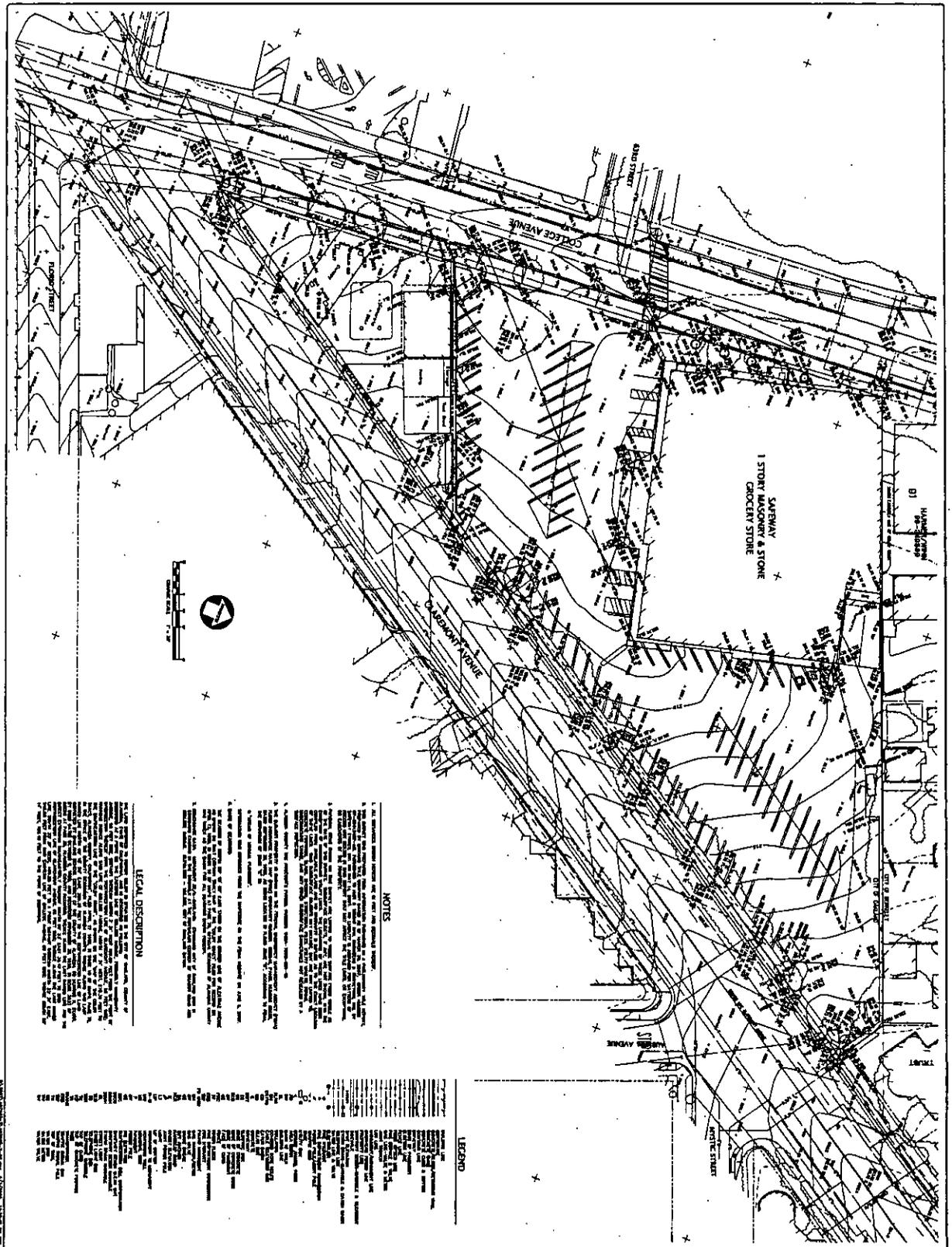
L. BRUCE JETT PLANNING DEPT. SUBMITTED BY

DATE: _____

DRAWN BY: _____

PROJECT NUMBER: _____

SHEET TITLE: _____



NOTES

1. THIS SURVEY WAS MADE BY THE SURVEYOR AND HIS ASSISTANTS IN THE FIELD AND IN THE OFFICE.

2. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

3. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

4. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

5. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

6. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

7. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

8. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

9. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

10. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1941.

LEGAL DESCRIPTION

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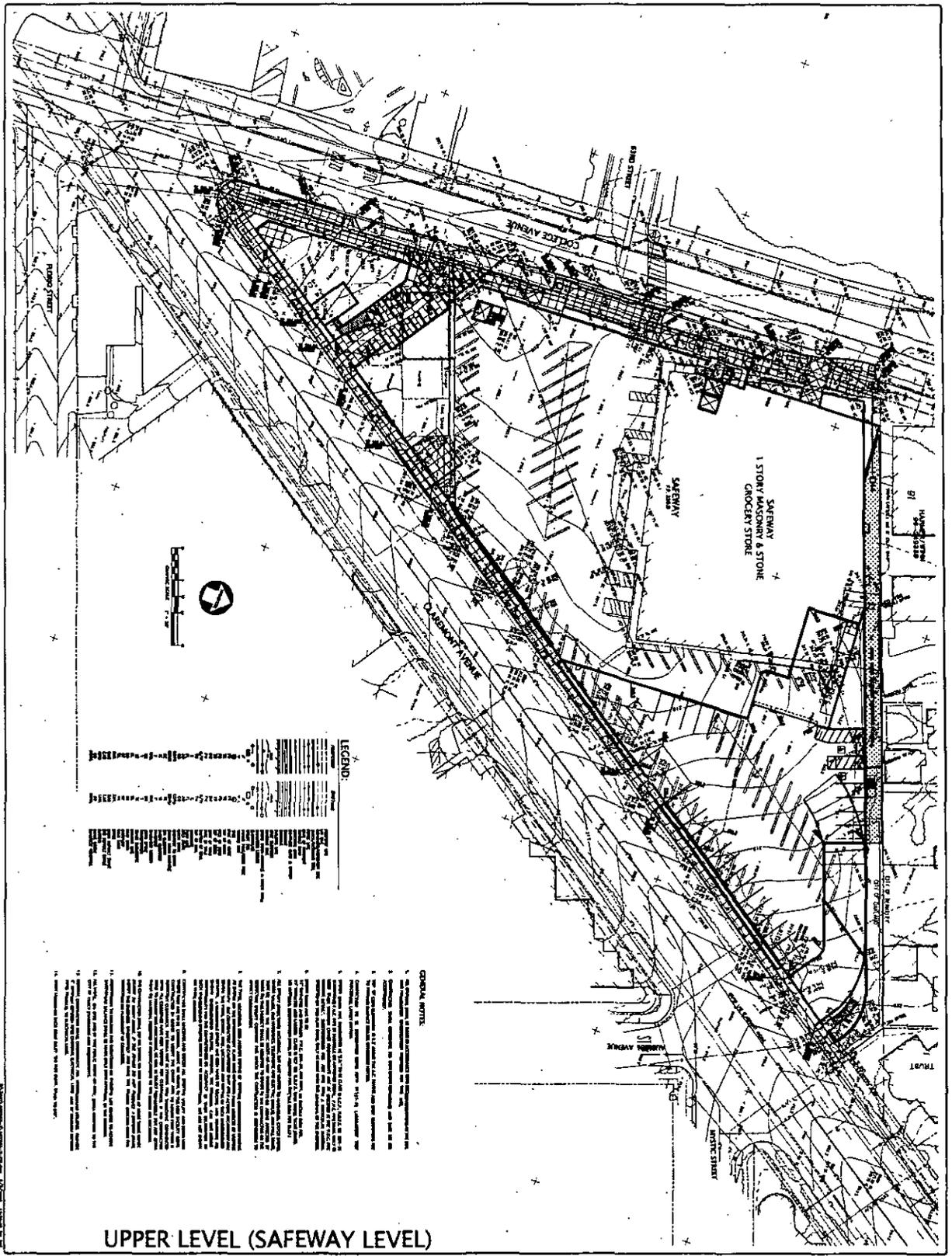
7. ...

8. ...

9. ...

10. ...

BOUNDARY, TOPOGRAPHIC & UTILITY SURVEY 6310 COLLEGE AVENUE SAFEMART STORES INCORPORATED		KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC. 1232 SHAW BLVD. SUITE 104 PLACENTIA, CALIFORNIA 92669 (949) 992-8888 FAX (949) 992-8888	
DATE	SCALE	PROJECT	REVISIONS
01/15/88	1"=40'	6310 COLLEGE AVENUE	1
BY	CHKD	DATE	BY
J. W. KIER	J. W. KIER	01/15/88	J. W. KIER



UPPER LEVEL (SAFENWAY LEVEL)

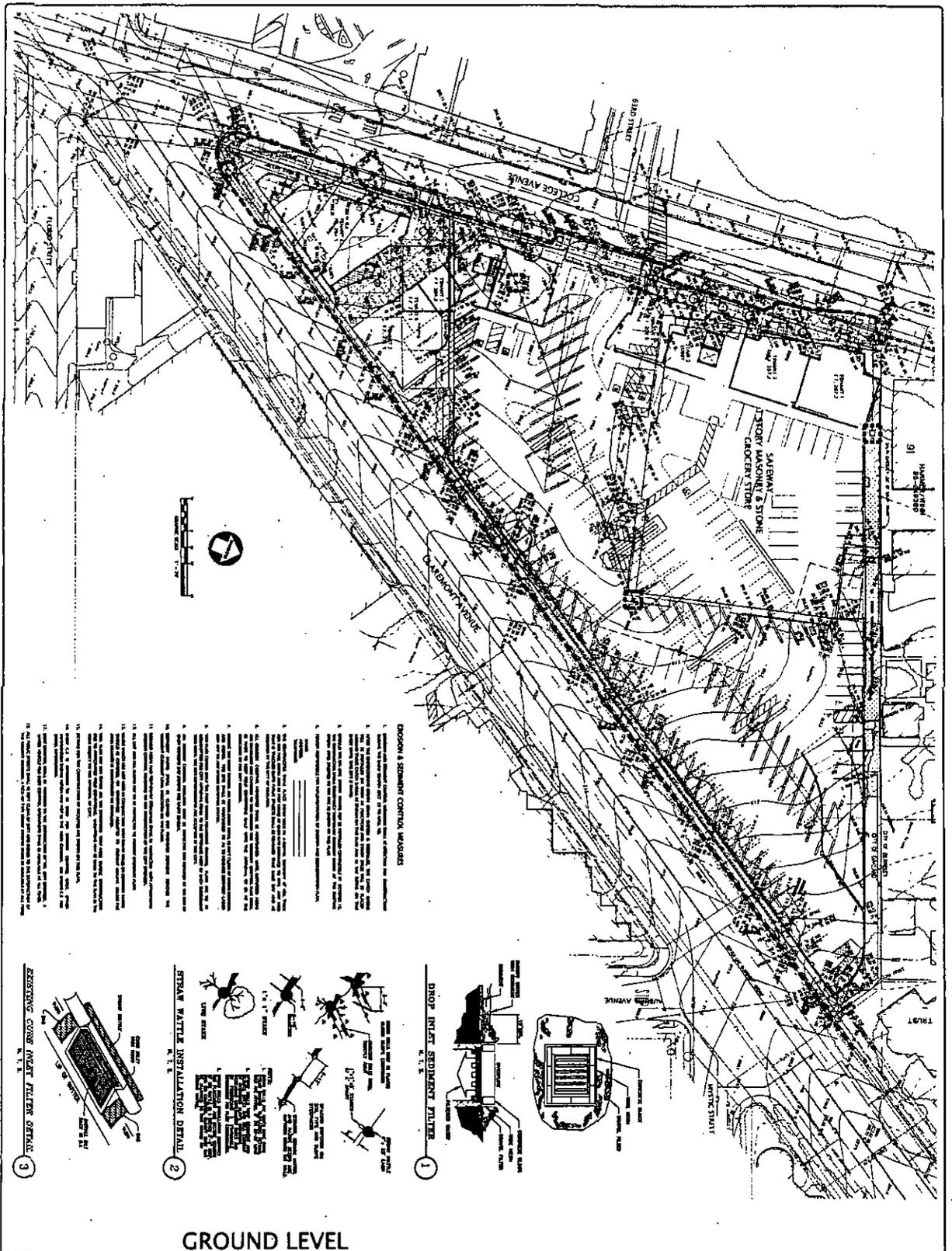
PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN
 6310 COLLEGE AVENUE
 SAFENWAY STORES INCORPORATED

KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 1213 Shattuck Avenue, Suite 100
 Berkeley, California 94704
 Tel: 866-544-8888

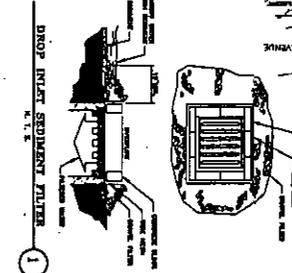
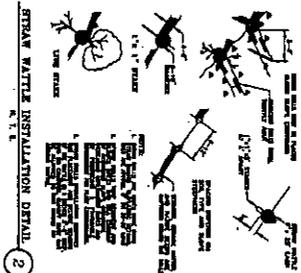
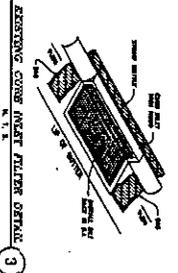
DATE	DESCRIPTION
02/22/88	PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN
02/22/88	UPPER LEVEL (SAFENWAY LEVEL)
02/22/88	SAFENWAY STORES INCORPORATED
02/22/88	6310 COLLEGE AVENUE
02/22/88	OAKLAND, CALIFORNIA

NO.	REVISION
1	ISSUED FOR PERMITTING
2	ISSUED FOR PERMITTING
3	ISSUED FOR PERMITTING
4	ISSUED FOR PERMITTING
5	ISSUED FOR PERMITTING
6	ISSUED FOR PERMITTING
7	ISSUED FOR PERMITTING
8	ISSUED FOR PERMITTING
9	ISSUED FOR PERMITTING
10	ISSUED FOR PERMITTING

- GENERAL NOTES:**
1. ALL GRADING SHALL BE IN ACCORDANCE WITH THE CITY OF OAKLAND GRADING ORDINANCES.
 2. ALL DRAINAGE SHALL BE TO THE STREET OR TO THE SEWER.
 3. ALL UTILITIES SHALL BE IN ACCORDANCE WITH THE CITY OF OAKLAND UTILITY ORDINANCES.
 4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF OAKLAND CONSTRUCTION ORDINANCES.
 5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA CONSTRUCTION CODE.
 6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA GRADING CODE.
 7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA DRAINAGE CODE.
 8. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA UTILITY CODE.
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 18. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA GRADING CODE.
 19. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA DRAINAGE CODE.
 20. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA UTILITY CODE.

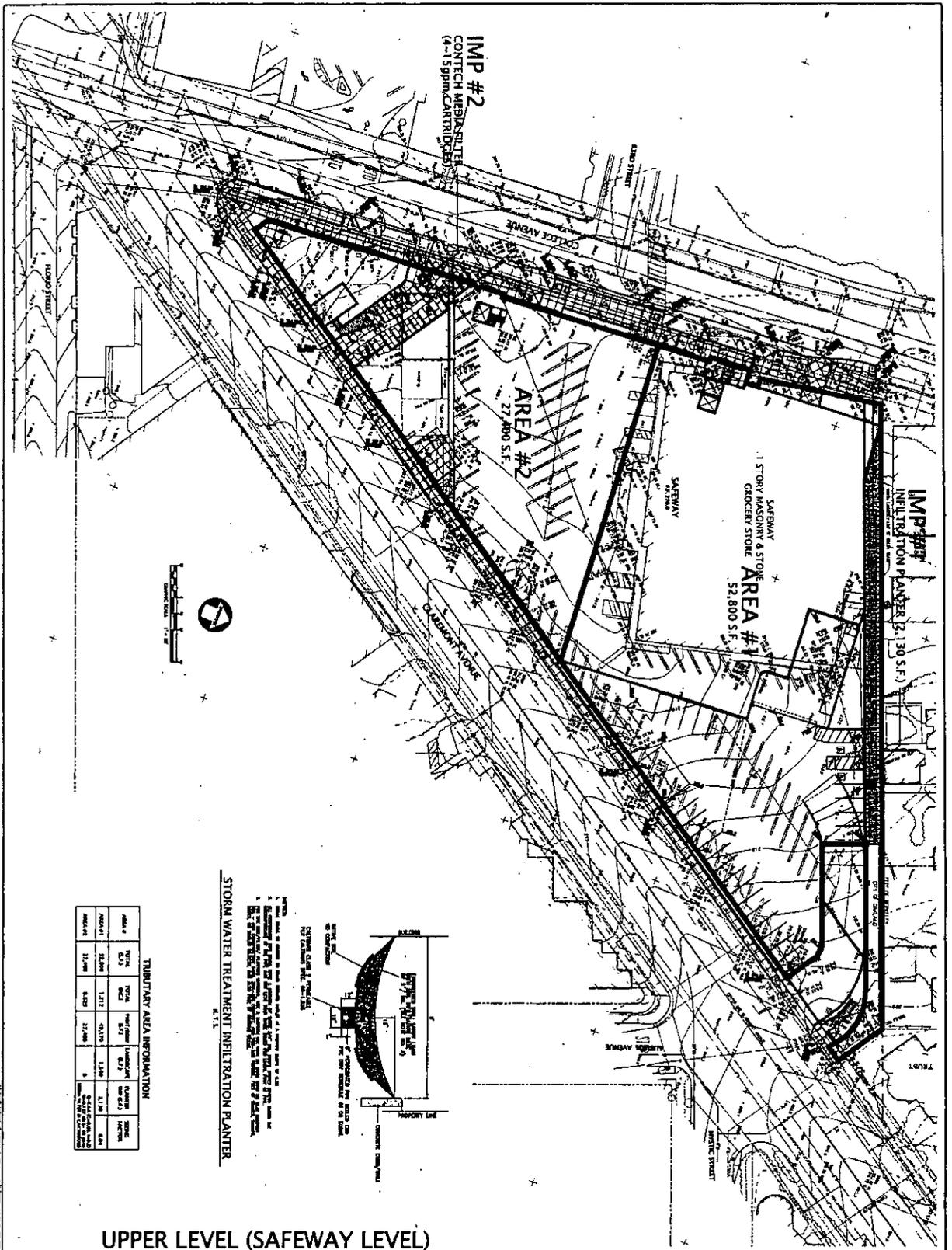


- EROSION & SEDIMENT CONTROL MEASURES**
1. ALL EXPOSED SOIL SHALL BE COVERED WITH EROSION CONTROL MATS OR MULCH IMMEDIATELY UPON EXCAVATION.
 2. ALL EXPOSED SOIL SHALL BE COVERED WITH EROSION CONTROL MATS OR MULCH IMMEDIATELY UPON EXCAVATION.
 3. ALL EXPOSED SOIL SHALL BE COVERED WITH EROSION CONTROL MATS OR MULCH IMMEDIATELY UPON EXCAVATION.
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 19. ALL EXPOSED SOIL SHALL BE COVERED WITH EROSION CONTROL MATS OR MULCH IMMEDIATELY UPON EXCAVATION.
 20. ALL EXPOSED SOIL SHALL BE COVERED WITH EROSION CONTROL MATS OR MULCH IMMEDIATELY UPON EXCAVATION.



GROUND LEVEL

<p>EROSION CONTROL PLAN 6310 COLLEGE AVENUE SAFeway STORES INCORPORATED</p>		<p>KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC. 1245 COLLEGE AVENUE, SUITE 100 OAKLAND, CALIF. 94612 PH: 510.834.2000</p>	<table border="1"> <tr> <th>NO.</th> <th>REVISION</th> <th>DATE</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	REVISION	DATE									
NO.	REVISION	DATE													
<p>DATE: 11/11/03 SCALE: AS SHOWN SHEET: C-3 PROJECT: 03-001</p>	<p>OAKLAND</p>	<p>CALIFORNIA</p>	<table border="1"> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>												



IMP #2
CONTECH MEDIA FILTER
(4-15gpm/CARTRIDGES)

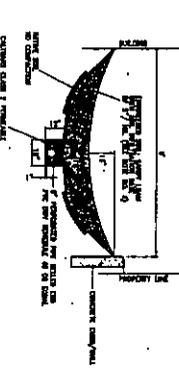
AREA #2
27,480 S.F.

SAFEMAN
1 STORY LAMINUM & STONE
GROCERY STORE
32,800 S.F.

IMP #1
INFILTRATION PLANTER (32,800 S.F.)



STORM WATER TREATMENT INFILTRATION PLANTER
N.T.S.



TRIANGULAR AREA INFORMATION

Area #	Volume	Area	Perimeter	Equivalent	Equivalent	Equivalent
AREA #1	0.13	1022	1127	63.7	1.28	1.18
AREA #2	12.98	1212	1013	63.7	1.28	1.18
AREA #3	31.08	820	27.08	9		6.84

UPPER LEVEL (SAFEMAN LEVEL)

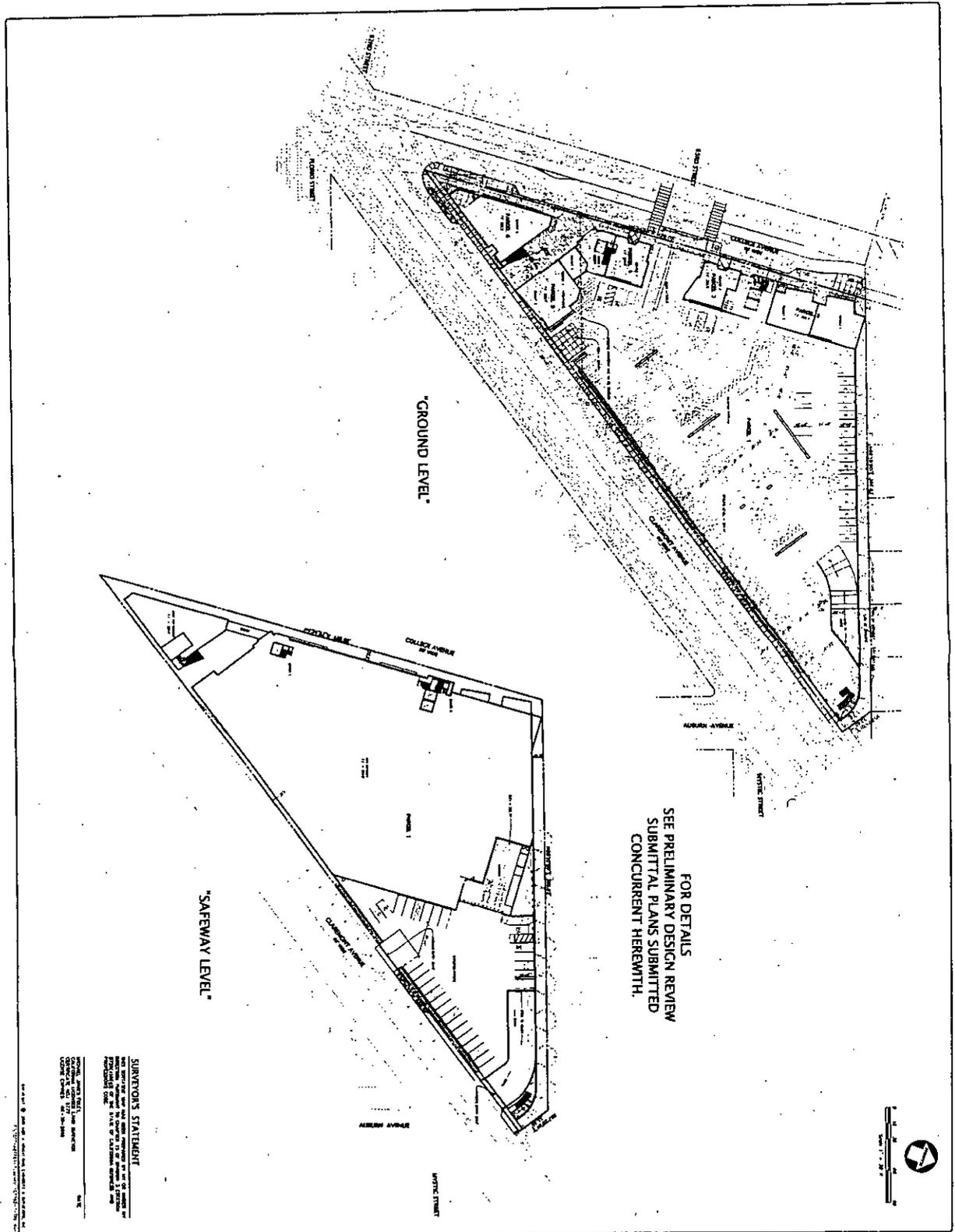
STORM WATER QUALITY CONTROL PLAN
6310 COLLEGE AVENUE
SAFEMAN STORES INCORPORATED

DAKLAND

CALIFORNIA

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
1277 Broadway, Suite 100
Berkeley, California 94704
Tel: 415.863.2800
Fax: 415.863.2801

NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	10/15/01	JW
2	REVISION		
3	REVISION		
4	REVISION		
5	REVISION		

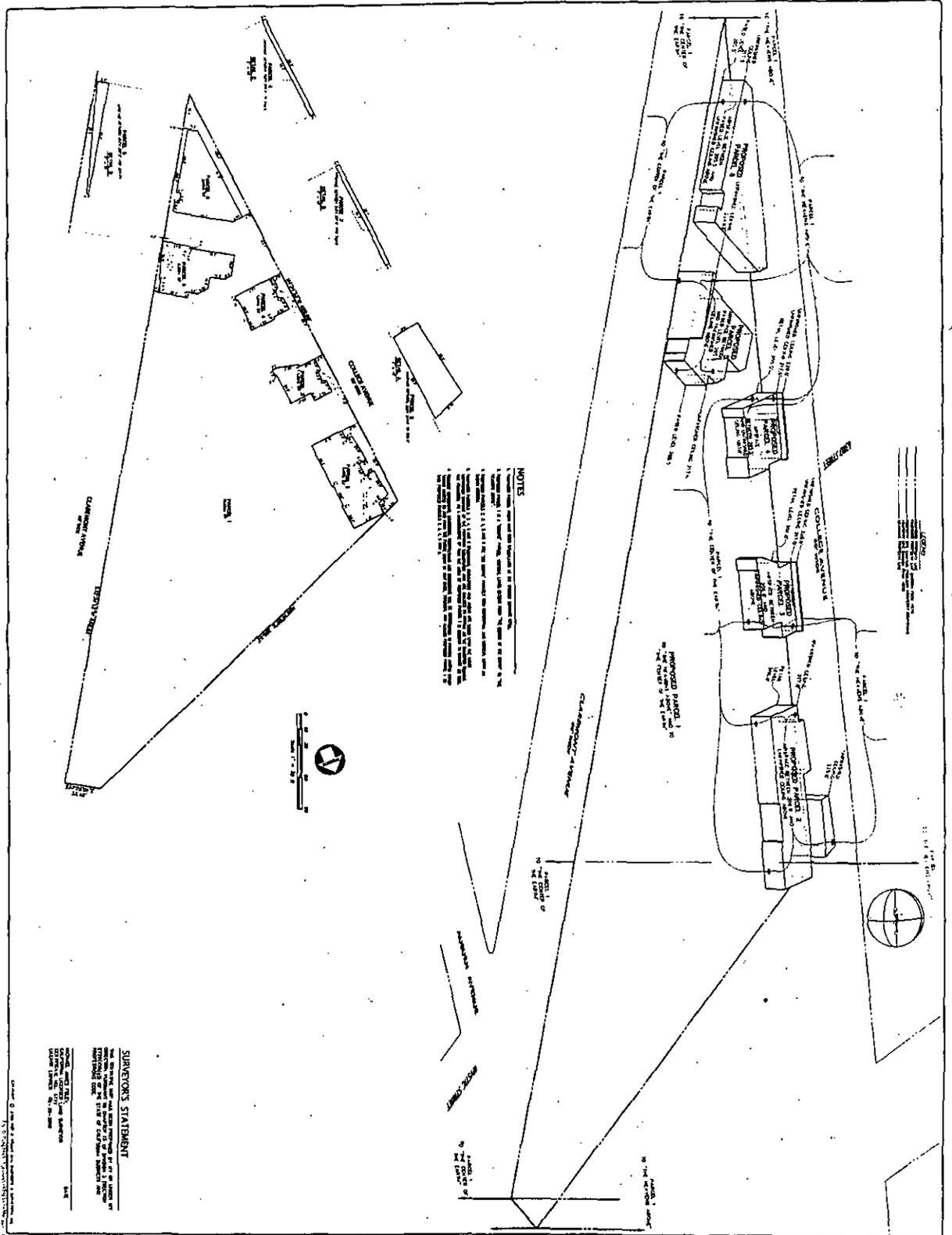


FOR DETAILS
SEE PRELIMINARY DESIGN REVIEW
SUBMITTAL PLANS SUBMITTED
CONCURRENT HEREMITH.

SURVEYOR'S STATEMENT
I, the undersigned, being a duly licensed and qualified surveyor in the State of California, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the person claiming to be the owner of the land described in the foregoing description, and that the same is a true and correct copy of the original survey as shown to me by the person claiming to be the owner of the land described in the foregoing description.

DATE: _____
SURVEYOR: _____
CITY: _____

VESTING TENTATIVE MAP; PARCEL MAP NO. 9889			APPROVED	DATE
6310 COLLEGE AVENUE SAFeway STORES INCORPORATED			APPROVED	DATE
ALAMEDA COUNTY, CALIFORNIA				

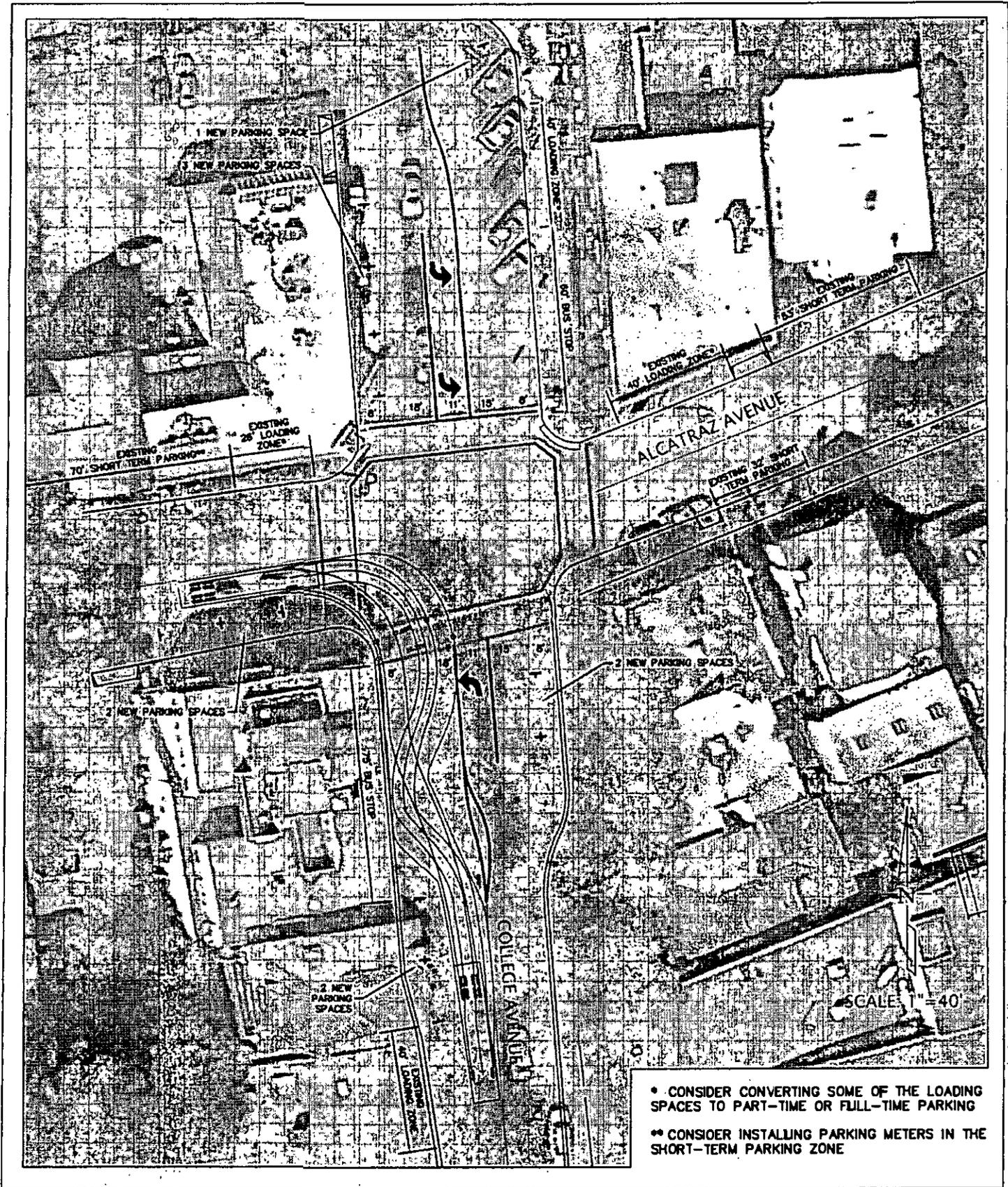


VESTING TENTATIVE MAP; PARCEL MAP NO. 9889
 OF
 6310 COLLEGE AVENUE
 FOR
SAFEWAY STORES INCORPORATED
 ALAMEDA COUNTY, CALIFORNIA

KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 1225 BAYVIEW DRIVE, SUITE 100
 OAKLAND, CALIFORNIA 94612
 PHONE (415) 764-8881
 FAX (415) 764-8882

NO.	REVISION	DATE
1	PRELIMINARY	11/15/88
2	REVISED	12/15/88
3	REVISED	01/15/89
4	REVISED	02/15/89
5	REVISED	03/15/89
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7	REVISED	05/15/89
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97	REVISED	11/15/96
98	REVISED	12/15/96
99	REVISED	01/15/97
100	REVISED	02/15/97

SURVEYOR'S STATEMENT
 I, the undersigned, being a duly licensed Surveyor in the State of California, do hereby certify that the foregoing is a true and correct copy of the original map as filed in my office, and that the same is a true and correct copy of the original map as filed in my office, and that the same is a true and correct copy of the original map as filed in my office.





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

PROJECT INFORMATION

Case No. of Appealed Project: ER09-0006, CMDV09-107, TPM-09889
 Project Address of Appealed Project: 6310 College Ave. (APNs 048A-7070-001-01 & 007-01
 Assigned Case Planner/City Staff: Peterson Vollmann

APPELLANT INFORMATION:

Printed Name: Joel Rubenzahl* Phone Number: 510-898-1556
 Mailing Address: 3159 Lewiston Ave. Alternate Contact Number: cell 510-593-5003
 City/Zip Code Berkeley 94705 Representing: Berkeleyans for Pedestrian
 Email: joelrubenzahl@gmail.com Oriented Development (BPOD)*
 *See attachment

An appeal is hereby submitted on:

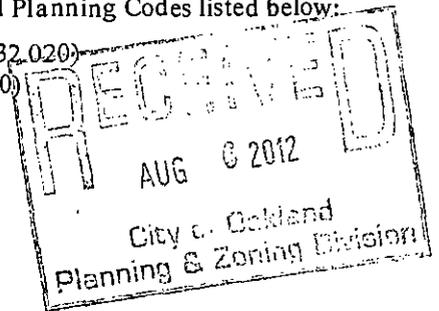
- AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

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 Secs. 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.

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.

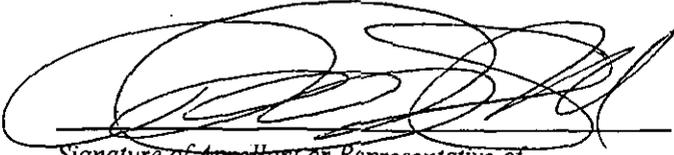
The appeal is based on the following: *(Attach additional sheets as needed.)*

See attached appeal

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

(Continued on reverse)

(Continued)



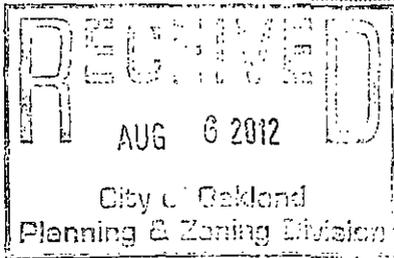
Signature of Appellant or Representative of
Appealing Organization

August 5, 2012
Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:



Berkeleyans for Pedestrian Oriented Development (BPOD)

Appeal to Oakland City Council: # ER 09-0006; Safeway project at 6310 College Ave.

Attachment to City of Oakland Appeal Form (8/5/12)

Appellants: Berkeleyans for Pedestrian Oriented Development (BPOD)

Glenn Alex, Scott Amendola, Michael Barrett, Kelly Barrett, Carol L. Brosgart, MD, Sandra Bryson, Lewis Carroll, Nelsonya Causby, Linda Carroll, Tim Choate, Adele Crady, David Crady, Steve Crapo, David de Figueiredo, Johanna Eigen, Nancy Fernandez, Joseph A. Gross, Larry Henry, Lorenzo Kempel, Ari Krakowski, P. Rachel Levin, Patricia E. Lupoff, Richard A. Lupoff, Patricia Maloney, Laura Marlin, Jacquelyn McCormick, Aaron Miiberg, Lynn Milberg, Virginia Miller, Jack Moorhead, Uhich Nettesheim, Susan O'Hara, Elise Proulx, John Ravenscroft, Chloe Redon, Bruce Riordan, Ann Rosenberg, Margaret Rowland, Joel Rubenzahl, Pamela Sawyer, Steven Scholfield, S. Renee Shiota, Eric Sloan, T.J. Sutherland, Patrick T. Sullivan, Teresa Sullivan, Michael Traynor, Shirley Traynor, Mary Truskier, Peter Truskier, Smith Weygant, Gordon Wozniak, Kriss Worthington

Overview: This is an appeal from the Oakland Planning Commission's July 25, 2012 adoption of the Final Environmental Impact Report and approval of the referenced large-scale shopping-center project (# ER 09-0006; Safeway project at 6310 College Ave., Oakland). The Planning Commission's actions are not supported by its findings, and its findings are not supported by the evidence in the record. The actions violate the California Environmental Quality Act ("CEQA") and the relevant C-31 zoning ordinances. The approvals thus constitute an abuse of discretion that should be reversed by the Oakland City Council.

1. Project approval by the Oakland Planning Commission violates the applicable (former) C-31 Special Retail Commercial zone, whose purpose is to "maintain and enhance" the area; not, as in some other zones, to promote growth and change. Yet, as Oakland Planning Commissioner Whales stated just prior to the approval vote at the July 25, 2012 hearing, the project will, without doubt, bring significant change to the neighborhood.
 - a. Size defies the zoning. The existing Safeway store at the site, about 22,500 square feet, was allowed only because it predated the applicable C-31 zone, which set a 7,500-square-foot maximum size. See former Planning Code § 17.48.080. (In 2011, the city rezoned the area to CN-1, reducing the maximum allowable size to 5,000 square feet.) In this case, the Planning Commission has approved a 51,500-square-foot, second-story market and eight retail stores, in a 62,000-square-foot development. (Indeed, the project is massively larger than that if the approved

Berkeleyans for Pedestrian Oriented Development (BPOD) 8/5/12
Appeal to Oakland City Council: ER 09-0006; Safeway project at 6310 College Ave.

internal parking garage and roof parking are taken into account.¹⁾ The approval of the project violates the letter and spirit of the zoning ordinance, and constitutes an abuse of discretion.

- b. Variances and conditional use permits defy the zoning. As indicated in the zoning analysis (page 7) in the city staff report for the July 25 approval, “[t]he C-31 zone is intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping, and is typically appropriate along important shopping streets having a special or particularly pleasant character.” Among the several now-approved conditional use permits and variances² for the project are: size in excess of 7,500 square feet, driveways on College and Claremont Avenues, reduction in available parking spaces, and reduction in the available number of loading docks. Although the requirements for a conditional use permit do not set a maximum size, the increase to a 51,500-square-foot, second-story Safeway in a 62,000-square-foot development, from the maximum 7,500 square feet in the C-31 zone (reduced in 2011 to a maximum of 5,000 square feet in the new CN-1 zone), in an automobile-oriented development (see Final EIR at p. 167), does not comport with “preserving” “pedestrian comparison shopping” on a street with “a special or particularly pleasant character,” and makes a mockery of the zoning. (See, for example, Comment Letter # C-247.) Approval of the conditional use permits and the variances violates the letter and spirit of the relevant zoning ordinances, and constitutes an abuse of discretion.
- c. Possible changes from economic decline will defy the zoning. The project as approved will cause serious, and in some cases, severe and unmitigable problems for the neighborhood in Oakland and Berkeley, permanently changing it for the worse. (See also the related discussion at para. 2(d), at p. 7, below, regarding non-compliance with the California Environmental Quality Act.) The project will force local Oakland and Berkeley merchants into direct competition with a multi-billion-dollar non-local corporation and its commercial-condominium store buyers. To the extent that they cannot compete and are driven out of business, the result may well be blight and decay as they abandon their stores. These anticipated changes are inconsistent with the zoning.

¹ Comment Letter # A-4, Final EIR at p. 5-91 et seq., from City of Berkeley Councilmember Wozniak, estimates the actual size as 140,000 square feet.

² Conditional Use Permits: general food sales, Planning Code § 17.48.040; alcohol beverage sales, Planning Code § 17.48.040; size in excess of 7,500 square feet, Planning Code § 17.48.080; driveways, § Planning Code 17.48.070. Variances: parking, Planning Code § 17.116.080; loading docks, 17.116.140.

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Appeal to Oakland City Council: ER 09-0006; Safeway project at 6310 College Ave.

A new study attached as Appendix A to the Final EIR admits that 80 percent of “net new stabilized Project sales” will be “generated by residents of the Project’s market area. . . .” Final EIR, Appx. A, at p. 2.³ And Safeway Chief Executive Officer and Chairman Steve Burd stated during a conference call with investors on July 21, 2011 that, for growth, Safeway is relying on gaining market share from competitors. *San Francisco Chronicle*, July 22, 2011, at D-2. While the study contends that the project would capture some money that currently “leaks” from the local area because demand cannot be satisfied, Final EIR, Appx. A, at p. 2, the study does not adequately address the deleterious effects of the direct competition between the expanded Safeway and its intended retail-store condominium buyers on the one hand, and the locally owned stores already in the neighborhood.⁴ Instead, the study simply asserts that “[i]t will be incumbent on these small stores to continue to build customer loyalty and provide quality products. * * * * As experienced retailers, [three specified stores] are anticipated to be able to counterbalance product-based sales losses with new merchandising strategies, and thereby retain loyal customers.” Final EIR, Appx. A, at p. 4. These hopeful assertions do not constitute an economic analysis. Indeed, how could the study know that the local stores won’t be undercut, given that Safeway has not specified the condominium buyers that will occupy its retail spaces? Nor does the study analyze the significant economic effects of traffic and the parking deficit on local businesses; these could in themselves contribute to blight.

Approval of the project violates the letter and spirit of the zoning ordinance, and constitutes an abuse of discretion.

- d. Traffic and parking problems will change the neighborhood and defy the zoning. The project will cause significant, unmitigable traffic problems, as the adopted environmental impact report admits. As discussed below at para. 2(e) on page 8, the project will also cause adverse effects through a large increase in the number of vehicle trips, “cut-through” traffic, “hovering” for street parking, risks to

³ See Draft EIR at p. 4.3-113. If Safeway admitted relying instead on a wider, more regional draw of customers, this would raise additional questions about the adequacy and accuracy of the traffic discussion and conclusions in the Draft EIR. See the traffic discussion in the text.

⁴ Neighborhood shops near the existing Safeway at College and Claremont in Oakland currently include a bakery, a floral shop, a wine shop, a meat and fish market, a small produce market, several small cafes and restaurants, and a liquor store, among others. The expanded Safeway, with admitted plans for a “from scratch” bakery, a pharmacy, expanded floral offerings, and expanded deli. . . , [and] a ‘service’ meat and seafood service,” Draft EIR at p. 5-11 and elsewhere, will compete more extensively with each of these shops. Safeway has already bought out the small Chimes pharmacy across College Avenue from its store and intends to move it into the proposed new building, creating a vacancy on College Ave. Stores, nationally franchised or otherwise, rented or sold by Safeway in eight “condominium” sites, will apparently compete with existing shops.

Berkeleyans for Pedestrian Oriented Development (BPOD) 8/5/12
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bicyclists and pedestrians, air and noise pollution; and slowed emergency response and buses, due to increased congestion and gridlock. The project will also decrease parking essential for customers of local merchants, contributing to possible economic decline of area shops and resulting blight. All of these changes adversely affect the character of the area are inconsistent with the C-31 zoning.

The very serious adverse impacts that new traffic and parking demands will have on the surrounding neighborhood were not properly assessed. See, generally, Comment Letter A-2, October 17, 2011, from the City Manager of Berkeley (Final EIR at p. 5-78.) The actual parking on the existing parking lot was surveyed only twice, (Final EIR table 4.33 note I), resulting in a mistaken impression and incorrect conclusions. With a sample size of only two, the applicant missed the fact that the parking lot is often full (cars waiting for an available space) on weekday peak hours and Saturday extended peak hours. It is widely recognized in statistical analysis that a sample size of at least 30, with a breadth of range of conditions, is necessary to obtain a statistically significant conclusion. Further, through improperly applying ITE (Institute of Transportation Engineers) procedures for average urban and suburban supermarket uses (Final EIR, table 4.3-4), the conclusions are further reduced by 15 percent. But, according to Safeway, the existing Safeway store has a very high sales-per-square-foot rate. This means that Safeway data, rather than the inapplicable ITE averages should have been used. Safeway's existing parking demand is higher, and thus its trip generation is in the high (not average) range of the ITE values in its trip generation and parking demand tables. There has been no data provided to indicate that the future Safeway will have less parking demand or lower traffic generation rates than the existing store. Even with the inaccurately low traffic generation estimates of the proposed project, the EIR admits that the principal intersections surrounding the project will be in abject failure as a result of the project, but proposes mitigations insufficient to reverse the adverse impacts of the approved development. Further, the EIR needs to examine the area beyond the 15 "critical" intersections. Thus, contrary to the Planning Commission's findings, the project will produce extremely adverse parking and traffic impacts on the surrounding neighborhood, including "cut-through" traffic. In summary, the parking and traffic data used in the EIR do not rely on valid assumptions and methods, and do not yield valid conclusions or accurately define the adverse impacts. (See Comment Letters ## C-214, C-217, C-229, and C-232; and the Comment Letter from Richard Smith to the Planning Commission dated 7/25/12.) The data therefore do not legitimately support the findings. Approval of the project violates the letter and spirit of the zoning ordinance, and constitutes an abuse of discretion.

Berkeleyans for Pedestrian Oriented Development (BPOD) 8/5/12
Appeal to Oakland City Council: ER 09-0006; Safeway project at 6310 College Ave.

- e. The project approval violates the General Plan. The Project does not conform to Oakland's General Plan: Neighborhood Mixed Use. The applicable General Plan land-use designation, Neighborhood Mixed Use, is "intended to create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale, pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space . . . uses." (Ch. 3, Policies in Action, General Plan 1998, p. 149). The approved project is not a proposed Neighborhood Mixed Use but a facility scaled to a Sub-regional service area. It is not a Mixed-Use facility, but a Single-Use facility. Granting approval constitutes a violation of the General Plan, and an abuse of discretion.

- f. The project does not conform to the Oakland General Plan requirements for variances. Oakland's General Plan requires "strict compliance with Variance Criteria," including a determination "that the variance will not adversely affect the surrounding area, nor will it grant special privilege to the property" (Policy N11.3). The approved project exceeds the maximum floor area allowed in the C-31 zone by a factor of 8.2 (or in the CN-1 zone by a factor of 10.0), and will adversely affect the surrounding area because of the shortage of parking and increased traffic associated with these excesses (see 1(d), above). Approval of the project, given its noncompliance with the zoning and General Plan provisions, is a special privilege apparently not granted anywhere else in the C-31 (CN-1) zone to date. The proposed project would be the largest building in the Rockridge C-31, CN-1 area. Approval constitutes an abuse of discretion.

- g. The Oakland Planning Code requires major variances for an applicant to exceed the maximum allowable size of a commercial establishment; and for any variance application that requires development of an environmental impact report. Section 17.148.020A(5), (7). The project will vastly exceed the size limit, and the significant unmitigable environmental effects of the size are documented in the EIR adopted by the Planning Commission. Yet the Planning Commission's project approval does not require or grant these major variances, instead making findings for minor variances for parking and loading docks. See City Planning Commission Findings, 7/25/12, at p. 7. This constitutes an abuse of discretion.

- h. Granting of two Major Variances and four Conditional Use Permits would constitute significant non-conformance with the purposes and provisions of the applicable zoning and amount to an unauthorized zone change. Failure to require and make findings for the Major Variances constitutes an abuse of discretion, as does granting the Conditional Use Permits, and as would granting the Major Variances if applied for.

Berkeleyans for Pedestrian Oriented Development (BPOD) 8/5/12
Appeal to Oakland City Council: ER 09-0006; Safeway project at 6310 College Ave.

2. The project approval by the Oaidand Planning Commission violates the California Environmental Quality Act ("CEQA").

In General: The envirommental impact report ("EIR") fails to adequately analyze the potential effects of the proposed project on neighborhood character, and lacks evidence supporting its discussion of consistency with the zoning and land-use requirements. Although acknowledging the severe traffic effects from the oversize project, the EfR improperly minimizes the secondary, physical effects of parking problems that the project would impose, and rejects ahematives that would avoid these effects. Further, the draft EIR (which constitutes an integral part of the final, adopted EIR) expressly avoided studying the likely presence of hazardous substances under areas of the project site other than the gas station that Safeway bought and fenced off; and the final EIR continues this violation of CEQA despite compelling evidence of hazardous past uses timely provided to the record by a commenter. Thus, the EIR fails to adequately identify, analyze, or mitigate the effects of the project, in violation of CEQA.

- a. Project objectives as stated in the EIR are too narrow. The proposed project alternatives and CEQA mitigation considered in the EIR are inadequate because they are based on the Safeway Corporation's self-serving objectives, including a larger Safeway store, designed to support its preferred alternative, which the Planning Commission approved. The Draft EIR states the objectives of the proposed project at 3-9 to 3-10. "*Safeway, Inc., the project applicant, seeks to achieve the following objectives through implementation of the proposed project[]*." (Italics added.) A list follows, including, among other objectives, "[p]rovid[ing] sufficient new store area . . . to Safeway's customers" and "enhanc[ing] the overall shopping experience of Safeway's customers." This Draft EIR statement of objectives misses the point. In improperly constricting the project objectives, the EIR fails to consider an adequate range of feasible alternatives, in violation of CEQA. The Planning Commission's adoption of the EIR constitutes an abuse of discretion.
- b. Inadequate range of project alternatives included. The proposal championed by Safeway expressly would adversely affect the neighborhood and the environment in ways that proper alternatives would not. "A major function of an EIR "is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." [Citation.]" *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1456, quoting *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 735. The alternatives analysis must focus on alternatives "capable of avoiding or substantially lessening any significant effects of the project, even if these

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alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” CEQA Guidelines section 15126.6(b). The range of alternatives discussed must include “those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.” CEQA Guidelines section 15126.6(c). A wide variety of smaller alternatives can be conceived that would meet most or all reasonably defined project objectives, while reducing or eliminating most adverse environmental effects. The adopted EIR fails to consider an adequate range of feasible alternatives, in violation of CEQA.

- c. Improper rejection of actually proposed alternatives that would meet most reasonable project alternatives with less adverse environmental effect. In Public Resources Code section 21002, “[t]he Legislature finds and declares that . . . public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects. . . .” “‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” Public Resources Code sections 21061.1. “[T]he circumstances that led the applicant in the planning stage to select the project for which approval is sought and to reject alternatives cannot be determinative of their feasibility. The lead agency must *independently* participate, review, analyze and discuss the alternatives in good faith.” *Kings County Farm Bureau, supra*.

Chapter 5 of the draft EIR discusses several project alternatives. The approved project is ranked fourth best, near the worst, for adverse environmental effects. (See, esp., Section 5.6, Environmentally Superior Alternative, of the draft EIR.)⁵ The EIR acknowledges that most of the adverse environmental effects, including significant, unavoidable traffic effects and related parking effects in Berkeley and Oakland, would be eliminated by adopting a smaller alternative to the project approved. Even Safeway admits that it could meet most of its objectives with a smaller project (see Safeway’s statement at the 10/12/11 Design Review Committee of the Oakland Planning Commission, referenced in the Declaration of Glenn C. Alex dated 7/12/12); and Safeway has built significantly smaller

⁵ Draft EIR § 5.6 at p. 5-62. The “no-project alternative” is the environmentally superior alternative. In accordance with CEQA Guidelines § 15126.6(e)(2), the EIR must then identify another environmentally superior alternative. The Draft EIR says that Alternative 2b (22,250 square feet) is next. Alternative 2 (40k sq. ft.) is also better than the project. (Alternative 2a (37,500 sq. ft.) is not mentioned at this point in the Draft EIR, but presumably must be better than the project as well.) Draft EIR, at p. 5-63. See also City Planning Commission Findings, 7/25/12, at Xi., Findings Regarding Alternatives, at pp. 24-25.

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“lifestyle” stores in the San Francisco Bay Area, as described in Comment Letter # C-217 at p. 5-727, Comment Letter C-247 at p. 5-813, and in the oral presentation of Susan Shawl before the Planning Commission on July 25 and accompanying printed materials. Smaller alternative 2a (37,500 square feet; see Draft EIR at pp. 5-11, 5-12) would “generate 146 fewer trips than the project during the weekday PM peak hour and 209 fewer trips during the Saturday PM peak hour. As a result, Alternative 2a would cause fewer significant impacts than the proposed project. * * * It is likely that this alternative would eliminate many of the other identified project impacts. The magnitude of all impacts would be reduced compared to the proposed project.” Draft EIR at p. 5-63. Yet the EIR rejects this alternative because it “would not meet several of the primary objectives of the applicant, which include to construct a new Safeway store sufficient in size to offer a more comprehensive range of commercial services and products to Safeway’s customers. . . and create a more functional and efficient shopping area configuration to eliminate current ‘pinch points’ . . .”⁶ With a proper set of objectives not loaded in favor of the proposed project (see para. 2(a), above), one or more of the project alternatives meets most reasonable project objectives and is environmentally superior. The Planning Commission’s rejection of feasible project alternatives with lesser environmental effect and without adequate justification in the EIR is a violation of CEQA and an abuse of discretion.

- d. Land use/zoning and decay. (See also para. 1(c) at p. 2, above.) Various courts have rejected EIRs and project approvals for failure to adequately consider indirect decay and blight to an area through a spiral of closures and vacancies.⁷ The approved project risks physical decay to the affected neighborhood through economic decline. Among other things, the project will set national companies and franchises against locally owned shops. The Declaration of Annette Floystrom dated August 10, 2011 provides evidence of another potential decay problem—future abandonment of a large store by Safeway. See Comment Letter C-87, Final EIR at pp. 5-404, 5-405. Ms. Floystrom’s declaration points out that Safeway has abandoned Oakland stores in the broader area at Claremont Ave. and Clifton, 40th Street and Telegraph Ave., 29th Street and Broadway, and 27th Street and West at San Pablo Ave.; as well as a store near Shattuck and Adeline Avenues in Berkeley. The Claremont/ Clifton site, for example, “sports a vast expanse of chain link

⁶ See the similar analysis for Alternative 2b (22,250 sq. ft.) in the Draft EIR, at p. 5-24.

⁷ See, for example, *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151; *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433; and CEQA Guidelines section 15064.

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fencing, and today needs remediation to remove the stump of the old Safeway sign and the weeds from the parking lot.” Id., at p. 5-404.⁸

The proposed project thus poses potential risk to the businesses of the local merchants essential to the character of the neighborhood, and could bankrupt some—potentially endangering this vibrant area with economic and physical decay, deterioration, or blight. Therefore, the proposed Safeway project is inconsistent with the zoning and land use restrictions, which are designed to “create, preserve, and enhance mixed use neighborhood commercial centers,” which are “typically characterized by smaller scale pedestrian oriented continuous and active store fronts with opportunities for comparison shopping.” Oakland Ordinances Ch. 17.33. The Planning Commission’s approval of the project is a violation of CEQA and an abuse of discretion.

- e. Traffic/circulation/parking. See also the discussion at para. 1(d), p. 3, above; and the City Planning Commission Findings, 7/25/12, at X., Significant, Unavoidable Impacts, pp. 18-24. As the Draft EIR and Final EIR admit, the project will have unavoidable, significant effects on Oakland and Berkeley traffic, circulation, and parking. Without limitation, the project will cause a large increase in the number of automobile trips, clogging already inadequate streets and intersection; increased “cut-through” traffic on residential streets; increased risks to bicyclists and pedestrians; slowed emergency-vehicle response times and bus service, due to congestion; air and noise pollution; and additional congestion from cars “hovering” in the search for a street-parking space. The unavailability of adequate parking spaces may also contribute to the economic decline of local area shops, contributing to blight.

The EIR admits that smaller alternative 2a (37,500 square feet) would “generate 146 fewer trips than the project during the weekday PM peak hour and 209 fewer trips during the Saturday PM peak hour. As a result, Alternative 2a would cause fewer significant impacts than the proposed project. * * * * It is likely that this alternative would eliminate many of the other identified project impacts. The magnitude of all impacts would be reduced compared to the proposed project.” Draft EIR at p. 5-63. A similar analysis applies regarding alternative 2b. Draft EIR, at p. 5-24. As discussed in para. 2(c), above, public agencies cannot reject feasible alternatives that meet most project objectives. In rejecting feasible

⁸ The Draft EIR also refers repeatedly to the closed or vacant gas station on the corner of Claremont and College, now part of the project site. But the Draft EIR fails to mention that it was *Safeway* that over a year ago bought, closed, and fenced the site with cyclone fencing along this busy pedestrian and vehicle road, raising questions about Safeway’s concern for the economic and physical condition of the neighborhood.

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alternatives, the Planning Commission is imposing significant, unavoidable traffic and parking effects on the affected Berkeley and Oakland neighborhood in violation of the zoning and CEQA, an abuse of discretion.

- f. Hazards and hazardous materials. The EIR has failed to examine possible toxic/hazardous substances under the current store and parking lot, despite the evidence that these materials exist. This failure could result in serious effects to water, air, and human health.

CEQA requires a public agency to accurately identify, analyze, and disclose the adverse impacts of a project. *Stanislaus Natural Heritage Project v. County of Stanislaus* (1990) 221 Cal.App.3d 692, 712. In general, an EIR should contain discussions sufficient to advise the decision makers and the public of the nature and importance of the environmental effects being discussed, not merely the ultimate conclusion that an effect is significant. *Assn. of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390. This includes a discussion of direct and indirect effects, impacts on public health, and effects on the resource base. CEQA Guidelines, § 15126.2. "Once a significant effect has been identified, the EIR must propose and describe mitigation measures that will minimize [that effect]." *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 360.

Comment Letter # C-86, Final EIR at pp. 5-387 et seq., makes a strong case, with supporting documentation, that the Draft EIR missed significant potential toxic issues on the project site. The Final EIR response to this comment, through reference to responses B-4-8 and B-4-16 through -19 to Comment Letter B-4, is inapposite and inadequate. In fact, Response B-4-16 says that "the issue of hazards, including soil and groundwater contamination, was not addressed in the DEIR because it was focused out of the EIR. . ."; "standard conditions of approval" would render the matter less than significant. See also Draft EIR at p. 2-1. The remaining B-4 responses pertain to potential leaks and other hazards at the gas station that Safeway bought and closed. But Comment Letter # C-86 raises significant issues regarding toxic substances that likely underlie not (just) the gas station but the parking lot and the store. The Planning Commission's adoption of an EIR that fails to study this matter and circulate or recirculate the results to the public constitutes a violation of CEQA.

The Planning Commission's adoption of the legally and factually inadequate EIR and approval of the Safeway project violates CEQA, and constitutes an abuse of discretion.

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Conclusion

On July 25, 2012, the Oakland Planning Commission adopted an EIR and approved the corresponding large Safeway project at Claremont and College Avenues in Oakland. Adoption of the EIR constituted a violation of CEQA and an abuse of discretion in that the EIR improperly narrows the project objectives, with the result that a reasonable range of alternatives was not considered. Further, the Planning Commission improperly rejected smaller, feasible project alternatives that *were* included in the EIR and that would significantly reduce or eliminate the environmental effects of the project. The EIR also failed, despite public comment, to consider the likely presence of hazardous substances underlying the site, in violation of CEQA. The oversized project itself violates the zoning and the land-use element of the General Plan. Approval of the project thus violates both the zoning ordinances and the land-use requirements of CEQA. In adopting the EIR and approving the project, the Planning Commission therefore abused its discretion. The City Council must cure these violations of law by overturning the adoption and approval, and remanding the matter to city staff for proper consideration of objectives, alternatives, and environmental effects; and development of a project consistent with the (former) C-31 zoning.

Citations to supporting documentation in the Administrative Record

BPOD and its members rely generally on the "Administrative Record," prepared by City of Oakland planning staff, and in the possession and control of the City of Oakland; as identified on page 13 (IV, 9 and 10) of the Findings adopted for the project by the Oakland Planning Commission on July 25, 2012; and including the oral comments at the various hearings (including July 25) of the Planning Commission and the Design Review Committee; as well as the city staff report for the 7/25/12 Planning Commission approval hearing. Without limitation, BPOD relies on the following documents and comments in the Administrative Record, and on the matters cross-referenced in them. Supplemental evidence may be submitted prior to the hearing on this appeal.

The Draft EIR and Final EIR, and associated documents

Letters from the City of Berkeley's city managers to Oakland dated October 17, 2011 (Comment Letter # A-2) and July 30, 2012, stating the City of Berkeley's opposition to the project

Comment Letter # A-4 from Berkeley Councilmember Wozniak

Comment Letter # A-5 from Madeleine Zayas-Mart, (former) Chair, Design Review Committee

Comment Letter # B-1 from Mark Humbert, et al.

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- Comment Letter # B-4 from the Rockridge Community Planning Council
- Comment Letter # C-1 from Susan Aaron
- Comment Letter # C-3 from David Abel
- Comments of Glenn Alex dated 7/26/11 (Comment Letter # C-10), 8/10/11 (Comment Letter # C-11), 7/12/12, Declaration of 7/12/12, email of July 19 to Pete Vollmann; and the matters and documents referenced in them, including the portion of the video recording of the Berkeley city council meeting held on July 17, 2012 relevant to the Safeway project
- Comment Letter # C-16 from Marjorie Aivord
- Comment Letter # C-17 from Ethan Andelman
- Comment Letter # C-24 from Carolyn Baker
- Comment Letter # C-26 from Michael and Kelly Barrett
- Comment Letter # C-27 from Brooke Battles
- Comment Letter # C-30 from Michael Bergeisen and Laurie Stoneham
- Comment Letter # C-37 from Robin Bishop
- Comment Letter # C-39 from Maryam Blouin
- Comment Letter # C-45 from Rita Bremer
- Comment Letter # C-46 from Gretchen Brosius
- Comment Letter # C-50 from Jerome Buttrick
- Comment Letter # C-51 from A. Nicholas Carson
- Comment Letter # C-56 from John Chalik
- Comment Letter ## C-61 and C-62 from Lyme Costain
- Comment Letter # C-63 from Adele and David Crady
- Comment Letter # C-65 from Bob Daily
- Comment Letter # C-66 from John Dal Pino
- Comment Letter # C-67 from Carl Davidson
- Comment Letter # C-68 from David de Figueiredo
- Comment Letter # C-69 from Jamey Dempster
- Comment Letter # C-73 from Laurie Dornbrand
- Commem Letter # C-77 from Dori Dubin
- Comment Letter # C-78 from E. Dubravec
- Comment Letter # C-79 from Nancy and Bill Dutcher
- Comment Letter # C-86 from Amette Floystrup.
- Declaration of Amette Floystrup (Comment Letter # C-87).
- Comment Letter # C-94 from Anne Gomes
- Comment Letter # C-103 from Peter Haberfeld
- Comment Letter # C-104 from Emma Haft
- Comment Letter # C-105 from Tim Hallahan
- Comment Letter # C-108 from Paul Hammond
- Comment Letter # C-109 from Julie Hardgrove
- Comment Letter # C-111 from Sara Hartley

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Comment Letter # C-115 from Nancy Hendrickson and Dariush Arasteh
Comment Letter # C-117 from Norman Ozaki, Ph.D.
Comment Letter # C-127 from Glen Jarvis
Comment Letter # C-129 from Tim Jollymore
Comment Letter # C-134 from Jennifer Kaplan
Comment Letter # C-137 from S. Keydel
Comment Letter # C-141 from Thomas Koster
Comment Letter # C-143 from Dr. Ari Krakowski
Comment Letter # C-144 from Bette Kroening
Comment Letter # C-147 from Stephanie Lachowicz
Comment Letter # C-149 from David Lee
Comment Letter # C-150 from Esther Lerman
Comment Letter # C-152 from P. Rachel Levin
Comment Letter # C-154 from Norman and Dianne Macleod
Comment Letter # C-156 from Julia May
Comment Letter # C-157 from Michael Mayer and Meri Simon
Comment Letter # C-159 from Jacquelyn McCormick
Comment Letter # C-168 from Larry Moll and Ginny Irving
Comment Letter # C-173 from Bob and Nancy Mueller
Comment Letter # C-176 from Eva Nico
Comment Letter # C-177 from Peter Nico
Comment Letter ## C-178 and C-179 from Gerald Niesar
Comment Letter # C-180 from Ottun Niesar
Comment Letter ## C-181 and C-182 from Mary Norton
Comment Letter # C-187 from Linda Phipps and Anthony Smith
Comment Letter # C-189 from Elise Proulx
Comment Letter # C-190 from Madeline Puccioni
Comment Letter # C-192 from Jean Rahis
Comment Letter # C-193 from Walter Radcliffe
Comment Letter ## C-194 and 195 from John Ravenscroft
Comment Letter # C-197 from Rachel Resnikoff
Comment Letter # C-198 from Carmen Rezendes
Comment Letter # C-199 from Amy Rock
Comment Letter # C-200 from Nina Rosen
Comment Letter # C-201 from Tony Rossman
Comment Letter # C-202 from Joel Rubenzahl
Comment Letter ## C-203, C-204, and C-205 from Ethel Ruymaker
Comment Letter # C-206 from David Salniker
Comment Letter # C-208 from Barbara Schick
Comment Letter # C-214 from Kevan Shafizadeh, Ph.D., P.E., PTOE
Comment Letter ## C-217, C-218 and C-219 from Susan Shawl

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- Comment Letter # C-221 from Steven Sherman
- Comment Letter # C-223 from Neal Shorstein, MD
- Comment Letter # C-225 from Ann Simon and Adrienne Cool
- Comment Letter # C-226 from Daniel Slichter
- Comment Letter # C-229; and 7/25/12 letter to Planning Comm. from Richard Smith
- Comment Letter # C-232 from Ronnie Spitzer, Ph.D.
- Comment Letter # C-235 from Julie Steinberg
- Comment Letter # C-238 from Judy Stonefield
- Comment Letter # C-239 from Emily Stoper
- Comment Letter # C-246 from Lisa Tracy
- Comment Letter # C-247 from Danica Truchlikova
- Comment Letter # C-249 from William Turner
- Comment Letter # C-253 from Zachary Walton
- Comment Letter # C-255 from Kirk Wayland
- Comment Letter # C-257 from Alan and Marguerite Weinstein
- Comment Letter # C-258 from Michael Weiss
- Comment Letter # C-260 from Elise White
- Comment Letter # C-262 from Diana Wiegel
- Comment Letter # C-265 from Sara Williams
- Comment Letter # C-267 from Doug Williamson
- Comment Letter # C-269 from Sara Wilson, Peter Wilson, Anthony Wilson; Market Hall
- Comment Letter # C-270 from Martha Wing
- Comment Letter # C-271 from Steven Winkel, FAIA, PE, CASp
- Comment Letter # C-274 from Mary Yabroff
- Comment Letter # C-275 from Brett Yocum
- Comment Letter # C-276 from Rich Yurinan

Oral comments at the 7/20/12 meeting of the Planning Commission, as transcribed in Vol. II of the Final EIR, Item D:

- Z. Walton, at p. 6-10
- J. Buttrick, at p. 6-10
- J. Hardgrove, at p. 6-13
- D. Abrams, at p. 6-14
- G. Niesar, at p. 6-15
- S. Winkel, at p. 6-17
- J. Anderson, at p. 6-19
- S. Flashman, at p. 6-19

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Oral comments at the 8/3/12 meeting of the Planning Commission, as transcribed in Vol. II of the Final EIR, Item E:

J. Gatewood, at p. 6-36
G. Alex, at p. 6-36
R. Spitzer, at p. 6-37
D. Abrams, at p. 6-38
P. Haberfeld, at p. 6-38
N. McKay, at p. 6-44
N. Hendrickson, at p. 6-48
R. Yurman, at p. 6-48
N. Macleod, at p. 6-51
A. Simon, at p. 6-52
R. Smith, at p. 6-52
D. Dorinson, at p. 6-55
J. McCormick, at p. 6-55
J. Gerson, at p. 6-57
G. Jarvis, at p. 6-59
O. Niesar, at p. 6-59
D. Metzger, at p. 6-61
D. Denton, at p. 6-62
M. Barrett, at p. 6-63
P. Maloney, at p. 6-65
S. Flashman, at p. 6-66
J. Rubenzahl, at p. 6-67
J. May, at p. 6-67
J. Buttrick, at p. 6-68
L. Dombrand, at p. 6-69
J. Chalik, at p. 6-71



Joel Rubenzahl
For BPOD and its constituents

8/5/12
Date

89:TT# 710Z 9 008



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

AUG 6 2012 AM 11:57

PROJECT INFORMATION

Case No. of Appealed Project: ER09-0006; CMDV09-107; TPM-09889
Project Address of Appealed Project: 6310 College Ave., Oakland 94618
Assigned Case Planner/City Staff: Mr. Peterson Vollman

APPELLANT INFORMATION:

Printed Name: Stuart Flashman Phone Number: (510) 652-5373
Mailing Address: 5626 Ocean View Drive Alternate Contact Number: (510) 525-1208 (Michael Graf, attorney)
City/Zip Code Oakland, CA 94618-1533 Representing: Rockridge Community Planning Council
Email: stu@stuflash.com; chair@rockridge.org (send to both addresses)

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 Sees. 17.152.150 &/or 17.156.160)
Other (please specify)

(continued on reverse)

als\Originals\Appeal application (5-31-11).doc Revised 5/31/11

ATTACHMENT C

(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) minor
 - 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.

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 appeal letter

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)

Steven M. Flashman for RCP

Signature of Appellant or Representative of
Appealing Organization

8/5/2012

Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:



Rockridge

RCPC ROCKRIDGE COMMUNITY PLANNING COUNCIL
4123 Broadway PMB 311 OAKLAND, CALIFORNIA 94611 510-869-4200
www.rockridge.org

AUG 6 2012 AM 11:57

August 6, 2012

Oakland City Clerk
Oakland City Hall
1 Frank Ogawa Plaza
Oakland, CA 94612

To the City Clerk:

By this letter and the attached appeal application, the Rockridge Community Planning Council ("RCPC") appeals the July 25, 2012 determinations of the Oakland Planning Commission to grant approvals for the College Avenue Safeway Shopping Center and to certify the Final Environmental Impact Report ("FEIR") for that project.

The reasons for this appeal are as follows:

1. The FEIR is inadequate for the following reasons:
 - The FEIR fails to properly identify, analyze, or mitigate the significant impacts that project-related traffic will have on the surrounding residential streets and neighborhoods, including specifically but not limited to the effects of cut-through traffic and of "patrolling" traffic related to the parking deficiency exacerbated by the project (see below), and the secondary noise, air quality, bicycle and pedestrian safety, and quality of life impacts caused by the traffic impacts.
 - The FEIR fails to properly identify, analyze, or mitigate the secondary impacts related to the parking deficiencies created and exacerbated by the project, including the blight-inducing impact due to the detrimental impact the parking deficiency will have on the businesses along College Avenue, the additional traffic impacts on residential streets and neighborhoods caused by the "patrolling" traffic seeking on-street parking spaces, and the "constructive displacement" impact caused by effectively removing access to available on-street parking spaces near homes of residents who, because they are elderly and/or disabled, need to have a close-by on-street parking space in order to continue to live in the community.
 - The FEIR fails to properly identify, analyze, or mitigate the secondary blight-inducing impact of the significant project traffic impacts along College Avenue, which, in turn, along with the loss of on-street parking spaces, will place stress on the existing businesses along College Avenue, causing them to either close or move to other more accessible locations, leaving vacant storefronts and deteriorating physical conditions.
 - The FEIR fails to properly identify, analyze, and mitigate the toxic materials impacts caused by toxic materials left on the project site (both at the former Union 76 station and at other sites within the project site) by prior automobile-related uses, including petroleum products, asbestos, heavy metals, and solvents.

- The FEIR fails to disclose, discuss or mitigate the significant air quality impact associated with operating an on-site bakery, which bakery will release acetaldehyde, a designated toxic air contaminant and probably human carcinogen (see attached background materials on acetaldehyde), as well as other ozone precursor compounds. In addition, the FEIR fails to disclose or analyze the cumulative air quality impacts of the many Safeway projects being proposed throughout the Bay Area, and specifically ozone precursor production from their bakeries, which are all within a single air basin already noncompliant for the ozone standard (see attached materials from BAAQMD).
- The FEIR's proposed mitigation measures to address the project's significant traffic impacts fail to take into account the pre-existing congested condition of College Avenue, which has already resulted in traffic diversion onto other nearby arterials such as Telegraph Avenue (latent demand). The proposed mitigation measures, while perhaps temporarily alleviating congestion on College Avenue, will result in previously-diverted latent demand traffic returning to College Avenue. Thus the FEIR overestimates the benefit provided by the proposed mitigation measures and underestimates the cumulative traffic impact of project traffic added to previously-diverted and other latent demand traffic. As a result, the mitigation measures will not fully mitigate project impacts, but will instead have a net significant impact.
- The FEIR fails to provide an informationally adequate discussion of project alternatives, including failing to consider a reasonable range of alternatives, failure to explain why alternatives were infeasible and dismissal of alternatives as infeasible without substantial supporting evidence.

2. The FEIR should have been recirculated for additional comments from other agencies and the public after comments on the DEIR revealed significant new information, including information on additional previously-undisclosed traffic impacts, significant previously-undisclosed increases in the traffic impacts, and specifically increases in the amount of Saturday project-associated traffic impacts and changes in the timing of the Saturday traffic impacts, identification of additional potentially-significant toxics impacts due to toxic materials on the project site due to prior activities on the site

In addition the EIR should have been recirculated after a new feasible alternative was proposed (at the hearing before the Design Review Committee) that would meet most of the project sponsor's identified project objectives while significantly reducing impacts, but which the project sponsor refused to accept.

3. The CEQA findings that the Planning Commission made in support of the project approval are invalid in that the findings are not supported by substantial evidence, are not explained in reference to evidence in the record and do not support the project approval. Specifically, the findings relating to project impacts and their mitigation are inadequate for failing to identify and discuss the significant project impacts identified under #1 above, the findings relating to alternatives are inadequate in dismissing all project alternatives, including the alternative first presented at the design review hearing and presented again at the Planning Commission's final hearing on the project, as infeasible when there is no substantial evidence to support those findings, the findings do not allow members of the public to determine the reasoning supporting the certification of the FEIR and approval of the project, nor do they identify any evidence supporting the approvals.

4. The project is inconsistent with the Oakland General Plan, and specifically the Land Use and Circulation Element of that plan. In particular, the project site is in a part of Oakland designated as "preserve and enhance" rather than "grow and change", and this project can only properly be called a "grow and change" project. Further, the project is inconsistent with the land use designation of "neighborhood center mixed use" and with Policy C 4.1 (Protect Existing activities), which calls for protecting existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the City from intrusion of potentially incompatible land uses where this project will be incompatible with the existing small-scale commercial and residential uses in the area; Policy T 2.2, which calls for transit oriented development (including Rockridge) to be pedestrian oriented and be designed to be compatible with the character of surrounding neighborhoods where this project will be auto-oriented and incompatible with the surrounding neighborhoods; Policy T 2.3, which calls for promoting neighborhood-service commercial development where this project would serve a much larger area, extending for more than five miles; Policy T 3.11 - Parking in residential areas should give priority to adjacent residents where this project will usurp on-street parking on nearby residential streets; Policy N 1.4 - location of large commercial facilities, which call for commercial facilities serving regional consumers and offering high volume goods to be located visible or amenable to high volumes or traffic, where this project is located on a congested two-lane street; Policy N 1.5 - Commercial development should be designed in a manner that is sensitive to the surrounding residential uses, where this project will have intrusive traffic, parking, and livability impacts on the surrounding residential area; Policy N1.8 - The height and bulk of commercial development in "Neighborhood Mixed-Use Center" and Community Commercial" areas should be compatible with that which is allowed for residential development where this project is grossly out of scale with what would be allowed for a residential development in the area.

5. The project is inconsistent with the requirements of the C-31 zoning for the project site. C-31 zoning is, "intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping, and is typically appropriate along important shopping streets having a special or particularly pleasant character." As is admitted in the FEIR (p.5-167), the new Safeway store is intended to be auto-oriented. Further, in his testimony before the planning commission, the project sponsor's spokesperson stated that the new store was intended to satisfy Safeway customers' desire that they be able to do all their shopping under one roof. This is the very opposite of the pedestrian comparison shopping that the C-31 zone is intended to encourage. Further, as the FEIR makes clear, this large expansion will worsen an already-existing deficiency in both on-street and off-street parking in the area. (See, FEIR pp.5-18 through 5-30.) As a result, it will starve other more pedestrian-oriented uses in this C-31 area of the parking they need for their customers. Indeed, the FEIR admits that with the overflow of Safeway's on-site parking, Safeway customers will also engage in "patrolling" of the surrounding residential streets, using up available on-street parking spaces at the expense of residents and customers at other smaller shops. This is one of several sources of a negative impact on the overall viability of the C-31 zone that this project will have. In addition, it will cause increased congestion along College Avenue due to its significant and unavoidable traffic impacts (See, e.g., FEIR at 2-30 through 2-33.)

While Safeway has presented an economic impact analysis that asserts that the project will benefit other College Avenue businesses by bringing additional customers into the area, that analysis fails to take into consideration the fact that customers parking in the Safeway parking

structure will be led directly into the Safeway store via escalators and elevators without even necessarily stepping foot onto College Avenue sidewalks. After finishing their "one stop shopping" in the Safeway, customers, with their shopping carts, will take a specially designed escalator back to the parking area and be able to load up their cars and leave, again without ever setting foot on a College Avenue sidewalk. These customers, contrary to the analysis presented by Safeway, will provide no benefit to other College Avenue merchants, but will still cause additional traffic congestion on College Avenue and its approach streets.

6. The Planning Commission's findings in support of granting a major conditional use permit under sections 17.48-040, 17.48.070, and 17.487.080 fails to satisfy the requirements for such use permits. Specifically the findings in support of said use permits, including the special findings under section 17.48.100 did not support the approvals and, in sum, were not supported by substantial evidence in the record as follows:

- Section 17.134.050 Finding 1: the findings claim that the project will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration being given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effects, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impacts of the development. The findings admit that the FEIR acknowledged numerous significant and unavoidable traffic impacts within the City of Berkeley. However, the findings assume, without any supporting evidence, that these impacts will be mitigated by the use permit condition requiring the applicant to apply to the City of Berkeley to install identified mitigation measures for these impacts, or other methods deemed more appropriate to mitigate these impacts. This assumption is unwarranted and inappropriate, and for that reason so is the finding. In addition, the finding fails to address the project's adverse impacts on the surrounding College Avenue commercial community as already described under item 5 above, as well as the project's adverse impacts on the adjoining residential streets, including specifically Alcatraz Avenue between College and Claremont Avenues, 63rd and 62nd Streets, and Hillegas and Colby, including noise, traffic, parking deficiencies, pedestrian and bicycle safety problems, and general decline in livability.
- Section 17.134.050 Finding 2: the findings claim that the project's location, design, and site planning will provide a convenient and functional shopping environment. However, the intrusion of a large, auto-oriented "one stop shopping" facility into an environment predicated on smaller pedestrian-oriented shops will create excessive traffic for available street capacity and therefore not result in a convenient and functional shopping environment.
- Section 17.134.050 Finding 3: the findings claim that the project will enhance the successful operation of the surrounding area in its basic community functions. However, the testimony of the overwhelming majority of nearby residents, as well as evidence in the FEIR and in documentation attached to this appeal, as well as other evidence in the record, indicates that the intrusion of this large, auto-oriented "one stop shopping" project, with its associated parking and traffic problems, will interfere with the successful operation of the surrounding small shop-oriented commercial area as well as with the stable residential community on nearby streets.

- Section 17.134.050 Finding 5: the findings claim that the project conforms “in all significant respects” with the Oakland General Plan, however, as explained in paragraph #4 above, the project is inconsistent with numerous important land use and transportation policies within the Oakland General Plan, as well as with its general strategy determination that the Rockridge area be a “preserve and enhance” area while this project is a “grow and change” project. The findings quote from the general plan’s description of Neighborhood Center Mixed Use land use as stating that, “Future development within this classification should be commercial or mixed uses that are pedestrian oriented and serve nearby neighborhoods, while this project is self-admittedly designed to provide auto-oriented single-stop shopping for customers, half of whom would live more than 0.7 miles from the project site. The findings claim consistency with Policy N1.3 – locating large-scale commercial activities – Commercial uses which serve long term retail needs or regional consumers and which primarily offer high volume goods should be located in areas visible or amenable to high volumes of traffic, yet the proposed project is located on a congested two-lane street at the intersection with a four-lane but poorly utilized street that is being proposed to also be reduced to two through travel lanes. The findings claim consistency with Policy N1.5 – Commercial development should be designed in a manner that is sensitive to surrounding residential uses, yet the project will, by causing and inducing excessive traffic demand, force cut-through traffic onto the nearby residential streets, while its insufficient parking will result in project parking overflowing into nearby residential neighborhoods, making parking in those neighborhoods more difficult and adding to neighborhood traffic problems.
- Section 17.48.100 Finding 1: The findings assert that the project will not detract from the character desired for the area. However, the C-31 zoning specifies that it intends to create “attractive settings oriented to pedestrian comparison shopping.” The addition of street-level shops on the east side of College Avenue might, at first glance, tend to support this aim, as the planning commission’s findings assert. However, the evidence shows that these stores are little more than a deceptive “Potempkin Village” façade to hide the real nature of the project. More than 90% of the project (including proposed off-street parking area) will be devoted to a single, large, auto-oriented, “one-stop shopping” use that is antithetical and inimical to the desired character of College Avenue. In addition, the project’s added College Avenue congestion, which, while underestimated, is nonetheless documented in the FEIR and the project’s effect in exacerbating an already-existing parking deficiency in the area, also documented in the FEIR, will interfere with the continued successful operation of the College Avenue C-31 shopping area, contrary to the intent of the zoning.
- Section 17.48.100 Finding 2: The finding appears to claim (although improperly worded) that the project will replace an existing surface parking lot (currently a legal nonconforming use subject to eventual termination) with a continuous frontage of pedestrian oriented commercial store fronts. However, between the parking garage entryway and the Safeway ground floor frontage, a large percentage of the College Avenue frontage will continue to not be occupied by pedestrian-oriented activities. Further, the Claremont Avenue project frontage, which is also in the C-31 zone, will

continue to be occupied almost entirely¹ by a surface parking lot and loading area, thereby permanently relegating this long C-31 street frontage to uses that are entirely inconsistent with the intended C-31 character.

- Section 17.48.100 Finding 3: The findings assert that the addition of the street-level small shops along College Avenue “will create an important shopping frontage for the district.” Yet, as already explained, the project will:
 - Occupy a major portion of the College Avenue street frontage with a parking entryway and ground floor entryways to the C-31 incompatible Safeway store;
 - Permanently eliminate the potential to develop ground-level commercial facilities on the project’s long Claremont Avenue street frontage;
 - Impair the retention of important shopping frontage on the west side of College Avenue by impairing access to the area through increasing traffic congestion and reducing available parking for customers at those stores.
- Section 17.48.100 Finding 4: The findings improperly compare an existing nonconforming condition with the proposed project. Yet any new project would be expected to respect the requirements of the C-31 zoning, and a smaller alternative project could be adequately served by parking without a new two-lane driveway off of a congested portion of College Avenue. This driveway will continue to interfere with pedestrian movement on the east side of College Avenue, reducing the utility and attractiveness to pedestrians of the proposed ground-level small shops and adding to the isolation of the project from the remainder of College Avenue.
- Section 17.48.100 Finding 5: As with Finding #4, the finding fails to acknowledge that a smaller project might not need a driveway directly off of College Avenue, nor does the finding address the need to provide for abutting properties across from the project on College Avenue, which will be adversely affected by the project’s parking deficiency.
- Section 17.48.100 Finding 6: The finding ignores the intent of the finding that it assure that the project’s provision of off-street parking “will not contribute significantly to an increased orientation of the area to automobile movement.” Yet the stated intent of the project is to bring increasing numbers of Safeway customers to the area BY CAR, solely so that they can do their “one-stop shopping” at the greatly-enlarged Safeway store.

7. The project approvals include two “minor variances”, one for inadequate loading facilities and one for failure to meet the planning code’s parking requirements. These variances were classified improperly in the findings, as under the Oakland Planning Code any variance associated with a project requiring preparation of an EIR is, by definition, a major variance. In addition, the findings upon which the variances were granted are inadequate:

- Minor Variance Finding #2 (parking variance): The finding asserts that the variance is necessary because strict compliance would deprive the applicant of a right enjoyed by owners of similarly zoned property, or would preclude an effective design solution fulfilling the basic intent of applicable regulations. The basic intent of the regulation is to

¹ While a small portion of that frontage will be occupied by the proposed corner restaurant, that area had previously been occupied by a service station, which included retail sales of automotive products as well as providing a valued service to the neighborhood.

provide sufficient off-street parking for a large commercial use that it does not overburden the parking capacity of the area. As the FEIR shows, this project fails to meet that intent and will, in fact, overburden the area's parking capacity. Other owners of similarly situated large parcels, such as the Bank of America building across the street, have provided sufficient off-street parking. There is no right to overburden area parking capacity. In addition, the finding fails to address the alternative proposal of moving the ancillary functions of the Safeway store into ground floor street frontage locations, which would equally well meet the zone's requirement for ground floor pedestrian-oriented shopping while reducing the overall size of the project and therefore allowing it to fully comply with the planning code's parking requirement. In short, the variance is unnecessary and unsupported by the findings or the evidence.

- Minor variance finding #3 (parking variance): The finding falsely asserts that the parking variance will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy. The finding ignores the evidence presented in the FEIR that the project's parking deficiency will exacerbate an existing parking problem in the area. This, in turn, will make the existing area shops less attractive to customers than other competing shopping areas and will therefore adversely affect the character of the area. In addition, spillover of excess parking demand into adjoining residential areas will adversely affect the livability of those areas, even to the extent of resulting in "constructive displacement" of current elderly and disabled area residents who do not have off-street parking space for their car and are unable, because of the slope of their street, to obtain an on-street handicapped space for their vehicle. These people will be unable to park within an accessible distance of their home and will therefore be forced to move elsewhere.
- Minor variance finding #4 (parking variance and loading dock variance): This finding claims that the granting of the variances will not constitute a special privilege inconsistent with the limitation imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations. The finding essentially asserts that because this kind of variance is "generally granted", it does not constitute a special privilege. Essentially, the finding admits that the zoning requirement is essentially ignored; resulting in what is in effect an administrative amendment to the zoning ordinance. This is blatantly improper. If the City feels that the parking or loading dock requirements are no longer appropriate for the zone, the appropriate remedy is to amend the zoning ordinance. Using an administrative procedure intended to address a small number of special situations to effectively negate a zoning ordinance requirement is an abuse of discretion.

8. Finally, the project approvals included approving several tentative maps: one for the store itself and a set of condominium maps for the street-level shops. The findings in support of these approvals are also defective:

- Tentative Map Findings: The tentative map findings are improper and unsupported for the reasons already set forth above (i.e., both project and design and improvements are inconsistent with general plan; site is not suitable for type of development [large supermarket shopping center]; the site is not suitable for the proposed density of development [62,000 sq. ft., resulting in unacceptable traffic and parking impacts].)

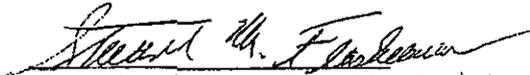
RCPC Appeal letter on College Ave. Safeway Shopping Ctr. Project

8/6/2012

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As evidence supporting this appeal, attached are letters submitted to the City by RCPC and by its consultants, as well as several other significant supporting letters. However, this letter incorporates by reference the entire contents of the FEIR, as well as all of the oral and written testimony provided to the Planning Commission before and at the at the Commission hearing where the project was approved. RCPC also intends to provide further supporting evidence at or before the hearing on the appeal.

Sincerely,



Stuart M. Flashman, Land Use Committee Chair
For the RCPC Board of Directors

Attachments:

City of Oakland Appeal Form

Check made out to City of Oakland for \$1,352.91

RCPC DEIR Comment letter dated 8/16/2011, with Exhibits A-D

DEIR Comment letter from K. Shafizadeh on behalf of RCPC, dated 8/16/2011

DEIR Comment letter from A. Floystnyp dated 8/15/2011, with attachments (5)

DEIR Comment letter from Sara, Peter, & Anthony Wilson, dated 8/16/2011

FEIR Comment letter from K. Shafizadeh on behalf of RCPC, dated 7/25/2012

RCPC Statement to Planning commission, delivered 7/25/2012

Bay Area Air Quality Management District Information Packet, including:

- Regulation 8, Rule 42 – Large Commercial Bread Bakeries
- Bay Area Air Pollution Summary – 2010
- Air Quality Standards and [Bay Area Basin] Attainment Status as of August 5, 2012



Rockridge

RCPC ROCKRIDGE COMMUNITY PLANNING COUNCIL

4123 Broadway PMB 311 OAKLAND, CALIFORNIA 94611 510-869-4200
www.rockridge.org

August 16, 2011

Delivery by electronic mail to pvollman@oaklandnet.com

Mr. Peterson Z. Voliman, Planner III
City of Oakland
Community and Economic Development Agency
Planning Division
250 Frank Ogawa Plaza, Suite 2114
Oakland, CA 94612

RE: College Avenue Safeway Shopping Center Draft Environmental Impact Report, SCH
#2009112008; 2009102100

Dear Mr. Voliman:

Thank you for the opportunity to submit comments on the above-referenced Draft Environmental Impact Report ("DEIR"). The Rockridge Community Planning Council ("RCPC") is the official community organization of the Rockridge section of North Oakland, which includes the site of the above-referenced proposed project. RCPC has major concerns about the DEIR and its adequacy.

The DEIR appears to have understated or omitted numerous significant environmental impacts. In addition, the DEIR fails to identify feasible mitigation measures or sufficiently analyze project alternatives and has improperly identified some analyzed alternatives as unacceptable for failing to meet project objectives when the project objectives were improperly defined as the project *applicant's* objectives. The remainder of this letter will provide substantiation for RCPC's objections to the DEIR. In addition, RCPC has commissioned two professional analyses of specific sections of the DEIR. One letter, from Prof. Kevan Shafizadeh and dealing with traffic, parking and related impacts, is being submitted separately. The other, addressing air, water, and toxics issues, is attached hereto as Exhibit A. The letters, and the comments contained therein, are incorporated into this comment letter by this reference as if fully set forth herein.

LAND USE

While the Notice of Preparation ("NOP") for the EIR failed to identify land use as an area meriting analysis and discussion, the EIR preparers wisely decided that the degree of public controversy on that issue required its inclusion in the DEIR. Unfortunately, however, the DEIR's discussion of land use impacts is painfully deficient and lacks substantial evidence to support its conclusions.

To begin with, the DEIR incorrectly asserts that inconsistency with goals and policies in the general plan, and with zoning requirements for the project site, do not constitute significant impacts because neither the general plan goals and policies nor the zoning were put in place to be protective of the environment. However, as already explained in RCPC's scoping comments, the relevant general plan goals and policies and zoning requirements were indeed designed and adopted in order to protect the environment of the areas involved, and specifically to avoid creating significant environmental impacts through the approval of projects (such as this one) that are inconsistent with the goals, policies, and zoning requirements. In particular, both the "maintain and enhance" designation in the general plan's land use and transportation element

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(“LUTE”) and the limitations and restrictions contained in the C-31 zoning, and most specifically the requirement for factual findings in order to grant a conditional use permit (“CUP”) for a project, were put in place in recognition of the limited available infrastructure to support additional development in this area. The wisdom of these limitations is demonstrated by the DEIR’s disclosure that the Safeway project, if approved as proposed, would create numerous significant and unavoidable traffic impacts.¹

College Avenue itself, despite being designated as an “arterial,” is a two-lane street that is already highly congested, particularly at peak travel hours. There is also limited on-street parking in the area, and the current Safeway surface parking lot is the only significant off-street parking anywhere in the project vicinity.² While this parking is potentially available for retail customers beyond Safeway, Safeway has discouraged such use, to the point of ticketing drivers who park there and then go across the street to other shops. In short, both parking and traffic are limiting factors for auto-oriented development on College Avenue, which is part of why the C-31 zoning emphasizes “pedestrian-oriented comparison shopping.”³ This project will exacerbate both the parking and traffic problems for College Avenue, which, in turn, will discourage potential customers from patronizing the area and potentially lead to negative economic and physical impacts from the failure of other shops on College Avenue and associated physical blight and urban decay. The EIR should have, but failed to discuss these impacts.

The Safeway Shopping Center, while paying lip-service to pedestrian and bicycle use, is quite plainly a large, primarily auto-oriented development project. The expansion from a 22,042 sq. ft. store⁴ to an over 62,000 sq. ft. shopping center is blatantly inconsistent with the “maintain and enhance” designation for the project site and its surrounding area. There are also serious questions about how a 51,510 sq. ft. second-floor grocery store, with an additional 10,657 sq. ft. of retail space, can be approved, given the required findings for issuance of a CUP for the Project, including specifically that the project “will not detract from the character desired for the area;” “will not weaken the concentration and continuity of retail facilities at ground level;” “will not impair the retention or creation of an important shopping frontage;” and “will not interfere with the movement of people along an important pedestrian street.” The EIR needs to specifically address each of the required C-31 CUP findings and discuss whether the factual basis exists for making those findings in light of the parking and traffic deficiencies and pedestrian obstacles that the Project will create.

¹ As will be explained further below, the impacts disclosed in the DEIR still greatly understate the impacts that the project, as proposed, is likely to create.

² The Red Cross Building and the MIEC building across Claremont Avenue from the project site both have off-street parking, as does the Dreyers Building further south on College Avenue, but this parking is primarily for employees, not retail customers.

³ Similarly, the LUTE designates the area as “Neighborhood Center Mixed Use”, which it describes as containing, “smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, open space, ... etc.” Its intent is to “serve nearby neighborhoods...” By contrast, at more than 62,000 sq. ft., this is by far the largest project in the C-31 zone and, according to the DEIR’s greenhouse gas impacts analysis, serves customers who, on average, drive 2.7 miles to reach the store. (DEIR at p.4.5-53.) This takes it well beyond the limits of the local Rockridge-Elmwood-Temescal neighborhoods.

⁴ This store itself is only allowed because its approval antedated the establishment of C-31 zoning for the area, making it a legal nonconforming use.

TRANSPORTATION AND TRAFFIC

RCPC commissioned a detailed professional analysis of the traffic and parking section of the DEIR. As mentioned, that report is being subnütred separately. The report identifies numerous flaws and deficiencies in the DEIR's analysis. Overall, the report concludes that the DEIR grossly underestimates the Project's traffic and parking impacts. Among other things, the report identifies inconsistencies in the modeling of project traffic, as well as inaccuracies and unwarranted assumptions in analyzing traffic generation and resulting impacts. The report also identifies impact areas which should have been studied in the DEIR, but were ignored or dismissed as insignificant without adequate supporting evidence. These include pedestrian and bicycle safety impacts, primary and secondary impacts involving residential side-streets and their intersections due to "cut-through" traffic associated with the degradation of the LOS for College and Alcatraz Avenues, inadequate consideration of cumulative traffic impacts, and secondary impacts caused by a cumulatively significant parking deficit.

The DEIR also fails to identify secondary impacts associated with the relocation of the northbound AC Transit 51B stop to College Avenue adjacent to the Project. Especially during the congested PM peak travel hours, this placement of the AC Transit stop, which will involve stopping in and disrupting a northbound travel lane of traffic, is likely to result in following cars being stopped in and blocking the key Claremont/College intersection. This will degrade the level of service for that intersection beyond the already significant level of impact disclosed in the DEIR.

It is also disturbing that, according to an e-mail from Jason Patron, Oakland's Bicycle and Pedestrian Program Manager, a copy of which was sent to you, "My involvement in the environmental review of this project has been minor." This perhaps explains, but does not excuse, the DEIR's inaccurate information on the status of Oakland's bicycle projects. It also raises questions about the degree to which there has been consultation, as called for under Public Resources Code §§21092.4 and 21153. The EIR needs to identify all contacts with other agencies, including agencies within the City of Oakland, for the purpose of consulting on the Project and its potential environmental effects.

TOXICS

Despite the fact that the project site includes a site that has been occupied until very recently by an automobile service station, and that substantial past uses of other portions of the Project site also involve automotive repair and other uses involving toxic materials, as well as the likely presence in the soil of lead paint residues from the demolition of prior buildings on the site, the DEIR contains absolutely no discussion or analysis of toxic materials impacts. As the attached report indicates, there are potentially significant impacts associated with all of the above circumstances. These impacts should have been analyzed and discussed and, if found significant, appropriate mitigation should have been proposed. Instead, however, the DEIR is silent, failing to perform its function of serving as an "environmental alarm bell" for the public. The DEIR needs to be revised to consider and address the toxics issues and then recirculated to allow public comment on the adequacy of the analysis and of proposed mitigation measures.

AIR AND WATER QUALITY AND GREENHOUSE GAS EMISSIONS

Two other areas where the DEIR is sadly deficient are air and water quality. The DEIR does include sections purporting to discuss air quality and greenhouse gas emissions, finding both insignificant. However, there is absolutely no discussion of water quality impacts. For all three

of these topics, the DEIR's consideration (or lack thereof) is flawed by a failure to identify the true extent of the Project.

The entire DEIR is premised on the assumption that the Project consists of the demolition and replacement of a single Safeway store located at the corner of College and Claremont Avenues. (DEIR at pp. 3-1 to 3-26.) However, this "project" is not occurring in isolation. As has been noted by numerous scoping comments, Safeway is also renovating and enlarging another of its stores as part of a much larger demolition and redevelopment project for the Rockridge Shopping Center, roughly a mile away just beyond the southern end of College Avenue at the Broadway/Peasant Valley intersection. (See attached Exhibit B.) In addition to that, Safeway has just received approval for another store expansion project on Henry Street in North Berkeley (See attached Exhibit C) and has submitted an application for another store replacement and expansion project on Solano Avenue in Albany. (See attached Exhibit D.) Even this, however, understates the size of Safeway's overall expansion project in the Bay Area.

As acknowledged by Safeway (see Contra Costa Times article attached to Exhibit A), Safeway has proposed and submitted applications for a total of thirteen new or expanded stores or shopping centers in the Bay Area, with a total square footage in excess of 500,000 sq. ft. of developed space. The EIR needs to address the cumulative air, water, and greenhouse gas impacts of the totality of this "mega-project", all of which is being proposed by a single corporation as part of an acknowledged corporate strategy. As the California Supreme Court stated most recently in *Environmental Protections & Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503, "The requirements of CEQA cannot be avoided by piecemeal review which results from chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences."

The entire East Bay area drains, either directly or indirectly, to the San Francisco Bay. Similarly, the entire East Bay is contained in a single air quality basin, which is currently in non-attainment for air pollutants. Obviously also, all of the greenhouse gas emissions of these projects will have a cumulative effect on greenhouse gas levels and global warming. A project in excess of 500,000 sq.ft. is far in excess of the thresholds for considering air and water quality and greenhouse gas emission impacts as potentially significant and providing detailed analysis and, if necessary, mitigation, for the cumulative impacts. By narrowing its analysis to the single Oakland College Avenue store, the DEIR failed to confront these important issues. The EIR needs to be revised to analyze and discuss the overall cumulative impacts of the Safeway "mega-project," and, if found significant, appropriate mitigation measures should be proposed.

PROJECT ALTERNATIVES

While RCPC recognizes the need to update Safeway's College Avenue store, and acknowledges that a somewhat larger store might better serve the surrounding neighborhoods, the proposed Safeway Shopping Center Project goes far beyond what is necessary to adequately serve the community. Given the infrastructure limitations of the College Avenue area, and the significant impacts that come from attempting to ignore those limitations, it is incumbent on the City to fully investigate project alternatives that might avoid some or all of the proposed project's significant impacts. The DEIR does indeed examine a number of smaller-scale alternatives that

8/16/2011

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would avoid some or all of the Project's identified significant impact.⁵ However, the DEIR states that all of these alternatives fail to meet, "several of the primary project objectives." (DEIR at p. 5-63.) These project objectives, however, were identified, not by the City, but by Safeway itself. While Safeway is certainly entitled to identify what it considers to be its objectives for the project, those objectives need not, and in some cases should not, be identical to those of the City.

For example, Safeway identifies as a primary objective offering a more comprehensive range of commercial services and products to Safeway's customers, including an on-site bakery, pharmacy, florist, deli, meat and seafood markets, and produce market. However review of the available merchants in the area indicates that each one of these services already exists within a one block radius of the current Safeway store. From the community's perspective, it matters little whether these services are located within or outside of the Safeway project. Indeed, from the standpoint of promoting an independent local economy where consumer dollars are more effectively kept within the community, the current situation, where these services are provided outside of Safeway by local independent businesses, may be preferable to having them provided by a single outside business entity, whose failure could potentially eliminate a host of community services in a single blow. Consequently, the project objectives should be rewritten to address the City's and the community's needs rather than those of Safeway. Those revised objectives, rather than the objectives identified by Safeway, should be used to evaluate the effectiveness of project alternatives.

CONCLUSION

RCPC is disturbed by the extent to which the DEIR fails to adequately disclose this Project's many significant impacts, fails to propose adequate mitigation for those impacts, and fails to provide an adequate analysis of project alternatives. Based on these failures, RCPC recommends that the EIR be rewritten to address the deficiencies and then recirculated for another round of public comments.

While RCPC recognizes that this will delay somewhat Safeway's schedule for replacing the current store, RCPC would remind the City that the new store may, in all likelihood, be around for another fifty years. Given that potential longevity, RCPC believes it is important that this project be "done right" and in a way that conforms to the general plan and zoning and meets the true needs of the community. Please keep RCPC informed about the future progress of the environmental review of this project.

Sincerely,



Stuart M. Flashman
Chair, RCPC Board of Directors

⁵ As noted in this letter, the DEIR currently seriously understates the Project's significant impacts. If those impacts are accurately revealed, the contrast with the more modest project alternatives will become all the more striking.

Exhibit A



Technical Consultation, Data Analysis and
Litigation Support for the Environment

2503 Eastbluff Dr., Suite 206
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Matt Hagemann, P.G, Ch.G.
Tel: (949) 887-9013
Email: mhagemann@swape.com

August 15, 2011

Stuart Flashman
Law Offices of Stuart Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533

Subject: Comments on the Safeway Shopping Center – College and Claremont Avenues
Draft Environmental Impact Report

Dear Mr. Flashman:

I have reviewed the July 1, 2011 Draft Environmental Impact Report (DEIR) for the College Avenue Safeway Project ("Project") for issues associated with hazardous substances. The Project will be constructed on a triangular 2.1-acre site (Site) at the north corner of the intersection of College and Claremont Avenues in Oakland, California. The Project would involve demolition of an existing 25,000 square foot Safeway store, parking lot, and gas station, and the construction of a 51,500 square foot, two-story building with ground-floor retail and restaurant and a second floor Safeway store, and partially below-grade covered parking. Construction would occur over a period of approximately 13 months beginning in 2012.

I have identified a number of areas where the October 2009 Initial Study and the DEIR fail to adequately disclose contaminants in the subsurface and fails to address potential contaminants through remediation and mitigation measures. Additionally, the DEIR does not discuss the regulatory status of the Site and the need to conduct additional investigations to obtain closure. Finally, the DEIR does not consider potential cumulative impacts on air and water resources from this and other Safeway projects that are planned in the Bay Area.

Regulatory Status Is not Disclosed

The Initial Study found the project to result in less than significant impacts (with development standards) for hazards and hazardous materials (p. 42). Therefore, the DEIR did not include any description of the potential for soil or groundwater contaminants to be associated with former land uses at the project site. The DEIR only states, with respect to hazardous substances

The southern corner of the site is occupied by the former Union 76 gasoline station and auto repair garage. It now consists of a vacant shop with about 1,120 square feet, a covered service area, and a canopy over the gasoline pump areas. The gas station site is paved and contains several underground gasoline storage tanks. It is currently surrounded by a security fence and is inaccessible from the adjacent streets. (p. 3-5).

The Union 76 gas station was in operation at the site from prior to 1956 to sometime prior to March 2011. Environmental investigations of the former gas station have documented releases of gasoline to soil and groundwater. The Initial Study failed to mention releases of gasoline to soil and groundwater, stating only:

There were two 12,000-gallon unleaded gasoline USTs [underground storage tanks] that were removed in March 1997. Approximately 516 tons of soil was excavated as part of the UST removal. Three groundwater monitoring wells were installed at the site and were sampled quarterly from August 2000 to March 2007 (p. 42).

Results of the groundwater sampling were not included in the Initial Study. Sampling results, documented below, have shown releases of gasoline and other hydrocarbons to soil and groundwater at the Site. Groundwater under the Site remains contaminated with gasoline-related compounds, as documented below. The DEIR similarly fails to document releases to soil and groundwater.

The Initial Study and the DEIR also failed to mention that the former gas station is under active investigation by the Alameda County Department of Environmental Health and the regulatory status of the site is "open," meaning that investigations of soil and groundwater contamination are incomplete. According to the California Regional Water Quality Control Board website, the site needs further source control and that additional sources are to be evaluated.¹ Additionally, the website states that "groundwater has already been impacted" and that residual contamination remains in groundwater. Review of files available online show that contaminants include the gasoline additive methyl tert butyl ether (MTBE) and gasoline, referred to as total petroleum hydrocarbons (gasoline) or TPH-g.

Failure to describe the open regulatory status of the site is inadequate disclosure under CEQA. A revised DEIR needs to be prepared to state that the site needs to undergo further regulatory review. Any measures necessary to obtain regulatory closure should also be documented in a revised DEIR.

¹ http://geotracker.swrcb.ca.gov/profile_report.asp?global_id=T0600102231

Potential Hazards Posed by Residual Contaminants have not been Addressed

Disclosure and any necessary mitigation of soil and groundwater contamination that is known to exist at the site are necessary to ensure protection of workers during construction of the project. Workers involved in soil excavation and grading activities, including excavation for subterranean parking, may be exposed to dusts and vapors that could contain contaminants at concentrations that would pose health risks. No discussion of potential construction worker exposure to contaminants in soil, dust, groundwater or through vapors is provided in the DEIR.

Releases of contaminants to soil and shallow groundwater at the Site have been documented.

A release of gasoline from the USTs at the Site occurred prior to 1997 when TPH-g was detected in water in the UST excavation pit at 6,100 ug/L. A release of gasoline from fuel dispensers or associated piping also occurred before 1997 when petroleum hydrocarbons and MTBE were detected beneath the western-most dispenser island.²

Two 12,000 gallon USTs were removed in March 1997, along with a 280-gallon waste oil tank. In March 1997, 516 tons of soil were removed and disposed offsite. In July 2000, 2.5 yards of soil were removed and disposed offsite. From August 2000 to September 2005, approximately 400 gallons of contaminated groundwater was treated and disposed offsite. Following groundwater treatment, TPH-gas remained in groundwater at a concentration of 200-300 ug/L and MTBE remained in groundwater at a concentration of 19 ug/L.³

In 2011, two USTs were removed from the Site, USTs that were installed in 1997 to replace those removed at that time. Two hydraulic hoists were also removed. No TPHg, TPHo or BTEX compounds were detected in soil samples collected in the area of the USTs following removal. One TPHd sample detected 1.3 mg/kg in soil. TPHd, TPHo, and hydraulic oil were detected in soil samples collected in the area of the hydraulic hoist removal, at concentrations below ESLs. No groundwater samples were collected in the area of the UST removal or the hoist removal.

In summary, releases from the USTs and the gas pumps or pipes were documented in 1997. Despite soil removal and groundwater treatment, residual contamination of TPH-g and MTBE was documented in groundwater in 2005. Sampling conducted in 2011 did not include the collection of on-Site groundwater samples; therefore, groundwater contamination may still be present beneath the site.

The most recent groundwater sampling, conducted at the Site in March 2010, detected contaminants in excess of health-protective screening levels. TPHg was detected at a maximum concentration of 320 ug/L, an increase from a maximum concentration of 62 ug/L in the same

² Need to ref: Site Concept Model

³ Need to ref: Case Closure 2005

well (MW-1) during the previous sampling event in September 2009.⁴ The detected concentration of TPHg (320 ug/L) exceeds the Bay Area Regional Water Quality Control Board screening level of 100 ug/L for groundwater.⁵

MTBE was detected at a maximum concentration of 11 ug/L in MW-1 during March 2010.⁶ The MTBE concentration of 11 ug/L exceeds the Bay Area Regional Water Quality Control Board groundwater screening level of 5 ug/L.

The releases, the attempt at groundwater treatment, and the existing groundwater contamination and were not disclosed in the Initial Study or the DEIR. A revised DEIR needs to be prepared to disclose the releases and the existing groundwater contamination. Any mitigation measures necessary to protect construction workers from exposure to groundwater (through dermal contact) or through inhalation of vapors needs to be included in the revised DEIR.

Not all Sources are Confirmed to have been Removed

A 2008 report documents USTs for which no removal records were found in searches on online records available at the California Regional Water Quality Control Board website. The 2008 report references a Union Oil Company of California drawing from 1962 that showed two 4,000 gallon and one 5,000 gallon USTs to be located in the southern corner of the site at that time.⁷

A 2009 report was conducted to investigate the presence of the USTs concluded that the USTs were "no longer present at the site, and that contamination beneath the former USTs is minimal."⁸ The report relied upon the advancement of two soil borings in the general vicinity of the USTs in the southwestern area of the Site. No geophysical studies, typical in the investigation of suspected USTs, were conducted. No records of UST removal were included in the report.

In my opinion, the conclusion made in the 2010 report, that the USTs are no longer present at the Site, is poorly substantiated. To more conclusively determine the presence or absence of USTs at the Site, a geophysical investigation needs to be conducted using common techniques such as ground penetrating radar and electromagnetic induction. Use of these geophysical techniques, and others, is recommended in the Draft 2010, California State Water Resources Control Board Leaking Underground Fuel Tank Guidance Manual, which states:

⁴ http://geotracker.swrcb.ca.gov/esi/uploads/geo_report/3772958338/T0600102231.PDF

⁵ http://www.swrcb.ca.gov/sanfranciscobay/water_issues/available_documents/ESL_May_2008.pdf, groundwater deep or shallow soil sources, current or potential source of drinking water, Tables B and C.

⁶ http://geotracker.swrcb.ca.gov/esi/uploads/geo_report/3772958338/T0600102231.PDF

⁷ Site Conceptual Model

⁸ Additional Investigation Report and Request for Case Closure, report attached to a November 25, 2009 letter to the RWQCB http://geotracker.swrcb.ca.gov/esi/uploads/geo_report/2143960535/T0600102231.PDF

Surface geophysical surveys are generally conducted to better understand the location of USTs and associated piping at LUFT [leaking underground fuel tank] sites ...⁹

Finally, the absence of the USTs in the southern area of the site has not been confirmed by the Alameda County Department of Environmental Health. No regulatory determination of the presence or the absence of the USTs has been made to date.

USTs that may still be present at the Site would pose potential risks to construction workers involved in site grading and excavation. A geophysical study of the area, along with any necessary soil borings and soil sampling, needs to be conducted to conclusively determine if the USTs are present. The results of the study need to be included in a revised DEIR along with mitigation measures that would be necessary to protect construction worker safety.

A Vapor Intrusion Investigation needs to be Conducted

The potential for contaminants to move from groundwater into soil vapor, and in turn to indoor air, through a process commonly known as vapor intrusion, should be assessed prior to certification of an EIR. A vapor intrusion investigation has not been conducted to date.

Components of gasoline, which is known to have been released at the site, may pose a risk to workers in the new building. Of these, benzene is most toxic and may pose a health risk at low concentrations. Whereas benzene was not detected in groundwater during the most recent sampling event (March 2010), benzene may be present in soil vapor which has not been sampled at the Site.

In accordance with draft 2010 California guidance¹⁰, an investigation should be conducted at the Site, to include the collection of paired groundwater and soil vapor samples (at various depths) to assess the potential for vapor intrusion. The results of the study, along with an analysis of potential health risks, should be included in a revised DEIR.

Other Potential Toxic Sources on the Project Site

Review of a 1951 Sanborn map of the project site area (copy attached) indicates that additional potential sources of toxics, including several auto service departments and a spray painting service, were present on the project site. All of these uses antedate any effective tracking or regulation of toxic substances. Nor would there have been testing for toxics at the time the current Safeway store and its parking lot were constructed. Consequently, there is a significant risk that the proposed demolition and construction activities will unearth and potentially mobilize significant additional unidentified toxics, including petroleum products, heavy metals (from paint residues) and asbestos (from brake linings). The EIR needs to evaluate the risks involved and propose appropriate mitigation (e.g., testing of soil residues of potentially affected

⁹ http://www.swrcb.ca.gov/ust/luft_manual/guidance_manual_v2.pdf

¹⁰ http://www.dtsc.ca.gov/SiteCleanup/upload/SAG_Review_Draft.pdf

sites during demolition and excavation and appropriate treatment/containment/disposal of toxics to prevent their mobilization). The revised analysis should then be recirculated for public comment.

Cumulative Air and Water Quality Impacts have not been Identified

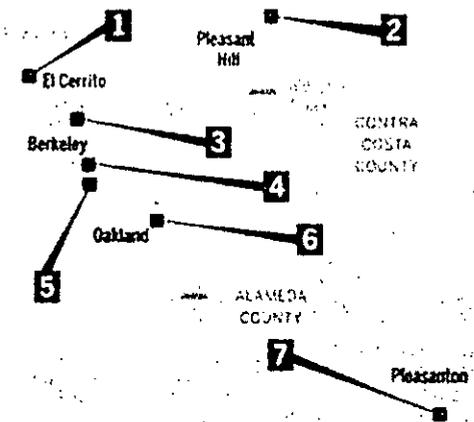
A recent newspaper article documents the following planned new and remodeled Safeway stores in the Bay Area.¹¹ The series of projects will create 13 new or revamped Safeway stores in the Bay Area, including those in the figure from the article below. In addition to the two Rockridge Safeway projects, another Safeway project on Redwood Road in Oakland, and projects in nearby Berkeley and Albany, the article specifically identifies projects in:

- Campbell
- Mountain View
- Los Gatos
- Burlingame
- Millbrae
- Pleasanton
- Daly City
- Pleasant Hill
- El Cerrito

Several of these projects, and specifically the Rockridge Shopping Center and Pleasanton projects, are even larger than the square footage identified in the article, as they include not only a new or enlarged Safeway store, but expansion of an entire shopping center through Safeway's Property Development Centers division.

¹¹ Safeway undertakes largest store replacement, revamp and new construction in Bay Area in years, Contra Costa Times, August 4, 2011 http://www.contracostatimes.com/ci_18610200?IADID=Search-www.contracostatimes.com-www.contracostatimes.com, attached

Safeway's surge



1. 11450 San Pablo Ave., El Cerrito — Safeway moved into a former Target store that is being completely remodeled.
2. 707 Contra Costa Blvd. Pleasant Hill — Safeway is moving into a former Mervyn's next to Sun Valley mall.
3. 1425 Herry St., Berkeley — A 29,000-square-foot Safeway will be expanded to 48,000 square feet.
4. College and Claremont avenues, Oakland — A 24,000-square-foot Safeway will be replaced by a 51,000-square-foot Safeway store. Eight small shops will be added.
5. 51st St. and Broadway, Oakland — A new Safeway will anchor a completely remodeled shopping center.
6. 4100 Redwood Road, Oakland — A 19,000-square-foot Safeway will be replaced by a 45,000-square-foot store.
7. Bernal Road near I-680, Pleasanton — Safeway is building a new store that will be part of a large shopping center.

Assuming a 50/50 mix of new and revamped stores and, assuming an average project size of 25,000 square feet, the 13 stores represent, as a very conservative estimate, 325,000 square feet of new construction. When compared to Bay Area Air Quality Management District (BAAQMD) project screening size thresholds, the aggregate of these stores represents potentially significant cumulative air emissions of criteria air pollutants and greenhouse gas emissions. The BAAQMD CEQA guidance states that supermarket projects in excess of 42,000 square feet may emit criteria air pollutants (NOx) in excess of thresholds.¹² The BAAQMD also states that supermarket projects in excess of 8,000 square feet will emit greenhouse gasses in excess of the threshold. Finally, construction emissions for supermarket projects will exceed criteria pollutant thresholds (ROG) if greater than 277,000 square feet in size.

¹²<http://www.baaamd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011.ashx>, Table 3-1

The project size we have estimated for the Safeway Bay Area initiative greatly exceeds the thresholds for operational emissions of criteria air pollutants and greenhouse gasses and somewhat exceeds the construction emissions threshold. A revised DEIR should be prepared to consider the cumulative impact of the Safeway project's air emissions and should identify any necessary mitigation measures identified in the BAAQMD CEQA guidance.

In addition to cumulative air quality impacts, the sum total of these Safeway projects may also result in cumulative water quality impacts. All of these projects are in watersheds that feed into San Francisco Bay. Consequently, given the total amount of construction, and the potential for additional pollution load (including pollutants contributed through project-associated vehicle trips), the EIR should have also have considered the cumulative water quality impacts on the Bay. Again, the EIR should be revised to consider and discuss the cumulative water quality impact and, if found significant, appropriate mitigation should be proposed.¹³

Sincerely,

A handwritten signature in cursive script, appearing to read "Matt Hagemann", written in black ink.

Matt Hagemann, P.G., C.Hg.

¹³ Since the impact is cumulative, mitigation should be identified for this project's "fair share" contribution to the cumulative impact

Safeway undertakes largest store replacement, revamp and new construction in Bay Area in years

By George Avalos
Contra Costa Times

Posted: 08/04/2011 06:32:06 AM PDT

Updated: 08/04/2011 12:02:08 PM PDT

Safeway is embarking on its most far-ranging effort in years to replace or rebuild aging or smaller stores, the Pleasanton-based retailer said Tuesday.

The series of projects will create 13 new or revamped Safeway stores in the Bay Area, where the retailer has 158 stores. Safeway's push comes amid the backdrop of an invasion by smaller rivals competing for shoppers' dollars in a region Safeway has long dominated.

"The economy has turned, and that has opened up more opportunities in urban areas," said Karl Schroeder, president of Safeway's Northern California Division. "Previously, a lot of the new stores were on the fringes of the division."

Schroeder added that this is the largest store replacement and reconstruction effort "in years."

Fresh & Easy, Whole Foods, Sprouts Farmers Market, Sunflower Farmers Market and Foods Co. have either disclosed or launched new grocery stores in the Bay Area lately.

"Our experience with our new East Bay and Bay Area locations is we have had very favorable customer reaction so far," said Brendan Wonnacott, a spokesman for Fresh & Easy. "Customers are looking for more fresh food options."

"The competition is getting more fierce," said Patricia Edwards, chief investment officer with Seattle-based Trutina Financial. "You have a lot of new players coming into the market, and some existing players ramping up their food offerings."

Target is adding grocery units in more of its

stores, Walgreens is adding a small food section in its drugstores, and Wal-Mart has been adding grocery operations in its outlets.

Safeway is also jumping into attractive locations that once were occupied by other retailers. In Campbell, Safeway just opened a store in a former Mervyn's; in Mountain View, the grocery giant has struck a deal to occupy a former Sears store at San Antonio Plaza.

A number of the projects will replace stores that have existed for decades.

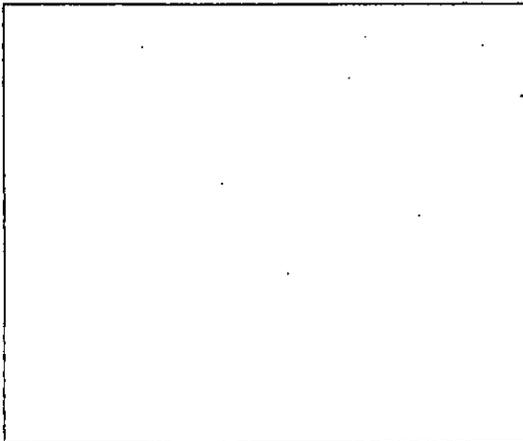
"One of the big things with retail is you have to constantly refresh or go stale," Edwards said.

In Los Gatos, Safeway plans to replace an existing store. In Burlingame, Safeway has nearly completed construction of a big store that completely supplants a tiny, older store. In Mililuae, the grocery chain is planning to tear down and reconstruct an existing small store.

In some instances, a realty unit of Safeway, Property Development Centers, is building or reconstructing a shopping center that would have the supermarket as one of its primary tenants.

That's the case in Pleasanton, where Property Development is building a 58,000-square-foot Safeway that will anchor a mall that's also under construction.

In Oakland's Rockridge district, a large new Safeway



CONTRA COSTA TIMES

ContraCostaTimes.com

will be built at 51st and Broadway, and the surrounding shopping center will be completely remodeled.

Safeway may have little choice but to launch these upgrades and new stores.

"Safeway is being attacked on all sides because everyone thinks they can do grocery stores," Edwards said. "Safeway has to prove they can do it better than these up-and-comers."

Contact George Avalos at 925-977-8477.
Follow him at twitter.com/george_avalos.

Safeway expansion

Safeway is pushing ahead with new and revamped stores at several South Bay and Peninsula locations.

Mountain View: A new 65,000-square-foot Safeway store will be built on the site of an old Sears department store as part of a complete remodel of the San Antonio shopping center near the corner of San Antonio Road and El Camino Real.

Burlingame: A 52,000-square-foot Safeway will open in October replacing an existing small store at El Camino Real and Howard Avenue.

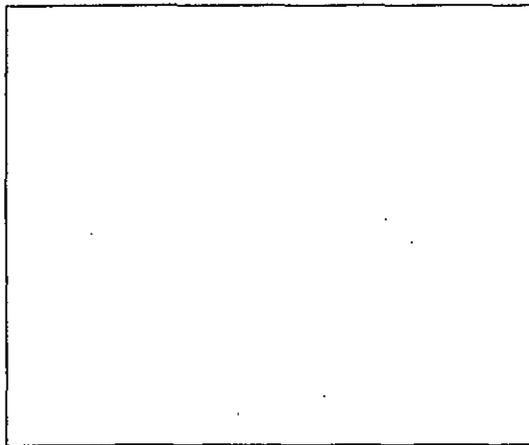
Los Gatos: A replacement of the existing store is nearly complete, and a 43,000-square-foot Safeway is due to open at 470 N. Santa Cruz Ave. on Aug. 25. The existing store is 24,000 square feet.

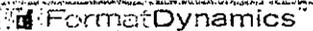
Daly City: Safeway is expanding its store at 601 Westlake Ave. The project should be complete by mid-September.

Millbrae: Safeway will build a new 59,000-square-foot store at the location of its existing 34,000-square-foot outlet at 525 El Camino Real. Construction should start in March 2012 and be complete by February 2013.

Campbell: Safeway recently moved into a onetime Mervyn's store at 950 W. Hamilton Ave., taking 56,000 square feet in a remodeled building. The project also includes an adjacent 19,000 square feet in a project that is called The Shops at Safeway Campbell.

Source: Safeway, Bay Area News Group research



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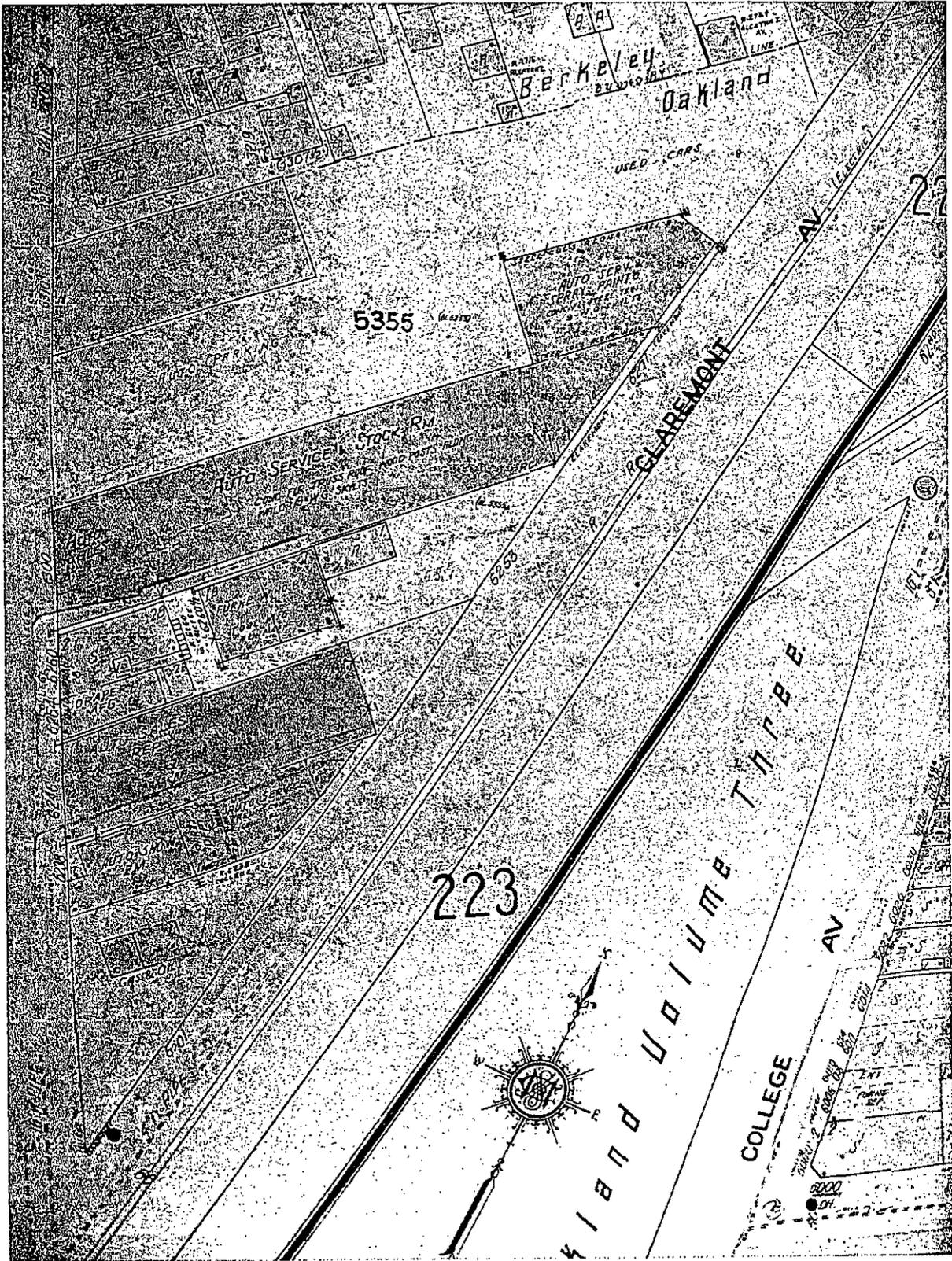


Exhibit B



CITY OF OAKLAND

Community and Economic Development Agency, Planning & Zoning Division
250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612-2032

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SAFeway REDEVELOPMENT PROJECT (BROADWAY @ PLEASANT VALLEY AVE.)

The Oakland Community and Economic Development Agency, Planning and Zoning Division, is preparing a Draft Environmental Impact Report ("EIR") for the Safeway Redevelopment Project (Broadway @ Pleasant Valley Avenue) (the "Project") as identified below, and is requesting comments on the scope and content of the EIR. The EIR will address the potential physical, environmental effects for each of the environmental topics outlined in the California Environmental Quality Act ("CEQA"). The City has not prepared an Initial Study.

The City of Oakland is the Lead Agency for the Project and is the public agency with the greatest responsibility for approving the Project or carrying it out. This notice is being sent to Responsible Agencies and other interested parties. Responsible Agencies are those public agencies, besides the City of Oakland, that also have a role in approving or carrying out the Project. When the Draft EIR is published, it will be sent to all Responsible Agencies and to others who respond to this Notice of Preparation ("NOP") or who otherwise indicate that they would like to receive a copy. Responses to this NOP and any questions or comments should be directed in writing to: Darin Ranelletti, Planner III, City of Oakland, Community and Economic Development Agency, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612; (510) 238-3663 (phone); (510) 238-6538 (fax); or dranelletti@oaklandnet.com (e-mail). Comments on the NOP must be received at the above mailing, fax, or e-mail address by 5:00 p.m. on July 27, 2009. Please reference case number ER09-007 in all correspondence. In addition, comments may be provided at the EIR Scoping Meeting to be held before the City Planning Commission. Comments should focus on discussing possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the project in light of the EIR's purpose to provide useful and accurate information about such factors.

PUBLIC HEARING: The City Planning Commission will conduct a public hearing on the scope of the EIR for the Project on July 15, 2009, at 6:00 p.m. in Hearing Room 1, City Hall, 1 Frank H. Ogawa Plaza, Oakland, CA.

PROJECT TITLE: Safeway Redevelopment Project (Broadway @ Pleasant Valley Avenue)

PROJECT LOCATION: 5050-5100 Broadway, Oakland, CA (APN 014-1242-002-03 & 014-1242-005-07) (located at the northeast corner of Broadway and Pleasant Valley Avenue) (see map on reverse)

PROJECT SPONSOR: Safeway, Inc., Northern California Division

EXISTING CONDITIONS: The 15.4-acre project site is the location of the existing Rockridge Shopping Center, which contains several retail stores including Safeway, Long's Drugs (now CVS), and others totaling approximately 185,000 square feet of commercial space. The site is not listed on the Cortese List of hazardous waste sites.

PROJECT DESCRIPTION: The Project includes the demolition of the Safeway and Long's Drugs stores, along with other adjacent stores, and the redevelopment and remodeling of the site with the construction of a new Safeway store, a new CVS store, and other commercial buildings. The project would contain a total of approximately 304,000 square feet of commercial space and 1,006 parking spaces. Also proposed are modifications to adjacent streets including additional vehicle travel lanes and/or turn lanes.

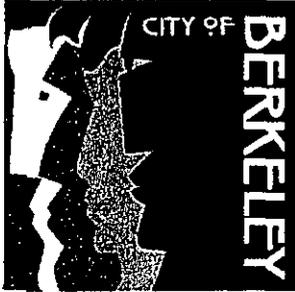
PROBABLE ENVIRONMENTAL EFFECTS: It is anticipated that the Project may have environmental impacts on aesthetics, traffic/circulation, air quality, noise, geology/soils, hazards/hazardous materials, hydrology/water quality, utilities/service systems and biological resources. It is anticipated that the Project will not have significant environmental impacts on agricultural resources, cultural resources; land use plans and policies; mineral resources; population and housing; public services, recreation and cumulative growth. Nevertheless, these environmental factors will be analyzed in the EIR.

The Draft EIR will also examine a reasonable range of alternatives to the Project, including the CEQA-mandated No Project Alternative, and other potential alternatives that may be capable of reducing or avoiding potential environmental effects.

June 26, 2009
File Number: ER09-007

Eric Angstadt
Deputy Director, Community and Economic Development Agency
Environmental Review Officer

Exhibit C



Z O N I N G
A D J U S T M E N T S
B O A R D
S T A F F R E P O R T

FOR BOARD ACTION
SEPTEMBER 9, 2010

**1444 Shattuck Place/1425 Henry Street - North Shattuck Safeway
Use Permit #09-10000104 to modify an existing Use Permit, remodel an
existing 28,250 square foot grocery store, construct 17,250 square feet of
new floor area, and extend the hours of operation for the store.**

I. Application Basics

A. Land Use Designations:

- General Plan: Neighborhood Commercial and Medium Density Residential
- Zoning: C-NS, North Shattuck Commercial and R-2A, Restricted Multiple Family Residential

B. Zoning Permits Required:

- Use Permit to modify Use Permit #A904 to expand the hours of operation and floor/site plan, under BMC Section 23B.56.020;
- Use Permit to reduce a required setback from 15-feet along Henry Street, under BMC Section 23E.04.050.D;
- Use Permit to reduce a required setback from 5-feet adjacent to a Residential District, under BMC Section 23E.04.050.D;
- Administrative Use Permit to allow a fence over 6-feet (9'-5"), under BMC Section 23D.08.060.A;
- Use Permit to vertically extend a non-conforming setback adjacent to a Residential District, under BMC Section 23C.04.070.B;
- Use Permit to allow an addition exceeding 2,000 square feet, under BMC Section 23E.48.050; and
- Administrative Use Permit to allow outdoor seating, under BMC Section 23E.48.030.

C. CEQA Determination: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("Class 32, In-Fill Development Projects").

D. Applicant: Lowney Architecture, 360 17th Street, Oakland, CA 94612

II. Background

The Zoning Adjustments Board held a public hearing to preview this project at its August 12, 2010 meeting. At that time action by the ZAB was not possible as Preliminary Design Review was not yet complete. At the August 12 ZAB meeting, the applicant provided an overview of the project, members of the public presented comments and concerns, and the ZAB discussed the project and asked questions of the applicant. Following the public hearing, the ZAB identified areas of concern and set the matter for a public hearing for Thursday, September 9, 2010.

Since that time, the Design Review Committee conditionally approved the project's preliminary design (See Section III of this report and Attachment 4.) Following Preliminary Design Review approval, the applicant made further changes to the project.

Staff recommends the ZAB bring the August 12 ZAB staff report to refer to for project analysis and additional project background as needed

III. Summary of Recent Changes

The applicant has made a number of changes to the project since the ZAB's August 12 meeting. 'A' and 'B' below summarize changes made to the project to respond to comments offered by the ZAB and DRC that have preliminary approval from the DRC. 'C' summarizes recent changes made by the applicant that have not been reviewed by the DRC.

A. ZAB-directed changes:

- 1) Added windows at ground level on southwest corner of structure; and
- 2) Increased height of Henry St. headlight wall to 4 feet above parking lot surface.

B. DRC-directed changes:

- 1) Increased fence height along Henry Street and added outward-leaning fence cap to deter climbing for increased security along Henry Street;
- 2) Added two (2) new Deodar Cedar trees below existing Monterey Pines at the North End of the site to provide a continuity of evergreen trees when the Pines are deceased; and
- 3) Altered landscaping and trees, as follows
- 4) Removing existing plum trees along Shattuck to make room for appropriate spacing of new trees between existing ginkgos (#30, #32, #34, #36, #38)
- 5) Removing one additional tree southwest portion of lot adjacent to 1451 Henry (preserving Trees #10, #9, #1)
- 6) Preserving and relocating one (1) existing Sycamore in parking lot (#56)
- 7) Revised Tree Species in Plant list
- 8) Added triangular planting areas along East side of Henry Street headlight wall, for planting shrubs to help diffuse headlight glow
- 9) Replacing Elderberry tree at southwest corner of site with River Birch tree
- 10) Added five (5) new flowering pear trees along the drive aisle parallel to the front (North) façade of the store.

C. Changes not reviewed by the DRC:

- 1) Enlarged the northern parking garage access by 5' to allow ADA-accessible pedestrian/bicyclist access to underground garage, per ZAB's request;
- 2) Increased the height of the fence facing Henry Street to 9 feet 6 inches for security and safety reasons;
- 3) Decreased the height of the fence along the southerly property line to 6 feet to improve northern view of neighbor at 1451 Henry Street.

IV. Design Review Committee

At its August 19, 2010 meeting, the DRC approved the Preliminary Design for the proposed project, subject to the following conditions:

- 1) Remove every other window on the ground floor of the south elevation.
- 2) Review a revised, more specific, planting plan with the City Forester and Design Review Staff before Final Design Review (FDR) to ensure that the following landscape objectives are met:
 - Greater amount of parking lot shade coverage is established within a reasonable amount of time. Add more trees in parking area where possible.
 - On-site planting plan respects new and existing street trees.
 - Plant large-scale coniferous trees under the two existing Monterey pines that will eventually make the same evergreen statement that exists now. Existing pine trees should be monitored for safety.
 - Continue line of sycamores for street trees on Henry where space allows.
 - Vines on the trellis should screen the cars on the ramp.

V. Issues and Analysis

Several issues were raised at the August 12 meeting that required additional consultation with the applicant and research to provide a response to the ZAB. Staff's response follows:

- A. Notice board missing.** The ZAB was concerned that the public was not being made aware of the project via the Pre-application, or Yellow poster. When the City posted the public hearing notice for the project on August 26, 2010, the two large yellow signs were in place.
- B. Excessive Noise from garbage pick-up.** The ZAB was concerned that the proposed plan to relocate the garbage storage and pick up area would create new impacts to the Henry Street residences. Presently, garbage is stored near Shattuck Place, and is stored in one large dumpster, which is emptied four (4) times each week at 8 AM (Monday, Wednesday, Friday and Saturday), via City trucks that access the site from Shattuck Place. According to the applicant, approximately 50% of its collected refuse stems from illegal dumping. Under the proposed plan, garbage would be stored within a new enclosure that would accommodate 2 smaller dumpsters that would be collected with the same frequency (4 times per week) and would only be removed via City trucks that access the site from Shattuck Place. To

reduce the potential for early-morning noise, the City and Safeway are in negotiations to allow for a later pick-up time. In addition, the City's Solid Waste staff is reviewing the proposal to confirm that the loading dock may be used to pick-up garbage. Staff will provide an update to the ZAB, if available, at the meeting.

- C. **Interior Lighting.** The ZAB directed the applicant to include measures that limit off-site glare. For the retail floor area, the proposed project would replace approximately 75% of the store's fixtures with new diffused, downward-directed light fixtures designed to minimize exterior light spillage. The remaining fixtures will be replaced a combination of track/spot lights and pendant lights designed to soften and highlight the perimeter. The above-mentioned measures to address interior light sources, along with a standard condition regarding exterior lighting (Condition of Approval #68) will ensure that light levels from the proposed store are consistent with City standards regarding light and glare.

For the storage and offices to be located along Henry Street, tinted glass would be installed to minimize interior heat gain and to reduce the potential for nighttime light and glare.

- D. **Privacy Screening, Landscaping, and Buffer to Residence at 1451 Henry.** ZAB raised concerns about security and safety issues about the proposed 8'6" fence along the southern property line and also requested possible measures to provide a landscaped edge for the neighboring residence at 1451 Henry Street. The applicant considered moving the fence but was concerned about maintenance, liability and property line issues. The applicant also considered a double-fencing system (the higher fence set back from the property line with a 6-foot fence along the property line itself), but felt this would interrupt the proposed landscaping plan for the area and present a maintenance issue. Instead of proposing either option, the applicant decreased the height of the fence along the southern property line to 6 feet, consistent with zoning. As noted previously in this report, the DRC has not reviewed this part of the plan.

- E. **Loading Dock and Vehicles.** The ZAB expressed a concern regarding noise associated with store deliveries. Unlike the existing store, the proposed project would move most of the loading activities into an enclosed space that would lessen potential noise impacts. Regarding on-site maneuvering, according to the applicant, Safeway's vehicles do not utilize back-up sound alarms, but that outside vendors may do so. Safeway also informed the City that they expect the following to occur with the new store:

- Three (3) to fifteen (15) vendor trucks currently deliver product to the store 7 days per week; 1-2 deliveries are made on Sunday.
- Vendor delivery times occur between 7 A.M. and 2 P.M.
- Trucks range in size from small vans to full-size trailers, depending on the product.
- Small vendor trucks/vans are currently required to park on the Shattuck side of the store in the existing small parking lot area adjacent to an exterior vendor loading dock door.

- Large vendor trailer trucks currently use the full size loading dock at the Henry Street side of the building.
- Some small vendor truck deliveries are brought in through the store entries.
- With the store expansion, all vendor truck deliveries will occur at the enclosed loading dock, which is designed with a sound barrier wall.

A condition of approval will require that Safeway prepare a plan, for approval by the City prior to completion of construction, to address the timing and number of Safeway and Vendor trucks, to limit on site congestion and noise.

- F. Graffiti removal plan.** The ZAB expressed a concern regarding the continued presence of graffiti on the existing building. Staff has proposed several conditions of approval to address graffiti to require the applicant to identify a contact person for the community to use to inform Safeway of graffiti and that graffiti be removed within 72 hours. (See Conditions 47-48)
- G. Windows along ground floor facing Henry Street.** To appear more residential, the ZAB asked that additional windows be proposed for the Henry Street addition. As mentioned previously in this report, the present plan includes additional windows. To address potential exterior light spillage, Safeway will install tinted glass. (See Conditions 65-66).
- H. Use of Safeway Parking Garage as Satellite Parking for Temple Beth El.** During the August 12, 2010 meeting, a member of the public indicated that Safeway had entered into a parking arrangement with Temple Beth El, and that the proposed project would create a conflict with the use permit granted to Beth El. To assess the potential for a conflict between the proposed project and any condition of approval for Beth El, staff reviewed Beth El's use permit conditions to find the following:

"C. Satellite Parking. Beth El has received permission for off-site satellite parking at several different locations, as shown in Appendix 2-A. Of necessity, permission is subject to various reasonable restrictions for the host organization's use of its own parking lot. If the locations listed in Appendix 2-A are not available, Beth El will use best efforts to find other arrangements for satellite parking. Attached as Appendix 2-B is a list of the currently known events or religious services anticipated to have attendance in excess of 150 people, and showing the currently anticipated off-site parking arranged. Beth El is continuing to explore other options for off-site parking, and the availability of the specific locations listed is subject to the future needs of the host organization."

An excerpt of the agreement between Safeway and Beth El follows:

"The Shattuck Avenue Safeway underground garage. This lot, which has a total of approximately 47 parking spaces, is available to Beth El on an as-needed basis. The actual number of spaces available to Beth El will vary depending upon the use to which the garage is put by Safeway customers. The agreement between Beth El and Safeway is attached as Exhibit H."

The use permit granted to Beth El did not provide a minimum number of spaces that must be found at off-site locations nor did it specifically name potential locations. Should Safeway modify or rescind its offer regarding parking for Beth El, the use permit granted to Beth El would only require that parking be found elsewhere, as needed. The ZAB's consideration of the use permit for Safeway is not bound by the Beth El's use permit or the private agreement. Nevertheless, the plan proposed by Safeway would continue to potentially provide surplus parking to allow the use by Beth El.

- I. **Retain open windows.** The ZAB was concerned that Safeway would place store fixtures adjacent to storefront windows that would block views into the store. To address this concern, staff has added a condition to prevent the location of stocking or shelving near any window. Condition of Approval #68 addresses this issue.
- J. **Landscaping maintenance.** The ZAB was concerned that, like today, Safeway would not maintain the landscaping. To address this concern, staff has added a condition to require irrigation and maintenance. Condition of Approval #69 addresses this issue.
- K. **No employee use of R-2A zoned area.** The ZAB was concerned that the 20' by 100' yard adjacent to the southern elevation would be used by employees which could create detrimental noise impacts to 1451 Henry Street. To address this concern, staff has added a condition to prevent any use of this area, beyond maintenance. Condition of Approval #70 addresses this issue.
- L. **Shift change "noises".** The ZAB asked that Safeway review their employee practices regarding end of shift noise. On most permits, the City places a condition on the permit to address noise related to employees (COA #83) Regarding "people" noise, Safeway will have employees exit via the front of the store or via interior stairways directly to the enclosed parking garage. Regarding vehicular noise, Safeway will require employees who drive to work to only park in the garage.

VI. Remaining Issues

As discussed above, there are four remaining issues that have not been fully resolved, as follows:

- A. **Widened parking garage opening.** To provide the pathway requested by the ZAB, the applicant proposes a 5'-wide ADA-accessible pathway that will widen the northern access drive to the parking garage on Henry Street. During preliminary design review by the DRC, efforts were made to limit the width of the driveways to help screen the cars and to limit the potential disruption to the sidewalk. While the added width is minimal, Staff asks that the ZAB weigh the benefit of the improved access for pedestrians with mobility difficulties and for bicycle access with past efforts by the DRC.

B. **Fence Height Change.** Independent of direction from the DRC or the ZAB, the applicant revised the fence height along Henry Street to increasing the height by 18" to 9'-4". To address security concerns, the DRC directed that the applicant angle the top of the fence outward to increase its security and deter climbing. However, the DRC did not consider a fence taller than 8'4". Applicant added the additional height to make it more difficult for trespassers to climb over the fence. The current 8'4" sits on a concrete block foundation and would be easier to climb over.

Staff requests the ZAB discuss the above issues to determine if further changes should be made to the project, if the conditions of approval should be revised, or if the project requires these design changes require DRC review now, prior to ZAB taking action on the project.

VII. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, Staff recommends that the Zoning Adjustments Board:

A. **APPROVE** Use Permit #09-10000104 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received September 2, 2010,
3. Notice of Public Hearing
4. DRC Summary, August 19, 2010
5. Correspondence Received

Staff Planner: Greg Powell, GPowell@ci.berkeley.ca.us, (510) 981-7414

Exhibit D

Exhibit D

CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT

Agenda date: March 22, 2011
Prepared by: Diane Henderson

ITEM/ 6c

SUBJECT: 1500 Solano. Planning Application #08-031 - Study Session
A study session to review an alternative design concept associated with an application from Safeway to construct a new grocery store and retail shops totaling approximately 63,411 square feet. The Planning and Zoning Commission will make no final decisions regarding the proposed development in the study session.

SITE: 1500 Solano Avenue

APPLICANT/OWNER: Safeway

ZONING: SC (Solano Commercial)

Recommendation

Staff recommends that the Planning and Zoning Commission review the revised design concept, take testimony from the public, and provide the applicant with direction regarding project design. No formal action by the Commission will be taken at this meeting.

Background

To date, the key issues surrounding the development of a new Safeway store center mainly trade-offs between auto and truck circulation, building height, and treatment at the rear of the site. The Commission has held numerous study sessions and Safeway has prepared numerous alternatives. During a Commission meeting in June, an idea arose of involving other professionals to help brainstorm optional approaches. This idea took shape this past fall when City staff and Safeway agreed that Ken Lowney (Lowney Architecture) and John Ciccarelli (Bicycle Solutions) be asked to look at new approaches to this site. As way of background, Lowney has his own architectural firm, which, among other projects, designs grocery stores. His clients include Whole Foods, Safeway, People's Community Market, and a number of other independent markets. John Ciccarelli is a member of the team currently preparing the City's Pedestrian Master Plan and Bicycle Master Plan update. Mr. Ciccarelli deals with the broader issues of circulation and offered helpful comments during the Traffic and Safety Commission's review of the Safeway project.

Three design options that came out of the brainstorming sessions were presented to the Planning and Zoning Commission at a study session on December 14, 2011. The three design options that were presented at that study session were strictly conceptual in nature and not intended to answer every issue. They were intended to generate conversation and solicit input from the community and the Commission to help foster ideas that might lead to an acceptable project design. The three options included Option 1, "Taking Over the Street" with residential at the rear; Option 2,

subterranean store with parking deck on top; and Option 3, "Rear Loading" modified Safeway proposal (please see the attached staff report dated December 14, 2010, for a detailed discussion of the three alternatives.) As described in the attached minutes from that meeting, the study session provided the Commission, members of the public and the project applicant to discuss pros and cons of various design options. At the close of the study session, the applicant reviewed the issues that were raised and prepared a revised plan to address those concerns.

Project Goals as Expressed by Various Interest Groups

Based on verbal and written testimony at public meetings, different groups have different goals for this project. Staff has attempted to summarize some of these goals in no order of priority.

- o Construct a larger, more contemporary grocery store with expanded services.
- o Reduce store size.
- o Create a vibrant street presence.
- o Be pedestrian and bicycle friendly.
- o Accommodate large truck deliveries.
- o Use smaller trucks.
- o Locate auto and truck access close to Solano Avenue; minimize traffic impacts on neighborhood.
- o Attractive design.
- o Remodel existing store.
- o At the rear, provide large building setback, low building height; do not use rear area for trucks or autos; provide buffer between building and residents.
- o Minimize interruption to Solano sidewalk pedestrian traffic.
- o Well-functioning store with good variety and quality.
- o Avoid attractive nuisance (e.g., loitering at rear).
- o No increase in traffic on residential streets.

Revised Submittal

Following the December 14, 2010 study session, the applicant reviewed the comments that were raised and prepared revised plans in an effort to address those concerns. The revised conceptual drawings include a 56,111 square foot grocery store and 7,300 square feet of retail shops in a three-story building. At the Solano Avenue frontage, the building would appear to be two stories, with retail shops along the ground-level street frontage and a parking garage behind. An additional level of parking would be located one level below, and the Safeway store would be located one level above, on the top (third) floor.

The retail shops at the street level would all orient towards the Solano Avenue frontage. Access to Safeway would be from a ground level lobby at the corner of Solano Avenue and Neilson Street. The upper floor grocery store would be oriented with the front of the store facing Neilson Street and the back of the store adjacent to Curtis Street. The structure would be located eight feet from the Solano Avenue property line, on the Neilson Street property line and within five feet of the property line along the first 68 feet of Curtis Street and then setback 15 feet. At the rear of the building, the two lower parking levels would be located within 15 feet of the rear property line and

the upper floor grocery would be setback 30 feet from the property line. Due to the sloping terrain of the site, the height of the structure would vary with a maximum height of 55'.

The site plan has been completely reworked from previous submittals to address the very difficult circulation issues. Under the revised plan, delivery trucks would enter the site traveling south on Curtis Street to a new driveway located approximately 110 feet south of the intersection of Solano Avenue and Curtis Street, travelling in a forward direction to the middle of the property and then backing into the loading dock area. Once trucks are unloaded, they would proceed in a forward motion, exiting left onto Neilson Street, to travel north to Solano Avenue. Vehicular traffic could enter and exit the site from the Curtis Street driveway or the Neilson Street driveway, and then turn south into the street level parking garage. At the street (upper) level of the garage, 77 parking spaces for vehicles as well as bicycle parking would be provided. An interior ramp adjacent to the Curtis Street frontage would provide vehicular access to a lower level of parking for an additional 78 cars. A second driveway on Neilson Street at the rear of the site would provide ingress and egress to the lowest level. This solution has reduced the number of neighboring residences impacted by traffic on residential streets, and staff believes the approach to handling trucks is a superior solution to earlier submittals.

Preliminary perspective drawings have been included to demonstrate how the project would incorporate architectural detail and landscaping to provide attractive street designs. The retail shops at the Solano Avenue frontage would create a vibrant presence along that frontage. Angled parking and the bus stop could be retained along the Solano Avenue frontage.

Staff has met with several residents in the area to discuss the new plans. As a result of the discussion, attached correspondence has been received from a nearby Neilson Street resident.

Next Steps

During the brainstorm sessions of recent months, staff has put the City's environmental impact report (EIR) consultant on hold until the basic design concept is established. Subject to Commission feedback, the next step in the formal processing of the application would be to authorize the consultant to start the environmental studies. At a Commission meeting in the near future, a formal hearing would be held on the scope of the environmental review to provide members of the public an opportunity to identify specific items that should be evaluated.

Attachments:

1. Safeway proposal, March 9, 2011
2. Staff Report to the Planning and Zoning Commission, December 14, 2010
3. Planning and Zoning Commission Minutes, December 14, 2010

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: December 14, 2010
Prepared by: Ann Chaney

ITEM/ 6b

SUBJECT: 1500 Solano. Planning Application #08-031 – Study Session
A study session to review alternative design concepts associated with an application from Safeway to construct a new store totaling approximately 52,000 square feet. The Planning and Zoning Commission will make no final decisions regarding the proposed development in the study session.

SITE: 1500 Solano Avenue

APPLICANT/OWNER: Safeway

ZONING: SC (Solano Commercial)

Recommendation

Staff recommends that the Planning and Zoning Commission review alternative design concepts, take testimony from the public, and provide the applicant with direction regarding project design. No formal action by the Commission will be taken at this meeting.

Background

The key issues surrounding the development of a new Safeway store appear to center mainly on auto and truck circulation, height, and treatment at the rear of the site. The Commission has held numerous study sessions and Safeway has prepared a number of alternatives. During a P&Z Commission meeting in June, an idea arose of involving other professionals to help brainstorm optional approaches. This idea took shape this past fall when City staff and Safeway agreed that Ken Lowney (Lowney Architecture) and John Ciccarelli (Bicycle Solutions) be asked to look at new approaches to this site. As way of background, Lowney has his own architectural firm which, among other projects, designs grocery stores. His clients include Whole Foods, Safeway, People's Community Market, and a number of other independent markets. John Ciccarelli is a member of the team currently preparing the City's Pedestrian Master Plan and Bicycle Master Plan update. Mr. Ciccarelli deals with the broader issues of circulation and offered helpful comments during the Traffic and Safety Commission's review of the Safeway project.

Staff and Safeway agreed that the brainstorming be done as an independent exercise without Safeway's architectural team present. It was agreed however, that Barbara Ellis attend. Ms. Ellis is Safeway's community liaison. Two brainstorming sessions were held with City staff, Lowney, Ciccarelli and Ellis. The results are presented below. A third session was held with Safeway staff to present the brainstorming results.

The design options are strictly conceptual in nature and not intended to answer every issue. For example, issues of exterior design, bicycle access/parking, and specific landscape treatments were not explicitly addressed. It should be recognized that some of the options are unacceptable to Safeway for various reasons. Ultimately a project must be satisfactory to the applicant/owner, and to the City for permitting purposes. The intent of this exercise is to help foster ideas that might lead to an acceptable project design.

A Word about Truck Loading

The last P&Z Commission meeting on the Safeway project was on July 27, 2010. One issue that seems most challenging, and influences other decisions, involves truck circulation. Last spring, the applicant presented three new alternatives to the truck loading area. Because these options required the trucks to either backup onto city streets or cross heavily used sidewalks, City staff and Planning commissioners were unable to support the concepts. Traffic and Safety Commission did express a preference for Alternative A. These alternatives are not attached to this report, but will be available at the upcoming meeting if needed.

Project Goals as Expressed by Various Interest Groups

Based on verbal and written testimony at public meeting, different groups have different goals for this project. Staff has attempted to generally summarize some of these goals in no order of priority.

- o Construct a larger, more contemporary grocery store with expanded services
- o Reduce store size
- o Create a vibrant street presence.
- o Be pedestrian and bicycle friendly
- o Accommodate large truck deliveries
- o Use smaller trucks
- o Locate auto and truck access close to Solano Avenue; minimize traffic impacts on neighborhood
- o Attractive design
- o Remodel existing store
- o At the rear, provide large building setback, low building height; do not use rear area for trucks or autos; provide buffer between building and residents.
- o Minimize interruption to Solano sidewalk pedestrian traffic
- o Well functioning store with good variety and quality.
- o Avoid attractive nuisance (e.g., loitering at rear)
- o No increase in traffic on residential streets

Brainstorming results

To assist in reviewing the concept plans, Options 1, 2, and 3, staff has attempted to summarize key features of each Option below. In addition, attached is a matrix that attempts to compare aspects of the three options with the existing Safeway store and the new Safeway proposal (as of 7/27/10).

Option 1: "Taking Over the Street" w/ Residential at Rear

Entrance and Exit

- One-way entrance and exit
- Trucks/autos share entrance from Curtis Street (approx. 188' south of Solano)
- Trucks/autos share exit onto Neilson Street (approx. 185' south of Solano)
- Autos only could also use entrance directly off Solano

Truck loading

- Trucks unload inside subterranean parking area at rear of store
- Merchandise reaches store level via elevator

Uses Neilson Right-of-Way as part of project site

- Portions of store encroach into Neilson right-of-way
- Portion of Neilson St. (next to Safeway) narrows to one-way northbound

Residential

- New residential use located at rear of site
- Units face south onto new private street ("mew")
- Residents would use access into residential Parking located inside Safeway parking lot
- Wall separates private street from existing residential units

Pros	Cons
Creates one-way circulation in an effort to distribute traffic on side streets more evenly.	Car ramp off Solano interferes with pedestrian traffic; breaks up urban streetscape
Widened store could have benefits to the store layout; function and flow.	Safeway finds the inadequate amount of parking (75 stalls) to be unacceptable.
Loading occurs within parking garage	Trucks enter at rear across from residences
Trucks exit across from B of A parking lot	Residential front doors face parking structure
Places residential immediately next to R-1 zone	Residents would use garage to access units
Places private street/path between existing residents and new residential - 48' rear setback	Difficult to prevent non-residents from using private street
Lessens traffic volume on Neilson, south of the Safeway store.	Raises policy issue regarding private use of public r-o-w.
	A larger store may not necessarily need more parking; however may result in lower turnover.
	Safeway concerned about adding residential with usage of garage parking; parties, increased visitors using garage.
	Increased height at rear due to residential - 35'

Option 2: Subterranean Store (Parking Deck on top)

Entrance and Exit

- Vehicles enter and exit from both Curtis and Neilson streets 60' south of Solano Avenue.
- Vehicles enter and exit directly from/to Solano
- Trucks enter from Curtis Street (approx. 250' south of Solano)
- Trucks exit onto Neilson Street (approx. 224' south of Solano)
- Vehicles park on roof deck; customers use stairs or elevators to the store below

Truck loading

- Trucks unload at rear of store within a fully enclosed area.
- Entrance and exit set back from street to lessen visual impact on residences.
- Possible use of gate operating system that gives truck drivers access; gate closes behind.

View from Streets

- Two "glass-enclosed entry vestibules" housing stairwells and two-sided elevators; located adjacent to Solano Avenue (see photo insert on plan of the Apple Store in NYC)
- Add pavilions on Solano Avenue
- Landscaped areas at either end of glass enclosures (approx. 1,000 sq. ft. each).
- Parking lot behind the glass enclosures with perimeter and internal landscaping.
- Internal and/or perimeter landscaping; trees in large containers at edges; trellis with climbing vegetation in central part of parking (above-ground planters only allowed).
- Add "hive wall" on Curtis and Neilson side, plus street trees
- Low level lighting (Designers believe that ground mounted lighting would meet safety lighting standards without having appearance of a suburban-style parking lot.)

View from Rear

- 13'-15' high building wall of loading area.
- 10' rear setback; could accommodate landscape screening.
- Parking deck on top of roof

View from Inside Store

- Natural light into the store via skylights and glass-enclosed vestibules (possibly clerestory windows)
- Customers could see people walking along the street above

Pros	Cons
Design is innovative; could prove inviting and offer customers an exciting experience	From the street, design concept could feel too much like a parking lot/deck
Auto access concentrated near Solano; reduces traffic impacts on Curtis/Neilson neighbors	May need to widen Curtis near Solano to create separate turn lane onto roof parking
Truck loading area fully enclosed if roll-up or bi-fold doors added; reduces noise	Trucks would use northern portion of Curtis and Neilson for entry and departure (respectively)

Roll-up doors, or similar treatment, help block view of loading area from neighbors	Need to address how to handle fumes within enclosed truck area
Parking deck could hypothetically provide space for public uses (e.g., farmer's market)	Need to address headlights on parking deck
	Concept generally unacceptable to Safeway due to lack of physical connection with street, street view is pedestrian unfriendly, requires customers to shop underground

Option 3: "Rear Loading" (Modified Safeway proposal)

Entrance and Exit

- Drive aisle at rear (open to above) ramps down from Neilson; ramps up to Curtis.
 - Vehicles and trucks enter from Neilson; approx. 260' south of Solano
 - Vehicles and trucks exit onto Curtis; approx. 300' south of Solano
 - Vehicles park in subterranean garage; take elevators up to store level
- Note: Parking stalls are 9' wide; Safeway using 8 1/2' width

Truck Loading

- Trucks unload at rear and back into enclosed truck dock area
- Merchandise reaches store level via elevator

Street View

- Building extends to property line, except where pulled back along Solano Ave. for store entrance and outdoor seating
- Curtis and Neilson includes 10' of landscaping next to building; and street trees

Rear View (Staff is seeking clarification from concept designer)

27' setback between building and rear property; assumes drive aisle is not enclosed
 10' setback between drive aisle structure and rear property; if drive aisle partially enclosed

Pros	Cons
Encloses truck loading area to mitigate noise	Loading gate relies on internal staff to control
One-way circulation distributes traffic equally between Neilson and Curtis	Trucks enter and exit at rear of building
	Autos enter and exit at rear of building
	Height needs daylight plane?

Attachments:

1. Option 1: "Taking Over the Street"
2. Option 2: "Subterranean Store"
3. Option 3: "Rear Loading" (modified Safeway proposal)
4. Safeway proposal as of 7/27/10
5. Comparison of Concept Options, Safeway Proposal, and Existing Conditions

AUG 6 2012 AM 11:57

August 16, 2011

Mr. Peterson Vollman, Planner III
City of Oakland
Community and Economic Development Agency, Planning Division
250 Frank Ogawa Plaza, Suite 2114
Oakland, CA 94612

RE: Review of Transportation/Traffic Portion of Draft Environmental Impact Report (EIR)
at College Avenue Safeway Shopping Center Project (Case # ER09-0006).

Dear Mr. Voliman:

My name is Kevan Shafizadeh, and I have been hired to review the traffic and transportation portion of the July 2011 Draft EIR for the College Avenue Safeway Shopping Center Project on the behalf of the Rockridge Community Planning Council (RCPC), the community organization representing the residents of Rockridge. I am a transportation engineering consultant with a Ph.D. in civil engineering (transportation engineering), and I am a California-licensed professional civil engineer (PE) [#70099] and a certified professional transportation operations engineer (PTOE) [#2208].

This letter identifies, in no particular order, the areas of concern that I have about the potential impacts with the proposed shopping center after reviewing the Draft EIR:

1. Project Study Area and Report Scope -- The study area of the Draft EIR transportation and traffic analysis is insufficient for a project of this size. The traffic analysis is limited to 15 "critical" intersections in the study area "where the proposed project would increase volumes by 30 or more peak-hour vehicles trips or by 10 or more peak-hour vehicles at intersections already operating at unacceptable conditions during peak hours" (p. 4.3-3). A more detailed analysis of intersections near the project site is likely to reveal that residential streets and local intersections beyond those studied would be adversely affected. Further, the cumulative impact analysis needs to have an expanded scope because even intersections where the project would cause less than 30 additional peak hour trips could contribute to a cumulatively significant traffic impact.

The signalization of unsignalized intersections would lead to changes in driver route selection into the adjacent residential areas and would lead to increased cut-through traffic or increased congestion on residential side streets. This increased, higher-speed traffic created by diverted traffic is likely to affect pedestrian and bicycle safety, as well as noise and air quality, on local side streets. The traffic analysis presented in the draft

EIR needs to extend beyond the 15 critical intersections to check for significant impacts as required by CEQA. Based on the analysis in the Draft EIR, there is no way to determine if other intersections other than those 15 meet or exceed the significance thresholds in Oakland (or Berkeley) due to this project. It is highly probable that more intersections will be affected by this project than the intersection studied in the draft EIR. For example, the Draft EIR expects the corridor of College Avenue between Alcatraz Avenue (Intersection #5) and Ashby Avenue (Intersection #1) to experience an increase of 31 or more peak hour trips as shown in Figures 4.3-13A (Weekday PM Peak Hour Project Trip Assignment) and 4.3-13B (Saturday Peak Hour Project Trip Assignment); we would also expect the parallel residential streets of Benvenue Avenue and Hillegas Avenue, which are located just west of College Avenue, to experience a significant increase in congestion as motorists try to avoid congestion on College Avenue. Similarly, 63rd Street would receive increased traffic from motorists avoiding congestion on Alcatraz Avenue west of College Avenue. The traffic analysis needs to account for the increase in congestion from cut-through traffic on nearby residential streets. The Draft EIR's analysis should then be revised to consider whether this congestion results in potentially significant congestion, automobile, bicycle, and pedestrian safety, noise, and/or air quality impacts on these streets.

2. Level of Service (LOS) Analysis – Some of the turning movement counts in Appendix A do not match the volumes shown in LOS Analysis Worksheets shown in Appendix B. The report indicates that “traffic volumes not served by the intersection during the peak hour were added to the vehicle turning movement counts to determine the peak hour demand volume and better estimate delay and LOS at the study intersections” (p. 4.3-14), and while it is appropriate to include the unserved demand in the level of service determination, it is not made clear in the report how this unserved demand was measured and why it was not included in Appendix A with the other traffic data. Additionally, a reader of the Draft EIR cannot determine if bicycles were included with the vehicle counts in determining level of service. Without all the data available, it is impossible to replicate the LOS analysis results. For example, the westbound through movement at College Avenue & Ashby Avenue in Appendix A (p. 53 of 1027) contains 452 through vehicles and 59 bicycles in the entire westbound approach (p. 34 of 1027), but the “HCM Signalized Intersection Capacity Analysis” in Appendix B (p. 99 of 1027) indicates 528 through vehicles at that location. One can only assume that the additional 17 vehicles during the peak hour were unserved vehicles.

Because the proposed project area is within the City of Oakland's Land Use Transportation Element (LUTE) Neighborhood Center Mixed-Use area, a more thorough multimodal level of service analysis (MMLOS) should be conducted of the transportation and traffic impact to see how all travel modes fare and interact along these important

community and regional corridors.¹ The MMLOS method was developed to evaluate “complete streets,” context-sensitive design alternatives, and smart growth from the perspective of all users of the street; it enables project stakeholders to better understand the tradeoffs of various street designs in terms of their effects on the needs shared by automobile drivers, transit riders, bicycle riders, and pedestrians in their street designs by evaluating different allocations of scarce street right-of-way to the different modes using the street, which is consistent with the goals and policies set forth in the City of Oakland General Plan, and specifically the LUTE.²

3. Modal Split Characteristics - A fundamental error in the report was made in Table 4.3-11, which summarize “Project Trip Generation Estimates by Various Modes. It was assumed that the traffic mode share (or “mode split”) surveyed on a Friday would be typical of a weekday mode share. Friday traffic patterns, however, can, in many ways, resemble those travel patterns exhibited on a weekend day. The Draft EIR itself states “existing traffic volumes on College and Claremont Avenues are similar on a Friday and Saturday” (p. 4.3-44), and it is common practice in the transportation field that “typical weekday” traffic studies are conducted Tuesday through Thursday to avoid this problem.³

In this particular situation, we would expect a higher mode share of bicyclists, pedestrians, and transit users on a Friday than on typical weekday. (Again, travel behavior on Fridays can resemble that of the weekends, where individuals have more leisure time and are more likely to ride the bicycle, walk, or use public transportation.) As a result, the mode share used in this analysis underestimates the percentage of automobile trips and overestimates the number of bicycle, transit (p. 4.3-113), and walking trips – all of which forms the basis to the forecasted trip and parking demand at this location. The traffic analysis and forecasting needs to be revised to properly reflect weekday, as opposed to Friday, mode splits. A separate survey of mode share should be

¹ See the National Highway Cooperative Research Program (NCHRP) *Report 616: Multimodal Level of Service Analysis for Urban Streets* (2008) available at http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_616.pdf or the *2010 Highway Capacity Manual*.

² The 2008 California Complete Streets Act (AB 1358) requires cities and counties to include complete streets policies as part of their general plans so that roadways are designed to safely accommodate all users, including bicyclists, pedestrians, transit riders, as well as motorists, and the City of Oakland has repeatedly acknowledged the importance of complete streets in evaluating transportation impacts in its own policies. The City of Oakland is pursuing several “Complete Streets” projects that emphasize pedestrian, bicycle, and transit as well as automotive traffic, in order to revitalize urban neighborhoods and commercial corridors, which is also consistent with citywide transportation plans and policies such as its “Transit First” Policy (1996) and its BRT Principles & Policies Memorandum (2009), in addition to its General Plan.

³ While not explicit to modal split, the California Department of Transportation (Caltrans) states that “common rules for counting vehicular traffic include but are not limited to: 1. Vehicle counts should be conducted on Tuesdays, Wednesdays, or Thursdays during weeks” (p. 4 *Guide For The Preparation of Traffic Impact Studies* December 2002, available at http://www.dot.ca.gov/hq/top/offices/pcp/igr_ceqa_files/tisguide.pdf).

conducted should be on a typical weekday (i.e., Tuesday through Thursday) when schools are back in session, and if necessary, additional traffic counts should be done to provide accurate baseline data for weekday, as opposed to Friday, mode splits.

With regard to employee mode split, a larger grocery store and shopping center is more likely to employ a greater percentage of its staff outside of the local community. As a result, it is more likely that the modal split presented in Table 4.3-12, "Day-Time Employee Mode Split," overestimates local walking and bicycle mode share and underestimates vehicle and possibly transit share.

4. **Trip Generation** – The proposed ITE Trip Generation predictions provided in Table 4.3-10 ("Project Automobile Trip Generation Estimates") underestimate the automobile traffic generated by the existing 24,260 square foot Safeway, according to the peak-hour vehicle counts collected on March 13 and 16, 2010 provided in Figure 4.3-8 and in Appendix A. The number of vehicles entering ("In") and exiting ("Out") the Safeway parking lot can be determined, based on actual data collection at this project site. This count methodology is consistent with the approach implemented at the approved Safeway expansion project on Henry Street in North Berkeley.⁴ This observed travel demand is greater than the ITE Trip Generation estimates as shown in Table 1 and Figure 1 below. When compared to Table 4.3-10 of the Draft EIR, the vehicle counts shown in Table 1 demonstrate that ITE Trip Generation predictions underestimate the automobile traffic generated by the existing grocery store by 12% during the week and by 62% on Saturdays. Similar results were also found for Saturday traffic at the nearby Berkeley Bowl West store. These findings indicate that the ITE weekday trip rates can grossly underestimate Saturday travel demand at some sites, and that Saturday traffic impacts may be considerably worse than stated. The Draft EIR should provide justification for using the ITE trip generation methodology, when in similar circumstances with similar land uses, including other Safeway stores, the more accurate method of using local traffic data was used.

⁴. See *Draft Safeway on Shattuck Transportation Impact Analysis Report*, Fehr & Peers, April 2010, available at [http://cityofberkeley.info/uploadedFiles/Planning_\(new_site_map_walk-through\)/Level_3_-_General/Traffic%20Study.%20Submitted%20April%202009.pdf](http://cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/Traffic%20Study.%20Submitted%20April%202009.pdf)

Table 1. Comparison of Traffic Counts and ITE Trip Generation Methodologies

Methodology	Weekday PM Peak Hour			Saturday PM Peak Hour		
	In	Out	Total	In	Out	Total
ITE Trip Generation Method	185	178	363	134	129	263
Existing Traffic Counts (from Figure 4.3-8)	204	202	406	213	214	427
Difference (%)	19 (10%)	24 (13%)	43 (12%)	79 (59%)	85 (66%)	164 (62%)

It is common knowledge in the transportation and traffic engineering profession that the ITE Trip Generation rates are often based on limited empirical data, which is why the ITE Trip Generation Manual itself cites the need to “collect local trip generation data to either validate the use of Trip Generation data for local use” (p. 1, ITE, 2004).⁵

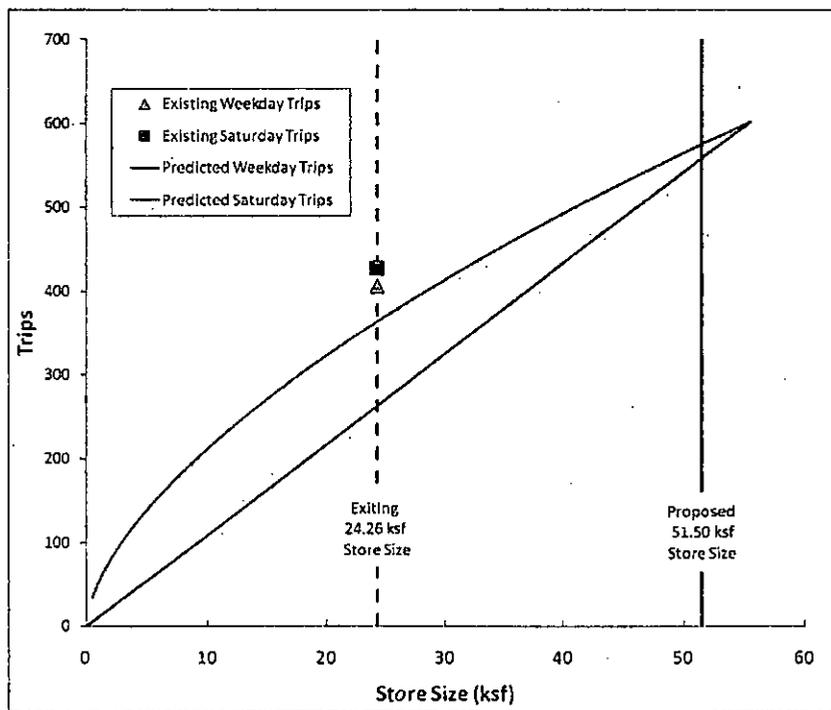


Figure 1. Comparison Between Existing and Predicted ITE Trips

⁵ *Trip Generation Handbook, 2nd Edition*, ITE, 2004.

Based on the data collected, we would also expect the ITE Trip Generation rates to underestimate the automobile traffic generated by the proposed project. As a result, the traffic analysis in the Draft EIR needs to be revised to consider these additional vehicle trips in its analysis of both existing and proposed project conditions.

It should also be noted that the Saturday traffic counts were collected on Saturday March 13, 2010 between 4:00 p.m. and 7:00 p.m., but residents observe that the peak period on Saturday occurs closer to noon, particularly if there is a major event at the University of California like a football game (which there was not on March 13, 2010). The parking and roadway data collection in the Draft EIR should consider that the peak travel period on Saturday occurs outside of the typical weekday peak travel period. Traffic and parking should be recollected on Saturdays for a longer time period, like 10 a.m. to 7 p.m., to accurately determine when the true peak period occurs as well as to empirically determine accurate traffic volumes for a typical Saturday around this site.

5. Trip Distribution – In this study, the methodology used for trip distribution is different than traditional traffic impact studies for proposed development projects because existing data exists that may be more accurate than traditional methods. The existing Safeway store has valuable trip data available through its Club Card program (p. 4.5-48). The Club Card data could be used to approximate trip distribution of its customers, and Club Card data is probably more accurate than the traditional four-step travel demand modeling process that combines census tract data with regional land uses assumption and employment estimates among other data, as noted in Appendix G (“Land Use Assumptions Memorandum”) of the Draft EIR. It would be important to compare available Club Card data with output from the existing Alameda County Congestion Management Analysis (ACCMA) travel demand model (now known as the Alameda Countywide Travel Demand Model) to validate its accuracy, but Club Card data were not made available.⁶ While Club Card data has limited use when forecasting future travel demand in 2035, existing information could be used to modify or adjust forecasted distributions and the resulting traffic assignment if it was discovered that the trip distributions under existing “base year” conditions were inaccurate.

⁶ The data used to prepare the Draft EIR, such as the “Avg HH Distance by Zip4.xls” file acquired via e-mail communication with Todd Paradis of Safeway on May 10, 2010 and cited by footnote 86 on page 4.5-49, should have been made available as part of the Draft EIR review process.

6. Travel Demand Model – It is recommended that the final EIR be prepared using the recent 2009 update to the Alameda Countywide Travel Demand Model, formerly the Alameda County Congestion Management Analysis (ACCMA) Travel Demand Model, available through the Alameda County Transportation Commission (ACTC). This version of the model contains updated land uses and has been made available since the completion of the Draft EIR, which contains projected 2007 land uses. The updated model should include important transportation projects in the broader study area.
7. Parking Generation – There are inconsistencies in Table 4.3-22, “Automobile Parking Demand Estimate.” The 85th percentile rate is used for the supermarket land use, but the (lower and less conservative) average rates are used for the retail and restaurant land uses. For the retail shops (ITE Parking Generation Land Use Code 820), a rate of 2.65 vehicles per 1,000 sq. ft gross floor area (GFA) was used when a much higher rate of 3.35 vehicles per 1,000 sq. ft GFA should have been used. The result is that at least six more parking spaces are needed (27 instead of 21 parking spaces), as shown in the table below. This result further increases the parking deficits to 26 (weekday) and 36 spaces (Saturday) shown in Table 4.3-22 of the report.

Table 2. Draft EIR vs. Recommended Parking Demand

Land Use	ITE Code	Units (ksf)	DEIR Parking		Recommended Parking		Difference	
			Weekday	Sat.	Weekday	Sat.	Weekday	Sat.
Proposed Supermarket	850	51.510	146	149	146	149	-	-
Proposed Retail	820	7.913	21	24	27	28	6	4
Proposed Restaurant	931	2.744	42	47	52	66	10	19
Time of Day Reduction			-12	-13	-15	-18	-3	-5
Subtotal			42	47	37	48	7	14

The Draft EIR does not explain why it uses the 85th percentile for the supermarket part of the analysis and the average for the retail part of the analysis, other than to say that the rates “best fit the proposed uses” (p. 4.3-110). It is not clear what is intended by this statement when so much uncertainty exists about the exact uses of the retail spaces. The EIR should either provide a clearer explanation and justification for the difference, or should be revised to use the more conservative 85th percentile for all project uses.

It is also unclear under how the 28% time-of-day reduction was made for the high-quality restaurant use. This calculation was not provided and may not be valid during the weekday period. According to the ITE Parking Generation Manual, the peak periods for all three uses have a peak in the evening and a 28% time-of-day reduction may not be justified: supermarket (1 p.m. – 2 p.m. and 3 p.m. – 6 p.m.), retail (11 a.m. – 3 p.m. and 6

p.m. – 7 p.m.), and restaurant (7 p.m. – 8 p.m.).⁷

It should also be noted that the parking and trip generation on Fridays can be much higher than those during the week and on the weekend. The 85th percentile retail parking generation rate is 3.35 vehicles per 1,000 sq. ft. between Monday through Thursday and 3.56 vehicles per 1,000 sq. ft. on Saturday, but 4.36 vehicles per 1,000 sq. ft. on Friday.⁸ These values suggest that there may be increased difficulty finding parking for the retail stores on Fridays. As with the traffic analysis, a separate parking analysis for Fridays, especially Friday PM hours, should be provided. As will be discussed further below, the interaction between congestion and parking deficiencies can result in exacerbating congestion and other traffic-related impacts. For this reason, consideration of possible interactions between parking and traffic impacts during the Friday PM hours is particularly important.

8. On-Street Parking – Parking shortages have been a problem with the current Safeway and are expected to get worse with the proposed project. A large portion of the weekday PM peak-hour on-street parking already operates at or above capacity. During the week, 19 street segments operate at or above capacity (> 90% occupancy), and of those streets 11 operate over 100% without the project. On Saturday, 10 street segments operate at or above capacity. Community members have already expressed concern of the *existing* lack of available on-street parking. Parking occupancy rates of 120% at Harwood Avenue between Auburn and College, shown in Figure 4.3-6, has six vehicles trying to park for every five available spaces. As the report states, “the effective capacity of on-street parking is around 90 percent, *above which drivers search, circulate and wait for vacant spaces... [which] is not only an inconvenience, but also can cause congestion and potential blockage of vehicles on the public street system while waiting for an available space*” (p. 4.3-14 [emphasis added]). In other words, the parking problem would lead to adverse environmental and air quality issues as “hot-spots” develop when vehicle queues develop as drivers circle or idle in search of parking. However, the Draft EIR dismisses the impacts of the expected parking deficiency as being a non-CEQA issue (p. 4.3-56) and fails to consider or discuss the cumulative impacts of the combined parking deficiency due to the project plus the existing parking deficit in the area. As a result, the Draft EIR fails to identify or address the likely significant congestion and other potential secondary impacts (increased congestion, air pollution, wasted fuel, and accidents) caused by the cumulative parking deficiency.⁹

⁷ *Parking Generation Manual, 3rd Edition, ITE, 2004.*

⁸ Values are based on amount of gross leasable area (GLA) during non-December days (*Trip Generation Manual, 8th Edition, ITE, 2008*).

⁹ Shoup, D. “Cruising for Parking,” *Transport Policy*, Vol. 13, No. 6, Nov. 2006, pp. 479-486.

9. AC Transit BRT Impacts – The Draft EIR does not sufficiently consider the impacts of the planned AC Transit Bus Rapid Transit (BRT) service in its analysis. This state-of-the-art, regional transit system would connect Berkeley, Oakland, and San Leandro and extend well beyond the scope of this project study area. All portions of the proposed BRT route are considered "Priority Development Areas" within each city and are likely to lead to increased congestion as capacity is restricted. Telegraph Avenue is a north-south arterial that extends from the University of California-Berkeley campus to Broadway in Oakland. Telegraph Avenue provides two lanes of traffic in each direction, but one through lane in each direction would be converted into BRT right-of-way, as explained on p. 4.3-30.

The Draft EIR is correct when it acknowledges 1) "The proposed BRT project would result in more automobile congestion along Telegraph Avenue due to the reduced lane capacity" and 2) "the reduced traffic capacity on Telegraph Avenue may also result in traffic diverting to other parallel corridors such as College Avenue or Claremont Avenue" (Appendix D, p. 161 of 1027). Where the Draft EIR may be mistaken is when it claims that the "BRT project may have off-setting benefits... if a substantial number of people switch to BRT, [because] the overall person delay in the corridor would be less than with the current configuration as it would increase the capacity of Telegraph Avenue on a per person basis" (p. 161 of 1027). By its very nature, BRT service is designed to be very different from local bus service and may better serve longer-distance commute travel instead of local travel. As a result, local trips may not be reduced enough by BRT to offset the accompanying loss in roadway capacity, and may instead be diverted to other nearby through streets, including College Avenue. BRT should be modeled, at least as an option, as part of the cumulative impact analysis for the project as well as in the alternatives analyses.

In May of 2007, AC Transit published a Draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) where significant or potentially significant impacts were identified at: Ashby Avenue/College Avenue (Intersection #1), Alcatraz Avenue/Telegraph Avenue (Intersection #6), and College Avenue/Claremont Avenue/62nd Street (Intersection #9). As the Draft EIR states, "If the BRT project is implemented, the Safeway on College Avenue project may result in an additional impact at the Telegraph Alcatraz/Avenue intersection, and impacts already identified by this EIR may have a higher magnitude" (p. 162 of 1027).

Over the next year, AC Transit will update the Draft EIS/EIR for the BRT project. The analysis will be based on a new travel demand forecasting model, an expanded study area, and additional data collection. While that updated analysis may not yet be available

In time for inclusion in this EIR, its present availability should be investigated. In any case, a more detailed discussion of the potential cumulative impacts that would result from this important project needs to be added.

10. Caldecott Tunnel Improvement Project Impacts – The Draft EIR scenarios assume the completion of intersection improvements at Miles Avenue/College Avenue (Intersection #13) and at Shafter Avenue/Keith Avenue/College Avenue (Intersection #14) as “part of the Caldecott Tunnel Improvement Project Settlement Agreement” (p. 4.3-77). It should be noted that there were two settlement agreements that affect the proposed project area, the City of Oakland Settlement Agreement and the Fourth Bore Coalition (FBC) Settlement Agreement.¹⁰ The Oakland Settlement includes Shafter Avenue/Keith Avenue/College Avenue (Intersection #14) and all additional Oakland intersections, but it is not clear from the Oakland Settlement that those improvements will be implemented as proposed because a lengthy public process still needs to be conducted. Currently, there are no finalized plans for improvements at these intersections, no assurance of full funding for the improvements, and no approvals from the City of Oakland or other public agencies. Because the Caldecott Tunnel mitigations are not fully designed, approved, or funded, the Draft EIR should reconsider whether these proposed roadway improvement should be included in its analysis.

In general, the consideration of cumulative impacts from the Caldecott Tunnel Improvement Project was insufficient. The Draft EIR recognized that a “potential increase in delay” exists from the Caldecott Tunnel, but this delay “[could] not be reasonably quantified because the details of the improvement that may be implemented at this intersection are not known at this time” (p. 4.3-64). There are ways to estimate projected impacts of the Caldecott Tunnel Improvement Project the same way that any freeway capacity improvement project is evaluated through travel demand modeling process. In this case, the Alameda Countywide Travel Demand Model should be used to estimate travel impacts on the proposed project from capacity improvements on nearby Highway 24.

11. Truck Traffic – As part of mitigation measure TRANS-2, “Construction Traffic and Parking,” the Draft EIR recommends that “a set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours” (p. 4.3-38). There is concern that the Draft EIR failed to sufficiently account for truck traffic on Claremont Avenue (i.e., the delivery entrance through the employee

¹⁰ See the Fourth Bore Coalition website for details on both settlement agreements at <http://www.fourthbore.org/>.

parking lot/docking area). There is concern that truck traffic occurring during the peak commute hours (7:00 to 9:00 A.M. and 4:00 to 6:00 P.M.) will adversely impact localized traffic and will result in worse levels of service and higher delays on intersections leading up to and including Claremont Avenue. A mitigation measure should be added requiring conditions of approval that both construction and operational truck traffic be scheduled to occur outside of peak commute hours. As part of the CEQA process, a Mitigation Monitoring and Reporting Program (MMRP) should be established for this project to explain how compliance with these conditions will be monitored and effectively enforced.

12. Bicycle and Pedestrian Safety – There remain unaddressed pedestrian and bicycle safety concerns as a result of this proposed project. Not only is there concern about increased automobile speeds and volumes on adjacent residential streets (discussed above), there remains concern that the pedestrian treatments by parking lot entrance to the project will be effective at ensuring the safety of pedestrians as vehicles exit a parking garage. In general, there is concern that all of the proposed improvements along College Avenue will jeopardize bicycle and pedestrian safety because: 1) there will be an increase in motorized/non-motorized traffic conflicts, particularly at intersections, and 2) all of the proposed improvements and mitigation measures may not be able to peacefully coexist in the available right-of-way.

A separate concern is that the Draft EIR does not take into account various bicycle facility improvements that have already identified and prioritized in the City of Oakland Bicycle Master Plan, such as planned bicycle lanes on College Avenue and Broadway and Safe Routes to Schools (SR2S) program improvements that are slated for implementation between 2012 and 2013. The Draft EIR makes no mention of these planned bicycle safety improvements and how they would be impacted by the proposed project or its related vehicle traffic mitigation measures. In some instances, like the College Avenue lanes, the Draft EIR incorrectly states the status of these projects: "None of these proposed [bicycle facility] improvements are currently planned for implementation. In addition, these changes do not have finalized design plans or are not fully funded. Thus, this EIR assumes that these changes will not be provided in the study area." (p .4.3-30).

The City of Oakland website, however, updates the status of the various bicycle projects affected by this proposed Safeway project on its Pedestrian Facilities Program "Bikeway Striping Projects Tracking" sheet; it shows a proposed Class 3A bicycle facility (designated arterial bicycle route) on College Avenue between Broadway and Berkeley

which has been funded and approved and is scheduled for implementation in 2012.¹¹ There are also Class 2/3A bicycle facilities (designated bicycle route with bicycle lanes) prioritized on Alcatraz Avenue as part of a SR2S grant, which was awarded several years ago and should be completed in 2012, and other Class 2/3A bicycle facilities planned for Claremont Avenue starting on Alcatraz Avenue and extending beyond Highway 24 to Telegraph Avenue.¹² There is also a proposed Class 3B bicycle facility (bicycle boulevard) planned for Colby Avenue in the proposed project area that the Draft EIR assumes will not be implemented, even though signage is expected in 2011 and accompanying pavement marking is expected in 2012. Further, the Draft EIR does not correctly identify the *existing* Class 3 Colby Avenue bicycle route in Figure 4.3-4 and in the 2007 Oakland Bicycle Master Plan, shown in Figure 2, nor does it consider its potential impacts.

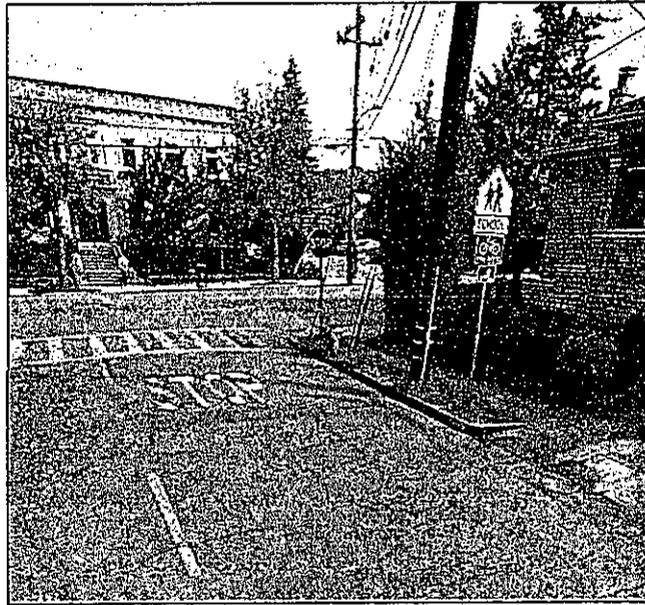


Figure 2. Existing Designated Bicycle Route on Colby Avenue at Alcatraz Avenue

¹¹ A list and map (updated April 22, 2011) showing the status of all bikeway projects currently under development are available at:

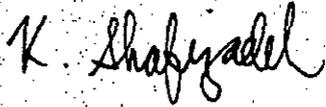
<http://www2.oaklandnet.com/Government/o/PWA/s/BicycleandPedestrianProgram/OAK026930>.

¹² Also see the proposed bicycle projects on a map with completed bicycle projects on the City of Oakland Bikeway Network Map at: <http://www2.oaklandnet.com/oakca/groups/pwa/documents/report/oak026931.pdf>.

In general, the greater issue here is the appearance that there was not adequate circulation and consultation between the Planning Office and other city departments and programs including but not limited to: Bicycle & Pedestrian Program, Capital Projects, Traffic Safety & Parking, and Streets & Sidewalks. Some of these other city departments and programs have worked with community groups like the RCPC as well as advisory committees like the Bicycle & Pedestrian Advisory Committee (BPAC) for years to identify and prioritize local improvements, and this Draft EIR gives the impression to these community groups and advisory committees that their previous work and input into the public planning process has been, at best, overlooked or, at worst, ignored.

Thank you for accepting my comments related to the Draft EIR of the proposed Safeway on College Avenue. Please notify me of all future events in the City's consideration of this project. If you have any questions regarding this letter, please contact me or Stuart Flashman, RCPC Board Chair.

Sincerely,



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RE: College Avenue Safeway Shopping Center Draft Environmental Impact Report, SCH
#2009112008; 2009102100, Case Number ER09-0006

Thank you for the opportunity to submit comments on the above-referenced Draft Environmental Impact Report ("DEIR").

The DEIR appears to have understated or omitted numerous significant environmental and land use impacts. In addition, the DEIR fails to identify feasible mitigation measures. In support of my comments, I have appended images of Sanborn maps from the Berkeley Book, Vol. 2, Page 223 dated 1911, 1911 (updated to 1929); 1950, 1951 and an Overlay Map with a base from 1953 overlaid with a map from the late 1960's which shows the site in its current state.

SITE ASSESSMENT

The current Safeway store was built in 1964 on the site of the original Safeway store at 6310 College Avenue, formerly a Hagsfrom's Food Store. At that time, Safeway purchased the three abutting and contiguous properties between the original Safeway property and the Union 76 gas station. Portions of the entire current project site have been in use since 1880.

The Initial Study found the project would result in less than significant impacts for hazards and hazardous materials (p. 42). Therefore, the DEIR did not include any description of the potential for soil or groundwater contaminants associated with former land uses at the project site. These uses include, but may not be limited to, the Claremont Battery and Electric Company¹ at 6238 College Avenue, the Claremont Auto Center Garage² at 6246 College Avenue, a paint store at 6260 College Avenue³ with a separate paint storage facility at 6260½ College in the rear⁴, and an

¹ Sanborn map, Berkeley Book, Vol. 2, pg. 223, 1929. The business name is listed in the 1925 Oakland City Directory

² Sanborn map, Berkeley Book, Vol. 2, pg. 223, 1929

³ Sanborn map, Berkeley Book, Vol. 2, pg. 223, 1929

⁴ Address obtained from the 1951 Sanborn map, Berkeley Book, Vol. 2, pg. 223

auto showroom with a very large auto repair shop mning between College and Claremont Avenues at 6300 College Avenue⁵.

By 1951⁶, several of these parcels had expanded building footprints, but continued in predominantly automotive or light manufacturing uses. The Claremont Battery and Electric manufacturing site (6238 College) became part of the Don Marquis Dodge dealership⁷ as a showroom, and a service department had been added that continued the building from mid-parcel to Claremont Avenue. The former Claremont Auto Center Garage repair shop (6246 College) was added to the Don Marquis Dodge dealership as a showroom and large service department. The paint storage building at 6260½ College became a tool manufacturing shop. The auto showroom and repair facility at 6300 College Avenue was expanded significantly on the Claremont end of the building (NW on site) to include an auto body repah and auto painting shop which covered the 1880 site of the Peralta Annex Elementary School, a one-room school house that by 1911 (Image 1) contained heat, gas and electricity. A portion of the 6300 College Avenue building's footprint is covered by the current 1964 Safeway building.⁸

No assessment has been made of the impacts from multiple auto repair activities, battery and electrical manufacturing, tool manufacturing or paint manufacture and/or sales. The DEIR is deficient in its failure to identify the impact, if any, of previous uses to the public, construction workers and workers in the new project based on its total silence on the topic of previous uses on all parts of the site exclusive of the former Union 76 gas station.

The DEIR needs to be revised to consider and address these site assessment issues and then recirculated to allow public cominent on the adequacy of the analysis and of proposed mitigation measures.

POTENTIAL HAZARDS POSED BY RESIDUAL CONTAMINANTS

The DEIR states, with respect to hazardous substances, that only the southem comer of the site is occupied by the former Union 76 gasoline station and auto repair garage, consisting of a vacant shop with about 1,120 square feet, a covered service area, and a canopy over the gasoline pump areas. The gas station site is paved and contains several underground gasoline storage tanks. It is currently surrounded by a security fence and is inaccessible from the adjacent streets.

There is no discussion of potential hazards posed by the additional automotive and light manufacturing uses present on the site since at least the early 1920's. These hazards include, but are not limited to, building demolition construction materials present in the soil from wood, brick and cement and steel structures such as potential for buried debris, fly ash and/or impacted fill, asbestos particles from heat runs and other building materials, asbestos from brake linings,

⁵ Sanborn map, Berkeley Book, Vol. 2, pg. 223, 1929

⁶ Sanborn map, Berkeley Book, Vol. 2, pg. 223, 1951

⁷ Innages of America, ROCKRIDGE, Robin and Tom Wolf, Arcadia Publishing, 2007, pg. 94

⁸ Sanborn map, Berkeley Book, Vol. 2, pg 223, 1953 overlay map updated to the late 1960's per Betty Marvin, Oakland Cultural Heritage Survey

gaskets and clutches, lead paint, or battery acid, petrochemicals and oil, MTBE and other Volatile Organic Compounds (VOCs) found in gasoline and automotive and machine lubricants.

There is no discussion of the potential hazards posed by the presumably unremediated remnants of the manufacturing and auto repair services performed on the site for approximately four decades. The auto repair businesses pose a potential for containing multiple hydraulic lift reservoirs and/or deep soil contamination from below-grade auto repair mechanic's pits. The paint store may also have manufactured paints, paint thinners, lacquer and lacquer thinners. The manufacture of paint in the 1920's is most likely to have been lead and oil based. Additionally, there is potential for undiscovered Underground Storage Tanks (USTs) from in-shop gas pumps and associated soil and ground water contamination. The site should be surveyed for undiscovered and undisclosed USTs.

Further, site dumping directly into the soil of used oil and lubricants may have occurred during the earliest days of automotive repair, prior to the establishment of routine commercial oil recycling, and should be assessed. No assessment has been made of the various petrochemical compounds, fluid or solid, or the acids used to clean auto parts and machined tool pieces, or of the lead and acids from the battery manufacturing on site. Solvents disposed of in the soil, or contaminating the soil from spillage, can include numerous heavy metals, and a site assessment of those should be also be made. Residual contaminants from the auto body repair and painting shop are likely to contain heavy metals from welding operations.

The DEIR needs to be revised to consider and address the toxics issues and then recirculated to allow public comment on the adequacy of the analysis and of proposed mitigation measures.

TRAFFIC

I have resided at 5874 Birch Court, Oakland, since November, 1981. Birch Court, along with Armanino Court, has the distinction of being a cul-de-sac, and therefore has only a single point of entry and exit, College Avenue. It has been my experience that, at peak traffic periods, it is possible to wait up to five minutes just to be able to make a right turn onto College Avenue. At most times of day, it is futile to even attempt a left turn onto College.

I observed a significant increase in wait times, and subsequent idling, when the Dreyer's building was built and again when Trader Joe's opened. Both projects bring a significant number of cars from out of the area that exit westbound on Highway 24 at the College Avenue exit onto Miles Avenue, from which they turn right at the signal northbound onto College and either pass Birch Court en route to the Chabot Road Dreyer's parking lot or Trader Joe's. As these cars continue to the intersection of College and Oak Grove, they block Birch Court as some wait to make left turns at Oak Grove.

The resultant traffic bottleneck extends from Miles Avenue to Chabot Road at numerous times of day and is exacerbated by double parked delivery trucks of varying sizes in the stretch of College Avenue between Birch Court and Chabot Road. These trucks double park in both northbound and southbound directions.

As difficult as it is for residents to enter and exit, it can be even more difficult for emergency vehicles to gain access at this critical bottleneck, or pass through it. Traffic is blocked and at a crawl in both directions for these blocks. No assessment of the traffic impact of the proposed Safeway project on Birch Court ingress/egress is made in the DEIR, or specifically of emergency vehicle access in this section of College Avenue at peak traffic periods. Individuals assigned to Engine 19, the Miles Avenue Fire Station, should be interviewed.

In addition, a similar situation exists for the residents of Armanino Court, just south of the Claremont/Florio/62nd Street and College Avenue intersection, which also has not been assessed.

The DEIR needs to be revised to consider and address these traffic issues and then recirculated to allow public comment on the adequacy of the analysis and of proposed mitigation measures.

Land Use and Transportation Element

As stated in the DEIR Appendices, pages 835 and 836:

The EiR must discuss the consistency of the proposed project with the letter and intent of the current zoning and general plan land-use designation for the site. As the C-3 i zoning indicates, the Rockridge/Elmwood neighborhood in which the proposed project would occur is one of the most desirable in the East Bay due to its existing residential and pedestrian character and its small and unique neighborhood-serving businesses. The sheer size of the proposed project and the increased vehicle traffic that it will inevitably bring raise serious questions about whether the project complies with the intent, if not the express criteria, of the zoning. As the I.S. points out, the project would result in a "taller, more massive, and more intensively developed commercial center."

The DEIR itself states that:

According to the *General Plan*, the intent and desired character of this designation is the following:

"The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed-use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office active open space, eating and drinking places, personal and business services, or smaller scale educational, cultural or entertainment uses. Future development within this classification should be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial".⁹

It is simply not credible given the required findings for issuance of a CUP for the Project, including specifically that the project "will not detract from the character desired for the area" to at one and the same time state that "the Rockridge/Elmwood neighborhood in which the proposed project would occur is one of the most desirable in the East Bay due to its existing residential and

⁹ DEIR 4.1-3

pedestrian character and its small and unique neighborhood-serving businesses” and then assert that a “taller, more massive, and more intensively developed commercial center” would not adversely impact that character. The C-31 zoning requires a CUP for any use over 7,500 sq. ft., and the revised standard in the newly adopted CN-1 downsizes that CUP trigger to 5,000 sq. ft. The proposed Safeway store is in excess of ten times that newly adopted standard. How that can be compatible with the “maintain and enhance” designation in the General Plan is a mystery, and stretches credulity.

The DEIR goes on to assert that “although much larger than the existing Safeway store, the proposed store would continue to primarily stock groceries, which are typically replenished by households on a weekly or more frequent basis (short-term). The store would not be focused on a regional market (a characteristic of large-scale commercial).”¹⁰ This is a fallacy on several levels: the store is regional in character by its very size and car-oriented nature, and the purpose of the greatly expanded store is not to “primarily stock groceries,” but to add a host of non-grocery food and business services to the existing grocery store.

The reality of the multinational development model of Safeway Lifestyle Stores is that a great deal of the space is not given over to traditional grocery items, but instead to a greatly enlarged wine and liquor department, a Starbucks coffee shop, a café/deli with seating, a sushi bar, a greatly enlarged floral department, a 1-Hour photo department and a greatly enlarged pharmacy with a large card and gift wrap department, a bank branch and other non-pharmacy and non-grocery items. (See chart following page.)

This is the liquor and wine department of the Admiral Safeway Lifestyle store in Seattle, which opened August 11, 2011 with a wine cellar and a wine steward’s station with wine tastings.¹¹

Note that this department appears to be about three times the size of VINO! on College Avenue, a single aisle store measuring approximately 850 sq. ft.¹²



¹⁰ DEIR 4.1-4

¹¹ <http://www.westseattleherald.com/2011/03/03/news/admiral-safeway-projected-august-completion-west->

¹² <http://www.westseattleherald.com/2011/08/07/news/slideshow-new-admiral-safeway-advance-look>

Store Details

Safeway Store - Dublin, CA

Your local Safeway is the place to shop! Come in and be inspired, your favorites are always in stock. We promise low prices and great quality, and we're right in your neighborhood.

Address

7499 Dublin Blvd
Dublin, CA 94568

Store Hours

Open 24 hours

Phone

Store Phone: 925-556-4034
Pharmacy Phone:

Pharmacy Hours

Mon-Fri 9:00AM-8:00PM
Sat-Sun 9:00AM-5:30PM

Store Features

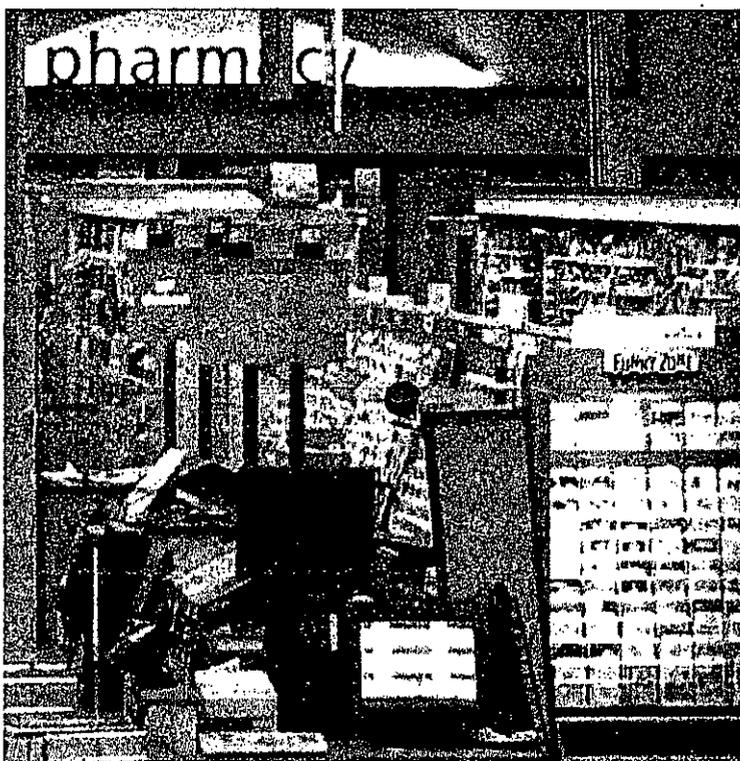
<p>Bakery: A complete selection of premium birthday and wedding cakes, pies, desserts and cookies for all occasions.</p>	✓	<p>Deli: Freshly made hot and cold deli sandwiches, soups, pizza, paninis, ribs, salads, and deli trays for any occasions.</p>	✓
<p>Floral:</p>	✓	<p>Fish Market:</p>	✓
<p>Carving Station:</p>		<p>Movie Rentals:</p>	
<p>Pharmacy:</p>	✓	<p>Fuel Station:</p>	✓
<p>Starbucks:</p>	✓	<p>Jamba Juice:</p>	
<p>Pizzeria:</p>		<p>Sushi Bar:</p>	✓
<p>Liquor:</p>	✓	<p>1-Hour Photo:</p>	✓
<p>Dry Cleaners:</p>		<p>Olive Bar:</p>	
<p>Natural Market:</p>		<p>Online Grocery Delivery:</p>	✓
<p>Bank: U.S. Bank Branch</p>			✓

This is the Safeway "Store Details" grid for all Safeway stores online. The grid illustrates the types of business services Safeway expects to include in a standard Lifestyle Store.

Note that in addition to groceries and take-out food items, a full service on-site bakery, floral shop, pharmacy, pizzeria, liquor store, dry cleaners, fuel station, Sushi Bar, 1-Hour Photo, Movie Rentals, eat-in as well as take-out deli, Jamba Juice and Starbucks coffee shop and a bank branch are all considered standard offerings.

<http://local.safeway.com/ca/dublin-1953.html>

This is the expanded card shop and gift wrapping store component of the Admiral Safeway Lifestyle Store pharmacy in Seattle, Washington, which opened August 11, 2011.¹³



The title of the DEIR, “SAFEWAY SHOPPING CENTER – COLLEGE AND CLAREMONT AVENUES” is, in fact, not a misnomer. The 51,500 sq. ft. grocery store component, exclusive of the 8 retail stores, is in itself a shopping center. By calling it a grocery store, Safeway avoids the regulatory CUP and community input requirements for adding several sit-down and take-out food uses as well as a far larger liquor store. No analysis is made of what percentage of the square footage is actually devoted to traditional grocery items versus the multiple auxiliary uses.

More importantly, no trip generation data has been generated for the auxiliary uses exclusive of the grocery store. It seems highly likely that these uses will attract shoppers of their own, who do not also shop for groceries. Many of the auxiliary uses appear to be destination businesses on their own merits.

In addition, the size is considered by New Urbanists to be incompatible with a “Natural Cultural District,” defined as “a geographically-defined social network created by the presence of a density of cultural assets in a particular neighborhood. Descriptively, a “natural” cultural district simply identifies a neighborhood that has naturally, organically spawned a density of unique cultural assets - organizations, businesses, participants, and artists - that sets it apart from other neighborhoods.”¹⁴ This is the quintessential description of Oakland’s Rockridge district

¹³ <http://www.westseattleherald.com/2011/08/07/news/slideshow-new-admiral-safeway-advance-look>

¹⁴ <http://www.cooltownstudios.com/2008/01/07/the-impact-of-natural-cultural-districts>

In his Cooltown Studios Blog, a blog/news site that attracts 40,000 unique visitors a month and has been featured in Architect Magazine and the Urban Land Institute's annual developers conference, Neil Takemoto takes on the place of grocery stores in "natural" cultural districts (see sidebar¹⁵).

Takemoto is the founding director of Cooltown Beta Communities a crowdsourced-based placemaking and economic development firm codeveloping natural cultural districts with creatives. His work over the last 14 years has been committed to the development of places with significant economic, environmental and social benefit, currently working in Syracuse, New Orleans and Washington DC.

Takemoto's focus on natural cultural districts owes much to the work of Professor Mark Stem, Co-Director of the Urban Studies Program at the University of Pennsylvania, and his paper "Cultivating Natural Cultural Districts" wherein he lays out the social and economic benefits of such districts.

Like Rockridge, *"What is striking about this phenomenon is that it occurs without policy intent."*¹⁶

In the early 1970's, a resurrected Rockridge Community Planning Council (RCPC) led the way to obtaining funding from the Department of Housing and Urban Development (HUD) for planning studies. As a result, the City of Oakland adopted a new zoning designation, C-31, for College Avenue in 1973, consisting of pedestrian oriented retail with mixed use upper stories. Rockridge is studied as a Model Urban Area by numerous land use planning departments, including UC Berkeley. The unique mix of College Avenue retail has made it a top business tax generator in Oakland for decades, and made Rockridge a destination for tourists, as it has been profiled in numerous national magazine and newspaper articles as well as featured in travel guides to the East Bay.

RCPC is itself a signature organization of the type that identifies a natural cultural district. In addition to its role in the community as a voice in planning and zoning matters, it has originated

5000 - 15,000 s.f. cafe supermarkets, neighborhood supermarkets, co-ops, food halls: This is that sweet spot in size where the average urban dweller can do most of their shopping, and where it becomes so difficult to compete with economies of scale that these stores are typically regional chains, unless it's a co-op, an extraordinary community asset when it exists. On the chain side of things, Trader Joe's and Fresh & Easy Market at least create their own brands, emphasizing affordability, healthy eating and a friendly atmosphere.

20,000 - 40,000 s.f. destination supermarkets This is the maximum size a neighborhood supermarket should be in natural cultural districts, and even mega-chains like Wal-Mart understand this, though yes, it's still Wal-Mart. At this size, there's an opportunity to not only provide a full-sized cafe and specialty food stations, but even reorganize the entire store as a food hall, a fast-growing trend.

50,000 and up In those increasingly rarer instances when national chains won't size down their 50,000 to 60,000 supermarkets, they can be located in corporate retail districts, which should be distinct and separate from natural cultural districts. On the positive end for pedestrians, auto parking is completely hidden underground, to the side or above.

¹⁵ <http://urbanland.uli.org/Articles/2011/Mar/NewbergGrocery>
<http://www.cooltownstudios.com/2011/04/12/sizing-down-next-gen-urban-grocery-stores-2011>
¹⁶ <http://www.trfund.com/resource/downloads/creativity/NaturalCulturalDistricts.pdf>

and taken the lead on public benefit projects as diverse as the building of the Rockridge Branch of the Oakland Public Library,¹⁷ the Hardy Dog Park (Oakland's first off-leash dog park), FROG Park, Friends of the Rockridge Library, Locksley Gardens and the Rockridge DVD Project. All those projects and organizations are fiscally sponsored by RCPC, which was also instrumental in securing \$3 million in mitigation funds for Claremont Middle School and Chabot Elementary School from CalTrans as part of the 4th Bore Coalition.

Natural cultural districts are social networks built by creatives of all types: "cultural creatives" as defined by authors Paul Ray and Sherry Anderson in *The Cultural Creatives: How 50 Million People Are Changing the World* as well as the "creative class" the 38 million in the U.S. representing the creative industry workforce in science, engineering, architecture, design, education, arts, music and entertainment. Based on research by Richard Florida, author of *Rise of the Creative Class: And How It's Transforming Work, Leisure, Community and Everyday Life*, and its sequel *Flight of the Creative Class*, their presence is directly tied to economic prosperity.¹⁸

Rockridge is home to a large number of both creative types, including published authors in all genres, filmmakers, many artists on the annual Pro Arts tour, nationally acclaimed architects and designers and innovators in local business.

The DEIR does not address Rockridge as a unique natural cultural district and Oakland community resource, merely noting that, along with Berkeley's Elmwood district it "is one of the most desirable in the East Bay due to its existing residential and pedestrian character and its small and unique neighborhood-serving businesses."¹⁹ No serious analysis is made of the impact that a corporate retail district scaled project would have on such a unique neighborhood and city asset

The DEIR is flawed from the outset by its focus on the objectives of the applicant, Safeway, rather than a focus on the impacts and implications of the project for the Rockridge neighborhood and the City of Oakland.

Sincerely,

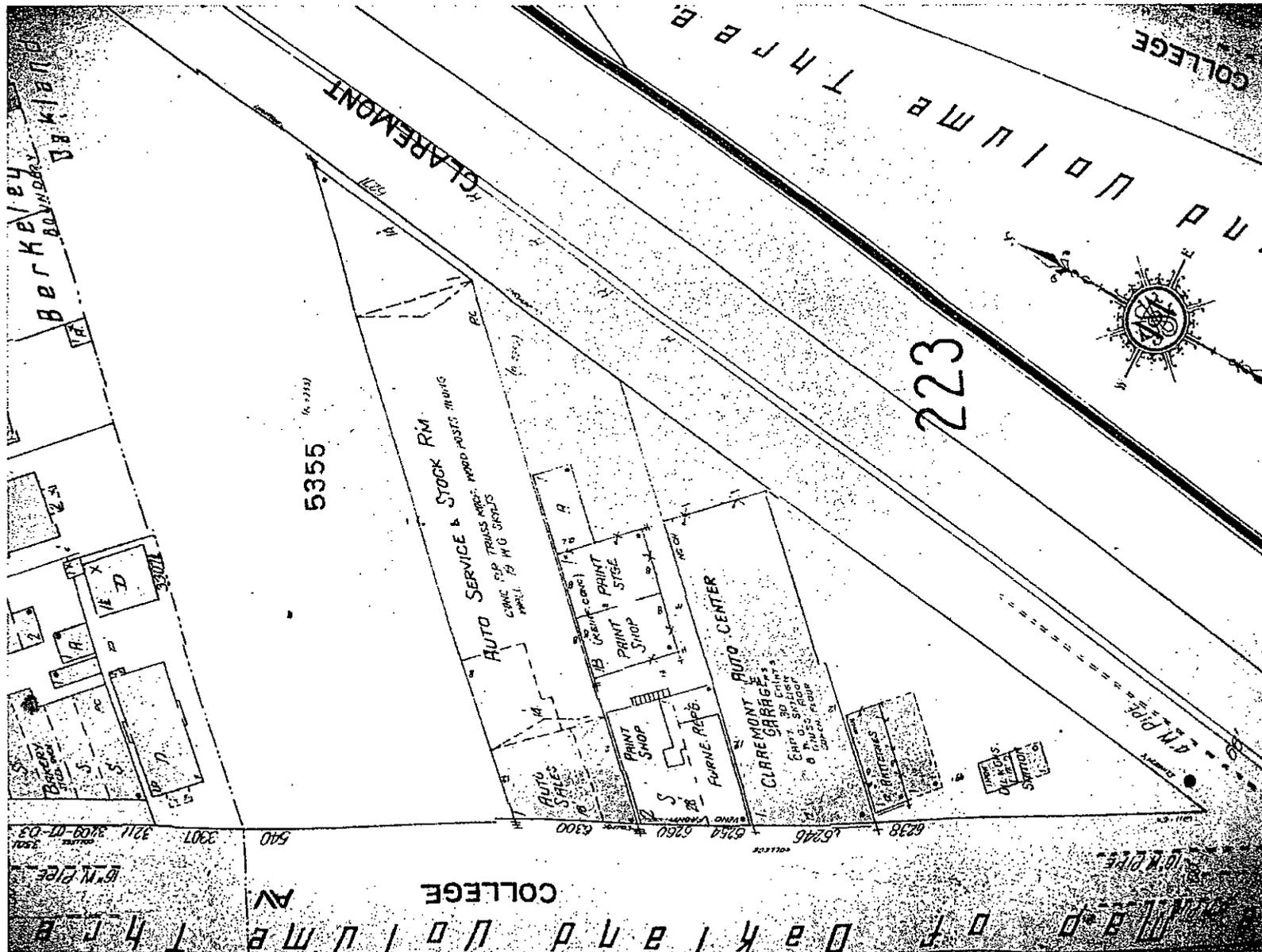
Annette R. Floystmp

510.652.6794
arf@bharf.com

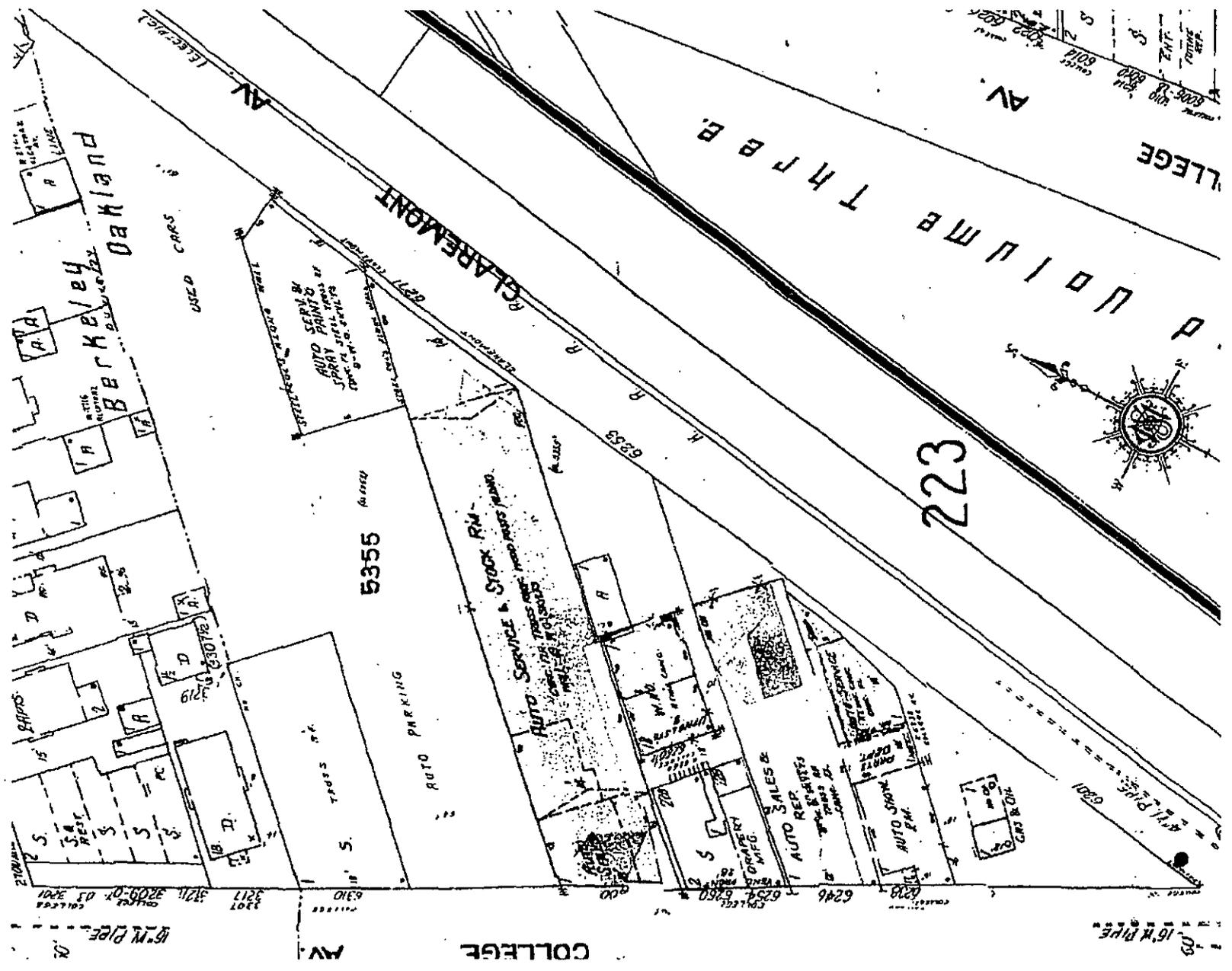
¹⁷ Dedicated in 1996 and opened by California State Librarian, Kevin Starr, who noted it was the only neighborhood built library in California, if not the nation, in modern times.

¹⁸ <http://www.cooltownstudios.com/2007/11/02/the-creatives-rengen-cultural-creatives-creative-class>

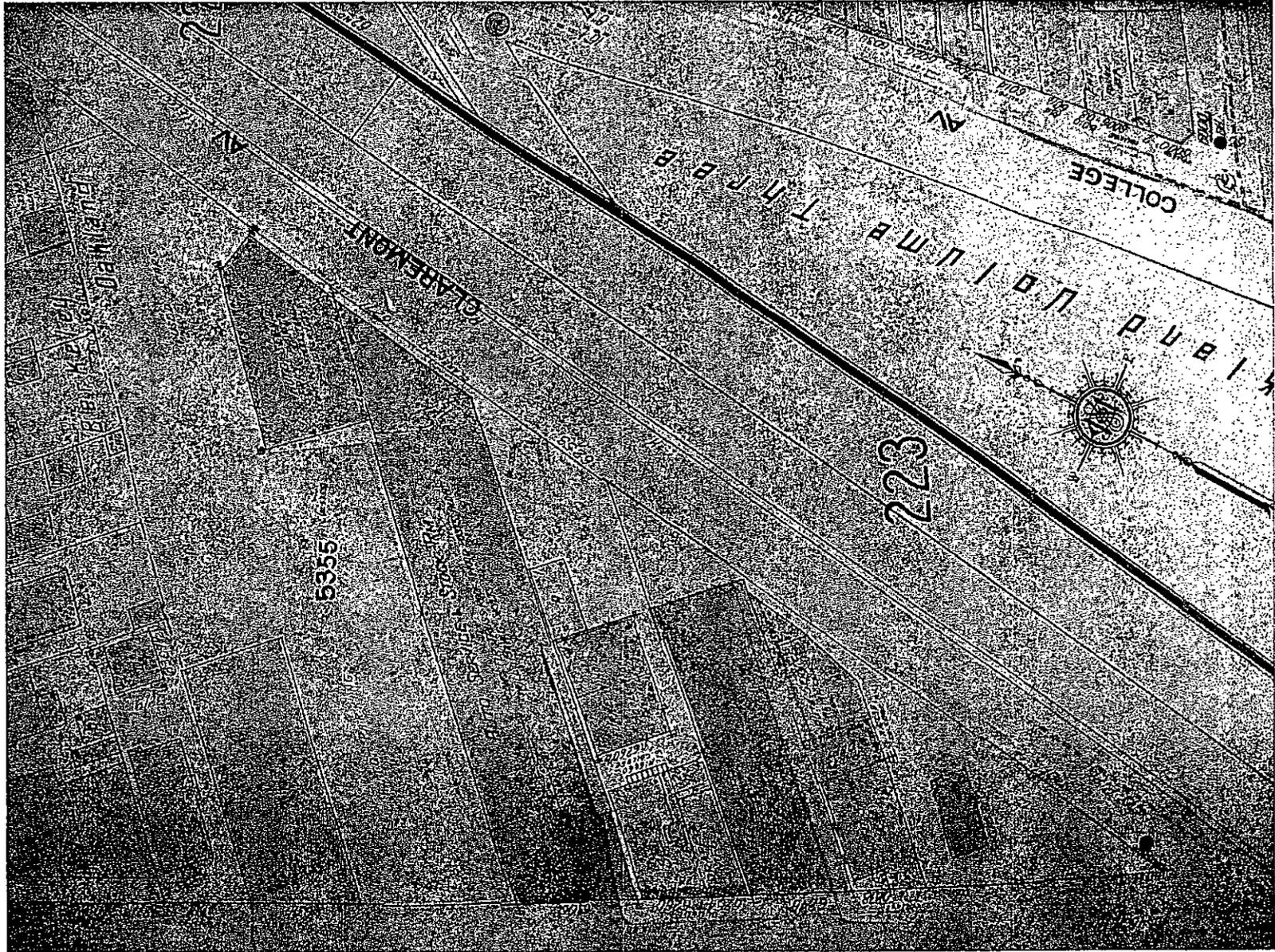
¹⁹ As stated in the DEIR Appendices, pages 835 and 836



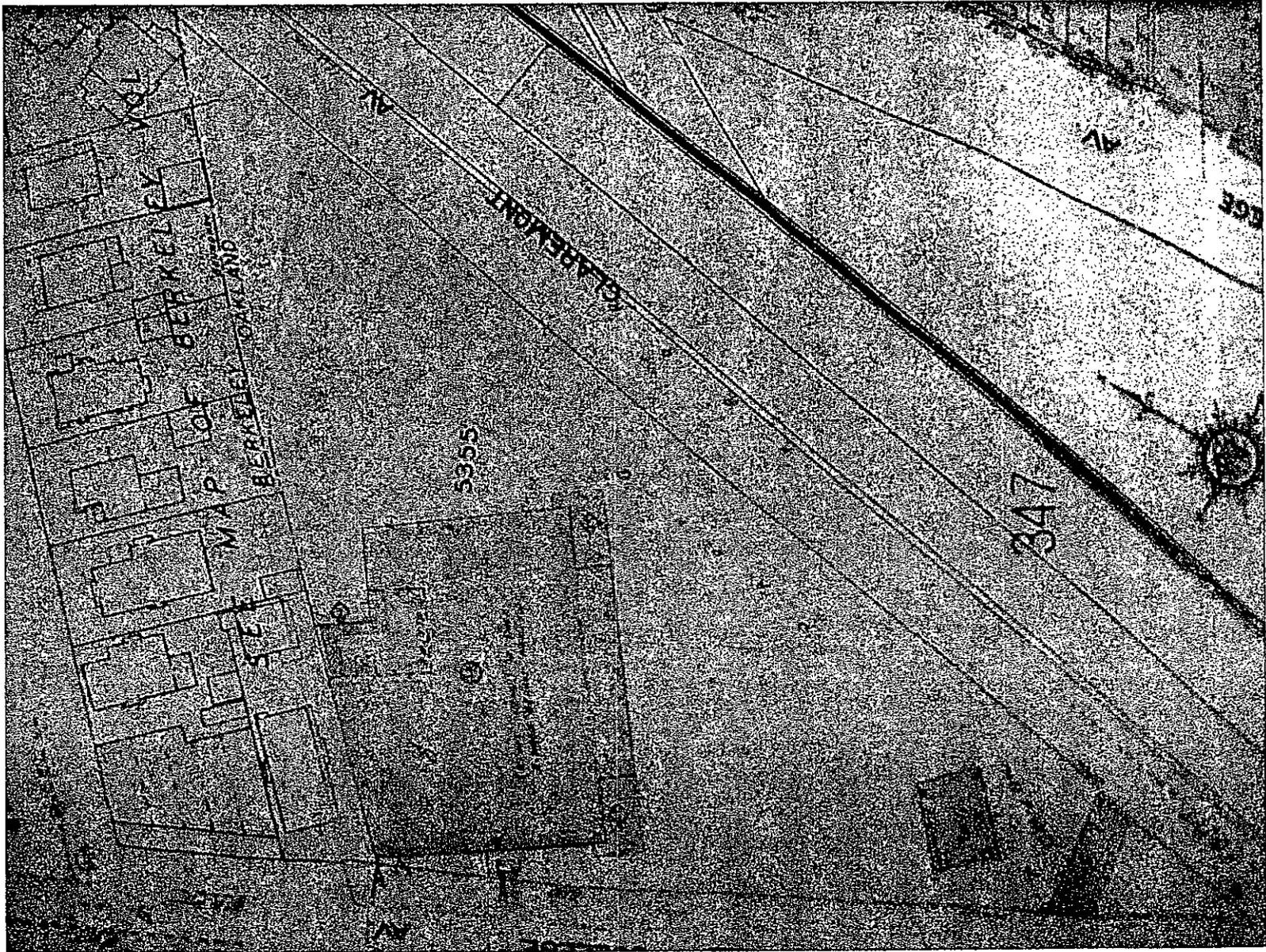
Sanborn Map, Berkeley Book, Vol. 2, page 223, 1929



Sanborn Map, Berkeley Book, Vol. 2, page 223, dated 1950



Sanborn Map, Berkeley Book, Vol. 2, page 223, 1951



Sanborn Map, Berkeley Book, Vol. 2, page 223, 1953 Overlaid with late 1960's map

R O C K R I D G E

MARKET HALL

5655 College Avenue, Suite 201 • Oakland, CA 94618 • 510.250.6000 • FAX 510.601.8251
www.rockridgemarkethall.com

Peterson Z. Voliman, Planner III
City of Oakland Community & Economic Development Agency
Planning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612-2031
pvollman@oaklandnet.com

AUG 6 2012 AM 11:58

Re: Comments on Draft Environmental Impact Report: Safeway Project at 6310 College Ave., Oakland, Case Number ER09-0006; Alameda County Assessor's Parcel Nos. 048A-7070-007-01 and 048A-7070-001-01

Dear Mr. Voliman,

We are writing to you as Rockridge home owners, College Avenue retail property owners and College Avenue merchants. We believe the current Safeway proposal, in effect a big box store, will have a negative impact on the unique character of the Rockridge business district. We do not agree with the findings as proposed in the DEIR for this project.

Regarding the suitability of this project under the guidelines of C-31/CN-1, we find it difficult to believe that this project could be approved. While some expansion of the store might legitimately be "grandfathered", it seems reasonable to assume that if this project were being proposed by another development some aspect of urban in-fill would be required to bring more business or people to the street. Safeway's stated goal for this expansion is in effect to take retail business away from other merchants. While the design has many interesting elements, and seems a step above Safeway's more conservative design approach, simply creating a huge store and adding more small retail store fronts seems an incongruous approach to urban retailing.

We know that commercial districts need to provide strong reasons, something beyond gift shopping, for survival. No one wants Safeway to disappear; it is an important anchor business for Rockridge. However, Safeway's corporate goal of maximizing their real estate interests is incompatible to the Rockridge neighborhood. Those goals are more appropriate to 51st Street Rockridge Center. Safeway should hire the architect Ken Lowry to use his considerable creative efforts to help them with that project.

While the City of Oakland seems proud of the success of Rockridge as a pedestrian friendly neighborhood shopping district, that success is much more fragile than people may appreciate. It seems incongruous to incorporate a big box store of the size proposed on College Avenue based on the need of a national corporation not to lose sales. Our preference would be for a refurbished store allowing for some increase in size. We could have been more intrigued had Safeway proposed incorporating a second or third story of housing or offices in order to bring new customers to the avenue. As we are all aware, retailing in the US is undergoing tremendous changes; just opening a bigger store or adding more store fronts isn't the answer.

When we built Market Hall we were under considerable negative pressure from the community, lots of shouting and yelling. We take our objections to Safeway under advisement of our own experience. Many in the community thought Market Hall would be the end of Rockridge. While we don't necessarily believe that Safeway will destroy Rockridge, we absolutely believe it will neither enhance the neighborhood nor benefit the surrounding businesses. It is being built on a suburban model, not C31-C-N1. Safeway might have presented another design with a smaller more agile approach to pedestrian friendly neighborhood shopping, and then expressed really creative approach to their 51st project, creating as a regional draw. Currently we see two big box stores being proposed drawing customers from the same neighborhoods.

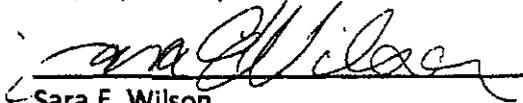
In addition, we found the traffic mitigations to be extremely weak and potentially detrimental to the health of all businesses on College Avenue, not just those most immediately impacted on the Claremont/Alcatraz block. We found insufficient discussion on the effect of having two huge Safeway stores in Rockridge. Both projects have to be considered in the DEIR for the College Avenue Safeway. We believe that the increase in traffic at both the 51st/Broadway/College and the Claremont/Alcatraz intersections will have a negative impact on business all along College Avenue. The increased congestion will make College Avenue a less desirable street for pedestrian friendly shopping and for the small independent businesses that are the dominant uses on the Avenue.

The idea of installing more stop lights close to the College Avenue Safeway and at the surrounding intersections, decreasing on-street parking, relocating the bus-stop to the same block with the Safeway seem to be stop-gap solutions and not true mitigations to the effects of the increase in traffic. As the block between Claremont and Alcatraz is the narrowest part of College Avenue, the increase in traffic will make it more difficult block to traverse. Once that block becomes more congested than it is, residents, customers and visitors will do anything to avoid driving between Claremont and Alcatraz, in much the way many of us will do anything to avoid College and Ashby.

Rather than rewrite what others have already submitted concerning the approval of the DEIR, we will quote from the letter you received from Mr. Glen C. Alex, on July 25, 2011.

"Before adopting a final EIR or approving any Safeway project, the City must (1) reformulate the project objectives to reflect the needs of the *City* and the *public* rather than the narrow interests of the project proponent; (2) evaluate the most important environmental issue: the impact of the proposed large-scale shopping complex on the local area; (3) provide a fair evaluation of a reasonable range of alternatives, based on *City/public* project objectives; (4) adequately analyze GHG emissions based on the correct standards, and provide sufficient mitigation measures for them; and 5)adequately evaluate circulation, parking and related issues, taking into account the effect of the proposed retail stores as well as the proposed Safeway expansion."

Thank you for your considerations of our concerns.



Sara E. Wilson

Peter S. Wilson

Anthony G. Wilson

August 16, 2011

AUG 6 2012 AM 11:58

July 25, 2012

Mr. Peterson Voliman, Planner III
City of Oakland
Community and Economic Development Agency, Planning Division
250 Frank Ogawa Plaza. Suite 2114
Oakland, CA 94612

RE: Review of Transportation/Traffic Portion of Final Environmental Impact Report (FEIR)
at College Avenue Safeway Shopping Center Project (Case # ER09-0006).

Dear Mr. Volhnau:

After submitting comments on the Draft EIR for the College Avenue Safeway Shopping Center Project, I have reviewed the traffic and transportation portion of the July 2012 Final EIR on the behalf of the Rockridge Community Planning Council (RCPC). This letter identifies areas of concern that I still have about the potentially impacts with the proposed project.

In my opinion, the project as proposed has the potential for significant traffic related impacts to residential streets and neighborhoods that have still not been addressed by the Final EIR. The sources of these impacts are various and multifarious. In addition, many of these impacts interact with each other and with other impacts to produce cumulative impacts which also remain unexamined. Specifically, the Final EIR has not adequately addressed the following impacts on residential streets and neighborhoods:

- Cut-through traffic on residential streets related to the Safeway project;
- "Cruising" traffic and street parking movements caused by the parking deficiency associated with the Safeway project;
- Bicycle traffic and bicycle safety impacts
- Secondary impacts from the increased residential street traffic, including noise, pedestrian safety, and quality of life impacts

These impacts are not adequately considered by simply conducting a routine level-of-service ("LOS") traffic impacts analysis, because LOS analysis focuses on the impacts of vehicles and their drivers. It does not consider the impacts on other modes such as bicyclists and pedestrians, or on the impacts to local residents.

It should be noted that this project will dramatically change the transportation status quo for this area in several major respects. 1) It will cause a significant increase in trip generation in

an area whose streets already have substandard LOS; 2) It will greatly increase parking demand in an area already suffering from a deficiency in on-street parking, and will fully occupy the one available reservoir of available off-street parking – the Safeway parking lot; 3) It will, as a result of the first two factors, divert additional traffic onto local residential streets, several of which are designated bicycle routes in both Oakland and Berkeley.

Beginning with parking, the FEIR states that “parking is not considered a CEQA topic,” (Response to Comment A-2-4), however the additional traffic generated by insufficient parking supply is certainly considered a CEQA topic. The EIR acknowledges that there is insufficient on-site parking supply for the proposed project:

As shown on Figures 5-3 and 5-4, the overall parking demand for the proposed project is expected to exceed the proposed supply of 171 spaces from 4:00 PM to 8:00 PM on weekdays, and from 11:00 AM to 8:00 PM on Saturdays. The overall peak parking demand for the proposed project is expected to be at 6:00 PM on both weekdays and Saturdays. As summarized in Table 5-10, the proposed project would have a parking deficit of 41 spaces on weekdays and 63 spaces on Saturdays (p. 5-24).

The FEIR also acknowledges that additional on-street parking will be removed near the Alcatraz Avenue/College Avenue intersection as noted by Mitigation Measure TRANS-2 on p. 2-37:

Converting the existing angled parking spaces on College Avenue to parallel spaces would result in elimination of six metered on-street parking spaces. Parking demand on this segment of College Avenue is currently at or above capacity. Thus, the loss of these parking spaces would contribute to the expected parking shortage in the area (see page 4.3-12).

The end result is a shortage of 53 spaces during the weekday peak and 69 spaces during the Saturday peak (FEIR p. 5-27):

Thus, as summarized in Table 5-13, the total parking demand that cannot be accommodated on-site during the peak hours and would most likely park on-street after completion of the project is 53 spaces during the weekday and 69 spaces during the Saturday peak hours.

As a result of the parking deficiency, extra traffic will be created by motorists “cruising” for available, free parking in nearby residential neighborhoods. Transportation studies indicate that between 8 and 74 percent of the local traffic in some urban areas can be attributed to

cruising.¹ Adjacent neighborhood traffic should expect to be impacted if the proposed project parking supply is inadequate and parking meters are installed along project frontage while parking in nearby residential neighborhoods remains free, as proposed in the EIR. (See Master Response M-3:

Motorists that cannot find a parking space on-site or on College and Claremont Avenues and choose to travel to the project area during the peak periods would circulate and queue on College and Claremont Avenues or within the project parking garage, or spill into the adjacent residential neighborhoods to find available parking.

Here, it is important to note that traffic circulation in the adjacent neighborhoods is already impacted by heavy cut-through traffic, which would only worsen as a result of the inadequate parking and related traffic. This cut-through traffic would also be exacerbated by the circulation restrictions and access control restrictions revised in the FEIR². A September 13, 2007 memorandum to the City of Oakland prepared by the transportation consulting firm Dowling & Associates, titled "Analysis of Existing Colby Street Neighborhood Traffic Patterns," clearly indicates that Colby Street and Hillegass Avenue already serve as diversionary routes for north-south traffic parallel to College Avenue. "Colby Street is the primary route for traveling north-south through the neighborhood.... Hillegass Avenue does appear to play an important role as well and may be carrying significant 'cut-through' traffic as well." (p. 3). The memo estimates that "as much as 74 percent of vehicles using Colby Street are 'cut through'" (p. 10). The impact of this cut-through traffic is expected to worsen with increased traffic demand on College Avenue due to this proposed project. More importantly, omitting intersections along Colby Street and Hillegass Avenue as part of its traffic analysis represents a potentially serious oversight by the EIR.

An additional concern, especially in terms of congestion and bicycle safety issues, is the set of unique characteristics of vehicles cruising for on-street parking, compared to conventional vehicle travel. Cruising vehicles tend to move slowly and somewhat unpredictably, stopping to investigate potential parking spaces, and once they find a space, they will spend some period of time maneuvering into that space. All of these abnormal traffic movements will increase congestion to a much greater extent than standard through traffic. In addition, they can increase exposure and pose significant safety hazards for bicyclists, especially on narrower streets such as Colby Street and Hillegass Avenue.

¹ See Shoup, D. (2006). "Cruising for Parking," *Transport Policy*, Vol. 13, Issue 6, November, pp 479-486.

² For example, the proposed median to block access from eastbound 63rd Street into the Safeway garage will likely shift eastbound incoming garage traffic from 63rd Street onto 62nd Street and then up Claremont Avenue or onto northbound College to enter the garage. Similarly, blocking garage entry to southbound College Avenue traffic will shift that traffic up the residential portion of Alcatraz Avenue and around to the Claremont Avenue garage entry.

When the above inadequate parking supply and heavy cut-through traffic are combined with the expected future increases in bicycle traffic, the cumulative impacts would include decreased on-street parking availability, increased delay, and decreased safety through these residential areas.

Overall, this project would worsen traffic at three of the five intersections shown in Table 2-5, "Intersection Level of Service - 2035 Plus Revised Project Conditions." The EIR finds that traffic conditions would worsen at Alcatraz Avenue/College Avenue, Alcatraz Avenue/Claremont Avenue, and College Avenue/Claremont Avenue/62nd Street; these three intersections represent the intersections at the each corner of the project.

It is also expected that these oversaturated conditions will spill over onto nearby neighborhood streets and affect adjacent intersections. For example, as the intersection of Alcatraz Avenue/College increases its level of oversaturation, it is fairly certain that the intersection of Hillegas Avenue/Alcatraz Ave will be further impacted.

As noted in the revisions to the DEIR, "Existing bicycle facilities in the study area include Class 3 bike routes along Woolsey and Colby Streets and a Class 3B bike boulevard along Hillegass Avenue" (FEIR, p. 4-2). Moreover, this project touts "having about twice as many bicycle parking spaces than required by the City of Oakland Bicycle Parking Ordinance," (Table 4.3-20 on page 4.3-107), and Improvement Measure TRANS-1 provides recommendations to improve safety and operations of bicycle parking but the EIR does not show bicycle facilities to or from the project site.

When the above-mentioned cruising effect is combined with the potential mix of vehicular and bicycle traffic at some intersections which are already projected to operate well over capacity, the cumulative effect will worsen situations with significant impacts on local streets in the adjacent neighborhoods. The FEIR, in Master Response 5, concludes that the nearby unsignalized intersections would not meet thresholds set by City of Oakland's significance criteria, but this analysis does not appear to account for the significant bicycle traffic on these designated bicycle routes, nor does it account for the increased bicycle traffic that the project appears to encourage. In this type of situation, especially with narrow streets, bicycle traffic should be analyzed as adding to the vehicular demand in determining intersection level of service, consistent with methods identified in the *Highway Capacity Manual*. This inclusion of bicycle traffic in the traffic analysis does not appear to have been done. Indeed, there do not appear to be any data on present or projected bicycle traffic on these streets, especially during the peak hours, when oversaturated intersections are most likely to spillover onto residential streets and combine with cruising traffic generated by the parking deficiency. It should be added that utilitarian bicycle traffic tends to follow automotive traffic in having

peak volumes in the peak hours for automotive traffic. It also follows that the increased rate of exposure by bicyclists results in the majority of bicycle-related collisions occurring during the peak hours, as shown in the 2007 *City of Oakland Bicycle Master Plan*.³

The EIR dismisses all of these impacts individually as being insignificant, but lacking adequate data and analysis, that conclusion ignores a potentially significant cumulative impact. Bicycle volumes should have been included in the LOS analysis presented in the EIR along these cut-through corridors, and the failure to include projected bicycle volumes along designated routes with heavy cut-through traffic at many unsignalized intersections, along with other potential impacts from project-associated cut-through and "cruising" traffic represent a significant deficiency the EIR. Additional data, including current and projected future peak-hour bicycle volumes at the unsignalized intersections, is needed before the required evaluation of cumulative impacts can be done accurately.

Based on the data available in the EIR, a review of the analysis indicates that the cumulative impacts are potentially significant. Appendix E (Signal Warrants) of the FEIR indicates that the 2035 projections based on vehicle volumes alone at the intersections of Alcatraz Avenue/Colby Street meets the Caltrans peak-hour volume warrant and would almost certainly add 10 or more "vehicles" to the peak hour, thereby meeting the City of Oakland's Traffic Load and Capacity Threshold for significant impact (see page 4.3-54 of the DEIR). Figure 1 (from unnumbered page 551 of 604 in FEIR, Volume II) below shows that the warrant threshold is met but not exceeded with the 100 peak-hour vehicles observed on the minor street (Colby Street), but proper treatment of bicycles would lead to this threshold being exceeded.

³ See Figure 2.14 on page 40 of the *City of Oakland Bicycle Master Plan (2007)* available at <http://www2.oaklandnet.com/Government/o/PWA/o/EC/s/BicycleandPedestrianProgram/OAK024597>.

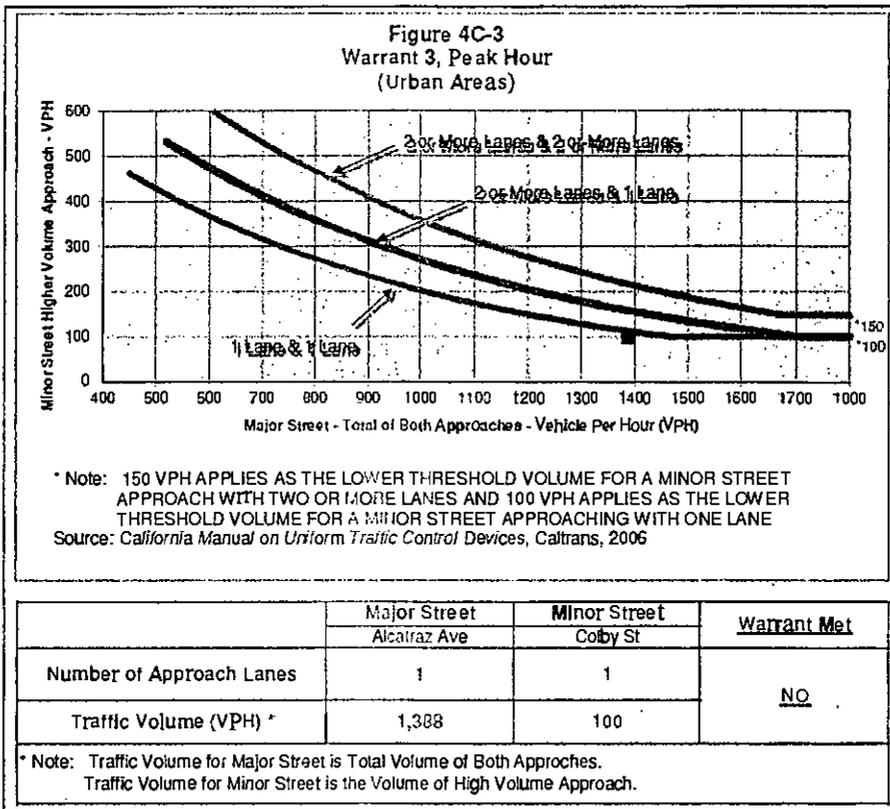


Figure 1. Warrant Analysis of Alcatraz Avenue/Colby Street

Moreover, criteria of significance used in this EIR from the City of Oakland's Thresholds/Criteria of Significance Guidelines should include a level of service (LOS) analysis for street segments (as well as LOS analysis of intersections). Significance criteria that included service volumes or through-vehicle speeds would also be consistent with the recommended practice in the *Highway Capacity Manual* and CEQA requirements used by other cities.⁴ The City of Los Angeles' protocol for analyzing traffic impacts on residential streets considers changes in traffic volumes on street segments.⁵ A level of service analysis of service volumes or through-vehicle speeds, particularly on some of the residential neighborhood streets, could also yield potentially significant impacts.

⁴ See *Highway Capacity Manual* (2000), Chapter 10.

⁵ See City of Los Angeles, Department of Transportation, "Traffic Study Policies and Procedures," May 2012. Available at: <http://www.ladot.lacity.org/pdf/pdf223.pdf>.

Issues involving pedestrian and bicycle safety also remain unaddressed by the EIR. A simple analysis of the study area using accident analysis websites such as the Bay Citizen Bike Accident Tracker or UC Berkeley's Transportation Injury Mapping System (TIMS), both of which present data from California Statewide Integrated Traffic Records System (SWITRS), reveal some concerns that were not addressed by the EIR.⁶ A crash hot spot is clearly identified at the Alcatraz Avenue/College Avenue intersection in Figure 2 below.

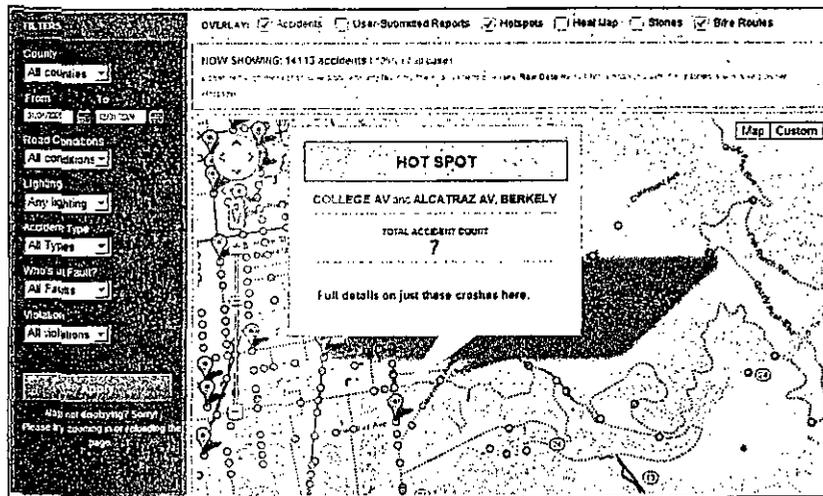


Figure 2. Crash Hot Spot Identified by the Bay Guardian Bike Accident Tracker

Additional analysis of the project area identified 34 collisions between 2005 and 2011, the majority of which involved pedestrians and bicyclists; six (18%) of the 34 collisions shown in Figure 3 involved pedestrians and 13 (38%) involved bicyclists. There were 23 identified crashes on the three streets adjacent to the project site alone, as shown in Figure 3 below.⁷

While the primary causal factors associated with these collisions may vary, the large number of accidents along College Avenue, and particularly at the College Avenue/Claremont Avenue/62nd Street and Alcatraz Avenue/College Avenue intersections, both of which will be further impacted by the project, suggests that this project will make an already significant bicycle safety hazard worse.

⁶ See <http://www.baycitizen.org/data/bike-accidents/raw-data/> or <http://www.tims.berkeley.edu/>.

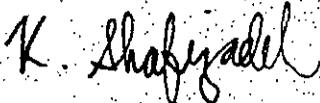
⁷ It should be noted that the Bay Guardian Bike Accident Tracker only has access to data through 2009, while TIMS accesses data through 2010.

its accuracy, but Club Card data were not made available." This comment raised two concerns, neither of which were adequately addressed in the EIR:

1. Club Card data should have been used to check or validate the results from the travel demand model. These data are not typically available and could and should have been used to verify model results.
2. Club Card data used in this analysis were not made available as part of the EIR process.

Thank you for accepting my comments related to the Final EIR of the proposed Safeway on College Avenue. Please notify me of all future events and updates in the City's consideration of this project. If you have any questions regarding this letter, please contact me or Stuart Flashman, RCPC Land Use Committee Chair.

Sincerely,



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AUG 6 2012 AM 11:58

Stuart Flashman Statement on behalf of Rockridge Community Planning Council

Good Evening Chair Truong and Commissioners:

My name is Stuart Flashman. I am the chair of the land use committee of the Rockridge Community Planning Council and am speaking tonight on behalf of RCPC. First, I want to echo the comments of other speakers that RCPC is not opposed to Safeway having a store on College Avenue. We recognize that the current store provides a valuable function for the community, and we certainly want that function to continue. RCPC also realizes that the current store could use updating and modernizing. The current College Avenue Safeway Shopping Center proposal, however, goes far beyond that.

RCPC has a number of objections to the current project. Perhaps first and foremost is its basic inconsistency with the site's C-31 zoning and general plan designation. C-31 zoning is intended to promote "pedestrian oriented comparison shopping." That zoning was originally proposed by RCPC and then adopted by the City. Over the past thirty years or so, it has been remarkably successful.

This project is nothing short of a "zonebuster". Safeway claims its shoppers want to be able to get all their shopping needs met in one store. That same claim could be made by Walmart. It's fine for customers to have a grocery store within C-31, and even a full-service grocery store that includes meats, fish, dairy and liquor. However when you add in a bakery, deli, florist, pharmacy, bulk foods, custom butcher, fish store, and expanded wine and liquor sections, you've expanded way past that. Instead of pedestrian-oriented comparison shopping, you've got auto-oriented one-stop shopping. If Safeway wants that, it has its place – the Rockridge Shopping Center at Broadway & Pleasant Valley; and they're already doing that there. But that kind of megastore is flatly inconsistent with C-31 zoning.

The environmental impacts show why C-31 zoning makes sense, and why this proposal doesn't. Frankly, we think the EIR grossly underestimates this project's impacts, but even based on the EIR, the project will make an already bad traffic and parking situation much worse. While Safeway has paid for studies showing that its competition won't damage surrounding stores, where is the study showing that a gridlocked College Avenue with no available parking is not a problem? Safeway says, "Approve our project, it'll be good for Oakland." It'll certainly be good for Safeway. Will it be good for Oakland? Not if traffic and parking problems drag down Oakland's most successful commercial area.

It needn't be this way. As I pointed out to the Design Review Committee, there's at least one feasible alternative that gives Safeway what it needs, reduces project impacts, and is a far better fit for C-31 zoning: Pull all the ancillary functions – the pharmacy, bakery, deli, florist, custom butcher, seafood shop, huge wine and liquor section, etc. out of the main store and put them in the street-level small shops. Leave the basic Safeway on the second floor. Now you've got a smaller project that will generate less traffic, need less parking, and will still give Safeway the things it says it needs – just not in one gigantic store. Please give alternatives, including this one, serious consideration. An alternative Safeway project could have lower impacts, fit better with the zoning, and still be eminently feasible.

**REGULATION 8
ORGANIC COMPOUNDS
RULE 42
LARGE COMMERCIAL BREAD BAKERIES**

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**REGULATION 8
ORGANIC COMPOUNDS
RULE 42
LARGE COMMERCIAL BREAD BAKERIES**

(Adopted September 20, 1989)

8-42-100 GENERAL

8-42-101 Description: The purpose of this rule is to limit the emission of precursor organic compounds from bread ovens at large commercial bread bakeries.

8-42-110 Exemption, Small Bakeries: Except for Section 8-42-502, this rule shall not apply to bakeries whose total production of bread, buns, and rolls per operating day is less than 45,450 kg (100,000 pounds), averaged over all operating days in any one month.

(Amended June 1, 1994)

8-42-111 Exemption, Low Emitting Ovens: Ovens demonstrated to the satisfaction of the APCO to emit less than 68.2 kg (150 pounds) of ethanol per operating day averaged over a period of one year shall be exempt from the requirements of Section 8-42-301.

8-42-112 Exemption, Existing Ovens: The requirements of Section 8-42-303 shall not apply to ovens, which commenced operation prior to January 1, 1988 and which are demonstrated to the satisfaction of the APCO to emit less than 113.7 kg (250 pounds) of ethanol per operating day, averaged over a period of one year.

8-42-113 Exemption, Miscellaneous Bakery Products: This rule does not apply to equipment used exclusively for the baking of bakery products other than bread, buns, and rolls. Such products include, but are not limited to, muffins, croutons, breadsticks, and crackers.

8-42-114 Exemption, Chemically Leavened Products: This rule does not apply to equipment used exclusively for the baking of bakery products leavened chemically in the absence of yeast.

8-42-200 DEFINITIONS

8-42-201 Approved Emission Control System: A system for reducing emissions of precursor organic compounds to the atmosphere consisting of a control device, which has been approved by the APCO and which satisfies the following conditions:

201.1 The control device shall achieve the control efficiency specified in the applicable standards section at all times during normal operation of the equipment being controlled.

201.2 The collection system shall vent all exhaust from the oven stack or stacks to the control device during normal operation.

8-42-202 Baseline Emissions: The average amount of precursor organic compounds emitted per operating day from an oven between January 1, 1988 and December 31, 1988. Emissions shall be calculated in accordance with Section 8-42-602.

8-42-203 Bread: A perishable foodstuff prepared from a dough whose primary ingredients are flour, sugar, salt, water, and yeast and which is baked into loaves, buns, or rolls.

8-42-204 Fermentation Time: Elapsed time between adding yeast to the dough or sponge and placing the loaves into the oven, expressed in hours.

8-42-205 Large Commercial Bread Bakery: Any bakery producing more than 45,454 kg (100,000 pounds) of breads, buns, and rolls per day.

8-42-206 Leaven: To raise a dough by causing gas to thoroughly permeate it.

8-42-207 Yeast Percentage: Pounds of yeast per hundred pounds of total recipe flour, expressed as a percentage.

8-42-208 Key System Operating Parameter: An emission control system operating parameter, such as temperature, flow rate or pressure, that ensures operation of the

abatement equipment within manufacturer specifications and compliance with the standards in Sections 8-42-302, and 303. (Adopted June 1, 1994)

8-42-300 STANDARDS

8-42-301 New and Modified Primary Ovens: Effective January 1, 1989, a person subject to this rule shall not operate the following equipment unless the requirements of Section 8-42-302 are met:

- 301.1 Any newly constructed oven commencing operation after January 1, 1989.
- 301.2 Any newly constructed oven replacing an existing oven and commencing operation after January 1, 1989.
- 301.3 Any existing oven which has been modified, with modifications completed after January 1, 1989, at a cost exceeding 50% of replacement cost of the oven.
- 301.4 Any oven with a change in production after January 1, 1989, resulting in an emission increase, averaged over a 30 day period, of 68.2 kg (150 pounds) per operating day above the baseline emissions.

8-42-302 Emission Control Requirements, New and Modified Ovens: All new and modified ovens shall be required to vent all emissions to an approved emission control system capable of reducing emissions of precursor organic compounds by 90% on a mass basis.

8-42-303 Emission Control Requirements, Existing Ovens: Effective January 1, 1992, all existing ovens which commenced operation prior to January 1, 1989, shall be required to vent emissions to a control system meeting the following standards:

- 303.1 Emission collection system shall capture all emissions of precursor organic compounds from all oven stacks.
- 303.2 Collected emissions shall be vented to an approved emission control device which has a destruction efficiency of at least 90% on a mass basis.

8-42-304 Delayed Compliance, Existing Ovens: In lieu of complying with the requirements of Section 8-42-303, an applicant may elect to replace those ovens subject to Section 8-42-303 with new ovens meeting the requirements of Section 8-42-302 by January 1, 1991. Such election must be made by January 1, 1991, subject to approval of the APCO. In approving such an election, the APCO may require the posting of a bond and may impose permit conditions on the existing subject ovens in order to assure compliance with the January 1, 1994 installation of new ovens.

8-42-400 ADMINISTRATIVE REQUIREMENTS

8-42-401 Compliance Schedule: Any person subject to the requirements of Section 8-42-303 of this rule shall comply with the following increments of progress:

- 401.1 By January 1, 1990: Submit a status report to the APCO stating the options under consideration for retrofitting or replacing existing ovens.
- 401.2 By January 1, 1991: Submit a plan describing the methods proposed to be used to comply with 8-42-303.
- 401.3 By March 31, 1991: Submit a completed application for any Authority to Construct necessary to comply with these requirements.
- 401.4 By January 1, 1992: Be in full compliance with all applicable requirements.

8-42-402 Delayed Compliance Schedule: Any person seeking to comply with this rule under Section 8-42-304 shall comply with the following increments of progress:

- 402.1 By January 1, 1991: Submit a plan describing the methods proposed to be used to comply with 8-42-302.
- 402.2 By January 1, 1992: Submit to the APCO a status report on the purchase of the Authority to Construct.
- 402.3 By January 1, 1993: Submit a completed application for any Authority to Construct necessary to comply with these requirements.
- 402.4 By January 1, 1994: Be in full compliance with all applicable requirements.

8-42-500 MONITORING AND RECORDS

8-42-501 **Approved Emission Control System, Recordkeeping Requirements:** Any person operating air pollution abatement equipment to comply with Section 8-42-302, or 303 shall record key system operating parameters on a daily basis
(Adopted June 1, 1994)

8-42-502 **Burden of Proof:** Any person claiming the small bakery exemption per Section 8-20-110 must have information available, such as production records, that would allow the APCO to verify this exemption.
(Adopted June 1, 1994)

8-42-600 **MANUAL OF PROCEDURES**

8-42-601 **Determination of Emissions:** Emissions of organics shall be measured as prescribed in the Manual of Procedures, Source Test Procedure ST-32.

8-42-602 **Emission Calculation Procedures:** If emission measurements conducted in accordance with Section 8-42-601 are not available for a specific bakery product, oven emissions shall be calculated using the emission factors in Table f.

TABLE I

Yt*	Pounds VOC/ton bakery product	Yt*	Pounds VOC/ton bakery product
1.0	7.8498	16.0	7.5176
1.5	8.0711	16.5	7.7399
2.0	8.2924	17.0	7.9622
2.5	8.5137	17.5	8.1845
3.0	8.7350	18.0	8.4068
3.5	8.9563	18.5	8.6291
4.0	9.1776	19.0	8.8514
4.5	9.3989	19.5	9.0737
5.0	9.6202	20.0	9.2959
5.5	9.8415	20.5	9.5182
6.0	10.0628	21.0	9.7405
6.5	10.2841	21.5	9.9628
7.0	10.5054	22.0	10.1851
7.5	10.7267	22.5	10.4074
8.0	10.9480	23.0	10.6297
8.5	11.1693	23.5	10.8520
9.0	11.3906	24.0	11.0743
9.5	11.6119	24.5	11.2966
10.0	11.8332	25.0	11.5189
10.5	12.0545	25.5	11.7412
11.0	12.2758	26.0	11.9635
11.5	12.4971	26.5	12.1857
12.0	12.7184	27.0	12.4080
12.5	12.9397	27.5	12.6303
13.0	13.1610	28.0	12.8526
13.5	13.3823	28.5	13.0749
14.0	13.6036	29.0	13.2972
14.5	13.8249	29.5	13.5195
15.0	14.0462	30.0	13.7418
15.5	14.2675		

*Yt = (yeast percentage) x (fermentation time).

If yeast is added in 2 steps, Yt = [(initial yeast percentage) x (total fermentation time) + (remaining yeast percentage) x (remaining fermentation time)].

BAY AREA AIR POLLUTION SUMMARY — 2010

—See NOTES on second page

MONITORING STATIONS	OZONE						CARBON MONOXIDE			NITROGEN DIOXIDE			SULFUR DIOXIDE			PM ₁₀				PM _{2.5}							
	Max 1-Hr	Cal 1-Hr Days	Max 8-Hr	Nat 8-Hr Days	Cal Days	3-Yr Avg	Max 1-Hr	Max 8-Hr	Nat/Cal Days	Max 1-Hr	Ann Avg	Nat/Cal Days	Max 1-Hr	Max 24-Hr	Nat/Cal Days	Ann Avg	Max 24-Hr	Nat Days	Cal Days	3-Yr Avg	Max 24-Hr	Nat Days	3-Yr Avg	Ann Avg	3-Yr Avg		
	(ppb)						(ppm)			(ppb)			(ppb)			(µg/m ³)				(µg/m ³)							
North Counties																											
Napa	106	1	89	2	2	66	2.3	1.4	0	56.0	9	0	-	-	-	17.4	37	0	0	-	-	-	-	-	-	-	-
San Rafael*	83	0	69	0	0	54	1.7	1.1	0	57.0	12	0	-	-	-	16.7	51	0	1	46.5	4	*	10.7	*			
Santa Rosa	84	0	68	0	0	54	2.5	1.1	0	42.0	8	0	-	-	-	-	-	-	-	26.6	0	26	7.2	8.1			
Vallejo	91	0	80	1	2	63	2.9	1.9	0	55.0	9	0	11.0	2.4	0	-	-	-	-	29.5	0	31	7.7	9.1			
Coast & Central Bay																											
Berkeley*	75	0	49	0	0	41	2.5	1.5	0	53.4	13	0	9.0	2.4	0	21.0	43	0	0	-	-	-	-	-	-	-	-
Colton	97	1	53	1	0	53	3.0	1.5	0	64.1	13	0	11.0	3.7	-	-	-	-	-	25.2	0	23	7.8	8.9			
Concord	-	-	-	-	-	-	2.1	1.7	0	68.8	13	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Redwood City	-	-	-	-	-	-	-	-	-	-	-	-	10.0	3.3	0	-	-	-	-	-	-	-	-	-	-	-	-
San Francisco	79	0	51	0	0	47	1.8	1.4	0	92.9	13	0	-	-	-	19.9	40	0	0	45.3	3	26	10.5	10.0			
San Pablo*	97	1	81	1	1	*	*	*	*	*	*	*	*	*	*	*	*	*	*	-	-	-	-	-	-	-	-
Eastern District																											
Bethel Island	106	3	86	4	7	76	1.4	0.8	0	32.3	6	0	19.0	3.3	0	18.7	70	0	1	-	-	-	-	-	-	-	-
Concord	103	2	87	1	4	74	1.2	1.0	0	42.0	8	0	9.0	2.4	0	13.7	41	0	0	36.4	1	30	7.1	8.3			
Crockett	-	-	-	-	-	-	-	-	-	-	-	-	16.3	4.1	0	-	-	-	-	-	-	-	-	-	-	-	-
Fairfield	103	1	81	2	3	69	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Livermore	150	3	97	3	6	80	-	-	-	58.4	11	0	-	-	-	-	-	-	-	34.7	0	30	7.6	9.0			
Martinez	-	-	-	-	-	-	-	-	-	-	-	-	37.0	5.5	0	-	-	-	-	-	-	-	-	-	-	-	-
South Central Bay																											
Fremont*	120	1	81	1	1	62	*	*	*	*	*	*	-	-	-	-	-	-	-	*	*	*	*	*	*	*	*
Hayward*	*	*	*	*	*	*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Redwood City	113	2	77	1	1	57	3.3	1.7	0	52.7	12	0	-	-	-	-	-	-	-	36.5	1	25	8.3	8.7			
Santa Clara Valley																											
Gilroy	94	0	81	5	7	74	-	-	-	-	-	-	-	-	-	-	-	-	-	29.9	0	23	8.2	8.6			
Los Gatos	109	2	87	2	3	73	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
San Jose Central	126	5	86	3	3	66	2.8	2.2	0	64.0	14	0	4.9	1.8	0	19.5	47	0	0	41.5	3	30	8.8	10.1			
San Martin	109	2	87	5	8	75	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Bay Area Days over Standard	8		9	11			0			0			0			0	2			6							

*See NOTES on second page

- Planning, Rules and Research
- |
- Air Quality Standards

Air Quality Standards and Attainment Status

Ambient air quality standards are set to protect public health. There are currently both Federal and State ambient air quality standards by USEPA and state air quality agencies, CALEPA for California. California air quality standards are generally more strict than federal standards. Continuous air monitoring by these agencies and BAAQMD ensure that air quality standards are being met and improved.

Pollutant	Averaging Time	California Standards ¹ Concentration	Attainment Status	National Standards ² Concentration ³	Attainment Status
Ozone	8 Hour	0.070 ppm (137 µg/m ³)	N ⁹	0.075 ppm	N ⁴
	1 Hour	0.09 ppm (180 µg/m ³)	N		See footnote # 5
Carbon Monoxide	8 Hour	9.0 ppm (10 mg/m ³)		9 ppm (10 mg/m ³)	A ⁶
	1 Hour	20 ppm (23 mg/m ³)		35 ppm (40 mg/m ³)	A
Nitrogen Dioxide	1 Hour	0.18 ppm (339 µg/m ³)	A	0.100 ppm (see footnote 11)	U
	Annual Arithmetic Mean	0.030 ppm (57 µg/m ³)		0.053 ppm (100 µg/m ³)	A
Sulfur Dioxide (See Footnote #12)	24 Hour	0.04 ppm (105 µg/m ³)	A	0.14 ppm (365 µg/m ³)	A
	1 Hour	0.25 ppm (655 µg/m ³)	A	0.075 ppm (196 µg/m ³)	A
	Annual Arithmetic Mean			0.030 ppm (80 µg/m ³)	A
Particulate Matter (PM10)	Annual Arithmetic Mean	20 µg/m ³	N ⁷		

	24 Hour	50 $\mu\text{g}/\text{m}^3$	N	150 $\mu\text{g}/\text{m}^3$	U
Particulate Matter - Fine (PM2.5)	Annual Arithmetic Mean	12 $\mu\text{g}/\text{m}^3$	N ⁷	15 $\mu\text{g}/\text{m}^3$	A
	24 Hour			35 $\mu\text{g}/\text{m}^3$ See Footnote 10	N
Sulfates	24 Hour	25 $\mu\text{g}/\text{m}^3$	A		
	30 day Average Calendar Quarter Rolling 3 Month Average ¹⁴	1.5 $\mu\text{g}/\text{m}^3$			A
Lead (See Footnote 13)	30 day Average Calendar Quarter Rolling 3 Month Average ¹⁴			1.5 $\mu\text{g}/\text{m}^3$	A
				0.15 $\mu\text{g}/\text{m}^3$	(See Footnote 14)
Hydrogen Sulfide	1 Hour	0.03 ppm (42 $\mu\text{g}/\text{m}^3$)	U		
Vinyl Chloride (chloroethene)	24 Hour	0.010 ppm (26 $\mu\text{g}/\text{m}^3$)	No information available		
Visibility Reducing particles	8 Hour (10:00 to 18:00 PST)	See Footnote 10 10			

A=Attainment N=Nonattainment U=Unclassified

mg/m^3 =milligrams per cubic meter

ppm=parts per million

$\mu\text{g}/\text{m}^3$ =micrograms per cubic meter

NOTES

1. California standards for ozone, carbon monoxide (except Lake Tahoe), sulfur dioxide (1-hour and 24-hour), nitrogen dioxide, suspended particulate matter - PM10, and visibility reducing particles are values that are not to be exceeded. The standards for carbon monoxide, Lake Tahoe carbon monoxide, lead, hydrogen sulfide, and vinyl chloride are not to be equaled or exceeded. If the standard is for a 1-hour, 8-hour or 24-hour average

(i.e., all standards except for lead and the PM₁₀ annual standard), then some measurements may be excluded. In particular, measurements are excluded that ARB determines would occur less than once per year on the average. The Lake Tahoe CO standard is 0.5 ppm, a level one-half the national standard and two-thirds the state standard.

2. National standards shown are the "primary standards" designed to protect public health. National standards other than for ozone, particulates and those based on annual averages are not to be exceeded more than once a year. The 1-hour ozone standard is attained if, during the most recent three-year period, the average number of days per year with maximum hourly concentrations above the standard is equal to or less than one. The 8-hour ozone standard is attained when the 3-year average of the 4th highest daily concentrations is 0.075 ppm (75 ppb) or less. The 24-hour PM₁₀ standard is attained when the 3-year average of the 99th percentile of monitored concentrations is less than 150 µg/m³. The 24-hour PM_{2.5} standard is attained when the 3-year average of 98th percentiles is less than 35 µg/m³.

Except for the national particulate standards, general standards are met if the annual average falls below the standard at every site. The national annual particulate standard for PM₁₀ is met if the 3-year average falls below the standard at every site. The annual PM_{2.5} standard is met if the 3-year average of annual averages spatially-averaged across officially designed clusters of sites falls below the standard.

3. National air quality standards are set by US EPA at levels determined to be protective of public health with an adequate margin of safety.

4. On September 22, 2011, the Environmental Protection Agency (EPA) announced it will implement the current 8 hour ozone standard of 75 ppb. The EPA expects to finalize initial area designations for the 2008 8-hour ozone standard by mid-2012.

5. The national 1-hour ozone standard was revoked by U.S. EPA on June 15, 2005.

6. In April 1998, the Bay Area was redesignated to attainment for the national 8-hour carbon monoxide standard.

7. In June 2002, CARB established new annual standards for PM_{2.5} and PM₁₀.

8. Statewide VRP Standard (except Lake Tahoe Air Basin): Particles in sufficient amount to produce an extinction coefficient of 0.23 per kilometer when the relative humidity is less than 70 percent. This standard is intended to limit the frequency and severity of visibility impairment due to regional haze and is equivalent to a 10-mile nominal visual range.

9. The 8-hour CA ozone standard was approved by the Air Resources Board on April 28, 2005 and became effective on May 17, 2006.

10. U.S EPA lowered the 24-hour PM_{2.5} standard from 65 µg/m³ to 35 µg/m³ in 2006. EPA designated the Bay Area as nonattainment of the PM_{2.5} standard on October 8, 2009. The effective date of the designation is December 14, 2009 and the Air District has three years to develop a plan, called a State Implementation Plan (SIP), that demonstrates the Bay Area will achieve the revised standard by December 14, 2014. The SIP for the new PM_{2.5} standard must be submitted to the US EPA by December 14, 2012.

11. To attain this standard, the 3-year average of the 98th percentile of the daily maximum 1-hour average at

each monitor within an area must not exceed 0.100ppm (effective January 22, 2010).

12. On June 2, 2010, the U.S. EPA established a new 1-hour SO₂ standard, effective August 23, 2010, which is based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The existing 0.030 ppm annual and 0.14 ppm 24-hour SO₂ NAAQS however must continue to be used until one year following U.S. EPA initial designations of the new 1-hour SO₂ NAAQS. EPA expects to designate areas by June 2012.

13. ARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure below which there are no adverse health effects determined.

14. National lead standard, rolling 3-month average: final rule signed October 15, 2008. Final designations expected October 2011.

Contact:

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Bay Area Air Quality Management District
939 Ellis St. San Francisco, CA 94109
(415) 771-6000 | 1-800-HELP AIR

CORRECTED

REVISED

APPROVED AS TO FORM AND LEGALITY

Mark P. Wall

CITY ATTORNEY

INTRODUCED BY COUNCIL MEMBER _____

ORDINANCE No. 12237 C. M. S.

ORDINANCE AMENDING THE PLANNING CODE AND SUBDIVISION REGULATIONS FOR REDISTRIBUTION OF ZONING CASES BETWEEN CITY PLANNING COMMISSION ("MAJOR") AND ZONING ADMINISTRATOR ("MINOR"), HOLDING ADMINISTRATIVE HEARINGS AND ESTABLISHMENT OF UNIFORM NOTICING RADD

WHEREAS, the City Planning Commission was created by the City Council in 1932 by Ordinance 192 C.M.S. for the purpose of advising the Council on matters effecting the orderly growth and development of the City, and

WHEREAS, the major focus of the City Planning Commission in recent years has been decision-making on zoning and subdivision applications, and related environmental review documents and enforcement actions, and

WHEREAS, the City Planning Commission has adopted a strategic plan that outlines initiatives for the Commission to become more proactive in implementing the City Council's goals and objectives by focusing more on long-range planning policy issues, and

WHEREAS, a key initiative in the Planning Commission's strategic plan is to focus more on policy issues and development proposals of a citywide significance, and to amend the City's zoning and subdivision regulations to allow staff approval of certain projects that do not have citywide significance nor major land use policy implications, and

WHEREAS, City Council, on June 24, 1997, passed Resolution 73623 C.M.S. approving said strategic plan and directing the City Planning Commission to implement it, and

WHEREAS, this ordinance implements said strategic plan by shifting routine planning permits to staff review and decision, thereby enabling the City Planning Commission to focus on projects of citywide importance, and

WHEREAS, this ordinance will improve permit processing by establishing a more appropriate level of review and streamlining decision-making for routine planning permits, and

WHEREAS, a duly noticed public hearing was held on this matter by the City Planning Commission on February 16, 2000, and

WHEREAS, the Community and Economic Development Committee recommended amending the Oakland Planning Code and Subdivision Regulations as set forth below, and

WHEREAS, the recommendation of the City Planning Commission and Community and Economic Development Committee came regularly on for hearing before the City Council on April 11, 2000, and

ATTACHMENT D

WHEREAS, this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code, and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the proposed amendments, now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. The City Council finds and determines that the adoption of this Ordinance complies with the California Environmental Quality Act.

SECTION 3. The Oakland Subdivision Regulations are hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type, additions are indicated by underlining, and deletions are indicated by ~~strike-out-type~~; portions of the regulations not cited, or not shown in underlining or strike-out type, are not changed):

Chapter 16.24 PARCEL MAPS

16.24.010 Parcel map--When required.

Except as provided in Section 16.24.020, a parcel map shall be required in all divisions of real property described by subdivisions (a), (b), (c), or (d) of Sections 66426 of the Subdivision Map Act or other subdivisions for which a final map is not required under the Subdivision Map Act prepared in accordance with the provisions of this title and the Subdivision Map Act designed to be recorded in the office of the County Recorder. Creation of new condominiums that are not a conversion as defined in Section 16.36.010 shall be processed as a parcel map.

SECTION 4. The Oakland Planning Code is amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type, additions are indicated by underlining, and deletions are indicated by ~~strike-out-type~~; portions of the code not cited, or not shown in underlining or strike-out type, are not changed)

Chapter 17.84 S-7 PRESERVATION COMBINING ZONE REGULATIONS

17.84.060 Postponement of demolition or removal.

If an application for approval of demolition or removal of a structure or portion thereof, pursuant to Sections 17.84.030 and 17.84.050, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. However, if demolition or removal of the structure or portion thereof has also been postponed pursuant to Section 17.102.060, the initial period of postponement under this section shall be reduced by the length of the period imposed pursuant to Section 17.102.060. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement

of the owner or through eminent domain, the affected structure or portion thereof may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said period for not more than one hundred twenty (120) additional days; provided, however, that the decision to so extend said period shall be made not earlier than ninety (90) days nor later than thirty (30) days prior to the expiration of the initial one hundred twenty (120) day period. Notice of the hearing shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. Such extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the structure or portion thereof. In the event that the applicant shall have failed to exhaust all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend said period shall be appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application. (Prior planning code § 6405)

Chapter 17.98 S-14 COMMUNITY RESTORATION DEVELOPMENT COMBINING ZONE REGULATIONS

17.98.080 Expedited residential design and bulk review procedure.

B. Pre-Application Conference for Expedited Residential Design and Bulk Review.

1. ~~Prior to application for expedited residential design and bulk review and after notice is provided as required by subsection (B)(2) of this section, the applicant or his or her representative shall may meet with the Planning Official. This conference should take place before or at an early stage in the design process. At the conference the applicant shall be provided information about expedited residential design and bulk review procedures and standards and criteria. The Planning Official may also provide the applicant with such other information to assist the applicant in obtaining approval of the submitted application. An application for expedited residential design and bulk review shall not be deemed filed until after the pre-application conference is held. The applicant shall be required to pay the prescribed notification fee.~~

2. ~~Upon request for pre-application conference, notice shall be given by mail or delivery to owners of property within three hundred (300) feet of the exterior boundary of the subject property and to any other property owner that the Planning Official deems appropriate not less than ten days prior to the date set for the pre-application conference. Notice shall identify the property proposed for development and request comments in writing concerning the proposed use for the subject property as it might affect amenities and/or environmental qualities and the consistency of the proposal with adopted guidelines, standards and criteria for expedited residential design and bulk review. Such amenities or qualities requests could include, but not be limited to, primary view planes, primary solar access to open space or wall planes, privacy preservation, relationship of space between buildings and the preservation of landscape or geological features. Any such written requests shall be considered by, but shall not be binding upon, the Planning Official in reaching a decision on an expedited residential design and bulk review application.~~

D. Procedure for Consideration.

I. Upon the filing of an application for expedited residential design and bulk review the ~~Planning Official shall notify these parties who responded in writing to the notice provided in~~

~~subsection-(B)(2)-of-this-section-~~ notice shall be given by mail or delivery to owners of property within three hundred (300) feet of the exterior boundary of the subject property not less ten days prior to the date set for decision on the application. The notice shall advise the parties of the receipt of the application and the time and place where the applicant's plans may be reviewed prior to the decision on the application by the Planning Official.

G. Revocation. The City Planning Commission may, after a public hearing, revoke any expedited residential design and bulk review approval upon a finding that a violation of any of the provisions of this section or of the zoning regulations has occurred, or upon finding a failure to comply with any prescribed conditions of approval. Notice of the hearing shall be given by posting notices thereof within ~~soventy-five-(75)~~ three hundred (300) feet of the property involved. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning property in the city within ~~seventy-five-(75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the expedited residential design and bulk review approval and notices shall be given not less than ten days prior to the date set for the hearing. The determination of the City Planning Commission shall become final ten calendar days after the date of decision. (Prior planning code § 6825)

Chapter 17.102 GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES

17.102.030 Special regulations for designated landmarks.

D. Postponement of Demolition or Removal. If an application for approval of demolition or removal of a facility, pursuant to subsections B and C of this section, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. However, if demolition or removal of the facility has also been postponed pursuant to Section 17.102.060, the initial period of postponement under this subsection D shall be reduced by the length of the period imposed pursuant to Section 17.102.060. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement of the owner or through eminent domain, the affected facility may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said period for not more than one hundred twenty (120) additional days; provided, however, that the decision to so extend said period shall be made not earlier than ninety (90) days nor later than thirty (30) days prior to the expiration of the initial one hundred twenty (120) day period. Notice of the hearing shall be given by posting notices thereof within ~~soventy-five-(75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. Such extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the facility. In the event that the applicant shall have failed to exhaust all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend said period shall be appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application.

Chapter 17.112 HOME OCCUPATION REGULATIONS

17.112.060 Revocation.

In the event of a failure to comply with these regulations, the Director of City Planning may, after holding a public hearing, revoke his or her certificate of approval of a home occupation. Notice of the hearing shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the certificate holder, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. Such revocation may be appealed pursuant to the administrative appeal procedure in Chapter 17.132. (Prior planning code § 7305)

Chapter 17.128 TELECOMMUNICATIONS REGULATIONS

17.128.080 Monopoles

A. General Development Standards for Monopoles.

4. Monopolar structure and connecting appurtenances shall not exceed eighty (80) feet in zones M-30 and M-40, C-35 through C-60, with design review and M-20 with a minor conditional use permit. Monopoles are permitted up to a height of forty-five (45) feet in all other zones with a minor conditional use permit.

Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

17.134.020 Definition of major and minor conditional use permits.

~~A. Major Conditional Use Permit. A major conditional use permit is a conditional use permit which involves any of the following purposes:~~

- ~~1. Any proposal which involves more than one acre of land area;~~
- ~~2. Any Adult Entertainment Activity, Massage Service Activity, Residential Care Activity, Service Enriched Permanent Housing Residential Activity, Transitional Housing Residential Activity, Emergency Shelter Residential Activity, Extensive Impact Civic Activity, (but including reverse vending machines and other small recycling collection centers), Convenience Market, Fast Food Restaurant, Group Assembly, Automotive Servicing, Automotive Repair and Cleaning or undertending Service Commercial Activity, Heavy Manufacturing Activity, or Mining and Quarrying Extractive Activity, except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty (20) percent;~~
- ~~3. Any Alcoholic Beverage Sales Commercial Activity, or sale of alcoholic beverages at any full service restaurant in a location described by Section 17.102.210B, except where the proposal involves only accessory parking or an addition to an existing activity which does not increase the existing floor area by more than twenty (20) percent;~~
- ~~4. The provision of mechanical or electronic games in any case where the restrictions of Section 17.102.210C apply, except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing operation~~

~~which does not increase the existing floor area devoted to such games by more than twenty (20) percent;~~

~~5. Any pawnbroding, poolroom, or secondhand merchandise activity which is located in the C 55 zone, except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty (20) percent;~~

~~6. Except in the S 11 aone, an increase in the number of living units on a lot to a total of two in the R 10, R 20, R 30, or R 35 zone; three or more in the R 26 or R 10 aone; or seven or more in die R 50, R 60, R 70, R 80, or R 90 zone;~~

~~7 Any Commercial or Manufacturing Activity, or portion thereof, which is located in any residential zone and occupies more than one thousand five hundred (1,500) square feet of floor area, except where the proposal involves only the resumption of a discontinued nonconforming activity;~~

~~8. An activity or off street parking or loading area which is located at ground level within twenty (20) feet of a street line or street facade of a building in the S 8 zone, or an activity or off-street parking located at ground level in the C 5, C 27, C 28, C 31, or S 9 zone, except where the proposal involves only the resumption of a discontinued nonconforming activity;~~

~~9. Any demolition of a facility containing, or intended to contain, rooming units or any conversion of a living unit from its present or last previous use by a Permanent Residential Activity, a Semi-Transient Residential Activity, or a Transient Habitation Commercial Activity to its use by a nonresidential activity other than Transit Habitation Commercial in any nonresidential zone;~~

~~10. Any development which is located in the R 80, R 90, C 51, C 55, S 2, or S 15 aone and involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height;~~

~~11. Any General Food Sales Commercial Activity located in the C 27, C 31, S 8 or S 9 zone;~~

~~12. Off Street Parking Facilities in the C 40, C 51, C 52 and S 2 zones serving fifty (50) or more vehicles;~~

~~13. Any pedestrian bridge constructed over a street;~~

~~14. Any conditionally permitted activity in the C 5 zone;~~

~~16. Allowed projections above the thirty (30) foot height limit in the C 5 zone;~~

~~16. Transient Habitation Commercial Activities in the C 40 and C 45 zones;~~

~~17. Any proposal which involves construction of a shared access facility serving three or more lots;~~

~~18. Drive Through Facilities;~~

~~19. Any proposal which involves the creation of a dwelling unit with five or more bedrooms pursuant to the provisions of Section 17.102.300;~~

~~20. Any Custom or Light Manufacturing Activity or portion thereof, which is located in M-20 light industrial zone, when such activity is within one hundred fifty (150) feet of any residential zone;~~

~~21. Any Health Care Civic Activity of three thousand five hundred (3,500) square foot or more of total floor area;~~

~~22. Any Micro, Mini, Macro, or Monopole Telecommunication Facilities in the following instances:~~

~~a. Micro when located on a building that is solely residential under forty (40) feet in height;~~

~~b. Mini when located on a building that is solely residential under forty (40) foot in height;~~

~~c. Macro when located in any residential or special zone;~~

~~d. Monopole Telecommunication Facility when located in the C-5, C-10, C-30, C-25, C-27, C-28, C-31, any residential or special zones.~~

~~22. Any Small Solid Transfer and Storage or Industrial Transfer/Storage Hazardous Waste Management Activity in the M-20, M-30, and M-40 zones;~~

~~24. Any project in the Open Space Zone listed as requiring a major conditional use permit in Sections 7.11.050 and 17.11.070 of this Planning Code;~~

~~25. Any project listed as requiring a major conditional use permit in Sections 17.11.050 and 17.11.070 of this Planning Code;~~

~~26. Any electroplating activity as defined in Section 17.09.040, subject to the provisions of Section 17.102.310.~~

~~27. Any secondary dwelling unit pursuant to the provisions of Section 17.102.360.~~

A. Major Conditional Use Permit. A major conditional use permit is one that involves any of the following:

1. Thresholds. Any project that meets any of the following size thresholds:

a. The actual project site (including only portions of the lot actually affected by the project) exceeds one acre.

b. Nonresidential except in the R-80, R-90, C-51, C-55, S-2, or S-15 zones. Projects involving twenty-five thousand (25,000) square feet or more of floor area.

c. Residential, except in the S-11 zone. Projects requiring a conditional use permit resulting in a total number of dwelling units as follows:

- i. two or more in the R-10, R-20, R-30, or R-35 zone;
 - ii. three or more in the R-36 or R-40 zone;
 - iii. seven or more in the R-50, R-60, R-70, R-80, or R-90 zone.
(In the S-11 zone, see Section 17.142.030.)
 - d. Large Scale Developments. Any development which is located in the R-80, R-90, C-51, C-55, S-2, or S-15 zone and involves more than one hundred thousand (100,000) square feet of new floor area, or a new building, or portion thereof, of more than one hundred twenty (120) feet in height;
2. Uses. Any project that involves any of the following activity or facility types except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty (20) percent:
- a. Activities:
 - Residential Care Residential
 - Service Enriched Housing Residential
 - Transitional Housing Residential
 - Emergency Shelter Residential
 - Extensive Impact Civic
 - Convenience Market Commercial
 - Fast-Food Restaurant Commercial
 - Alcoholic Beverage Sales Commercial or sale of alcoholic beverages at any full-service restaurant in a location described by Section 17.102.210B
 - Heavy Manufacturing
 - Small Scale Transfer and Storage Hazardous Waste Management
 - Industrial Transfer/Storage Hazardous Waste Management
 - Mining and Quarrying Extractive
 - b. Facilities:
 - One Family Dwelling with Secondary Unit
 - Drive-Through
 - Advertising Sign
3. Special Situations. Any project that involves any of the following situations:
- a. Any project that requires development of an Environmental Impact Report.
 - b. Any Commercial or Manufacturing Activity, or portion thereof, which is located in any residential zone and occupies more than one thousand five hundred (1,500) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;
 - c. Off Street Parking Facilities in the C-40, C-51, C-52 and S-2 zones serving fifty (50) or more vehicles;
 - d. Transient Habitation Commercial Activities in the C-40 and C-45 zones;
 - e. Monopole Telecommunication Facilities in, or within 300 feet of the boundary of any residential zone;
 - f. Any project in the OS Zone listed as requiring a major conditional use pennit in Chapter 17.11;
 - g. Continuation of an illegal use that existed in a facility in the S-14 Zone prior to the Oakland Hills fire;

h. Any electroplating activity as defined in Section 17.09.040, subject to the provisions of Section 17.102.340;

i. Any application referred by the Director of City Planning to the City Planning Commission for decision pursuant to Section 17.134.040(B)(1).

17.134.040 Procedures for consideration.

A. Major Conditional Use Permits.

1. ~~h~~ All Zones Except the S-11 Zone and as Provided in Subsection (A)(3) of this Section. An application for a major conditional use permit shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet ~~(five hundred (500) feet for Telecommunications projects)~~ of the property involved in the application; ~~a substantially enlarged notice shall also be posted on the premises of the subject property.~~ Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet ~~(five hundred (500) feet for Telecommunications projects)~~ of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing. The Commission shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. In the S-11 Zone. The procedure for consideration of major conditional use permits in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.

~~3. In the S-14 Zone. Facilities which included an illegal use prior to the Oaidand Hills fire and for which such use is sought to be continued. An application for a major conditional use permit shall be considered by the Planning Official. Notice of the application shall be given by mail or delivery to all owners of property within seventy-five (75) feet of the property involved. All such notices shall be given not less than five days prior to the date of decision on the application by the Planning Official. The Planning Official shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes or impose such reasonable conditions of approval as are in the Planning Official's judgment necessary to ensure conformity to said criteria. The Planning Official shall render a decision on the application. The determination of the Planning Official shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.134.060B. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.~~

~~4. In the S-44 Zone. Facilities which include a use not in existence prior to the Oaidand Hills fire and for which major conditional use approval is required. Applications shall be considered pursuant to subsection (A)(1) of this section.~~

~~3.5. Alcoholic Beverage Sales Activities in Alcoholic Beverage Sales License Overconcentrated Areas. In addition to following the provisions of subsection (A)(1) of this~~

section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Section 17.102.210(B)(3).

~~4.6.~~ In the OS Zone. Applications for conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

B. Minor Conditional Use Permits.

1. In All Zones Except the S-11, S-13 and S-14 Zones. An application for a minor conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall be processed as a major conditional use permit pursuant to Subsection (A) of this section. At his or her discretion, notice may be given and a public an administrative hearing may be held. ~~If notice that such an application has been filed for the Director's review and action is to be given, it-~~ Notice shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet ~~(three hundred (300) feet for Telecommunications projects)~~ of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within ~~seventy-five (75)~~ three hundred (300) feet ~~(three hundred (300) feet for Telecommunications projects)~~ of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgement necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. In the S-11 Zone. The procedure for consideration of minor conditional use permits in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.

~~3. In the S-13 Zone. The procedure for consideration of minor conditional use permits in the S-13 zone shall be as set forth in subsection (B)(1) of this section, except that: (a) notices shall be posted within three hundred (300) feet of the property involved in the application; and (b) notices shall be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved.~~

~~4. In the S-14 Zone. An application for a minor conditional use permit shall be considered by the Planning Official. Notice of the application shall be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within seventy-five (75) feet of the property involved. All such notices shall be given not less than five days prior to the date set for the hearing, if such is to be held, or, if not, for decision of the application by the Planning Official. The Planning Official shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria and may grant or deny the application for the conditional use~~

~~permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgement necessary to ensure conformity to said criteria. The Planning Official shall render a decision on the application within twenty (20) days after the filing of a complete application. The determination of the Planning Official shall become final immediately.~~

~~3.5.~~ In the OS Zone. Applications for conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

17.134.090 Revocation.

In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the City Planning Commission may, after holding a public hearing, revoke any conditional use permit. Notice of the hearing shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the permit holder, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Prior planning code § 9208)

Chapter 17.135 SPECIAL USE PERMIT REVIEW PROCEDURES FOR THE OS ZONE

17.135.030 Procedure for consideration.

No change in use or improvement, as defined in Section 17.09.050, shall occur on land designated OS unless the following process has been followed:

A. Pre-development Neighborhood Meeting. At the discretion of the Director of Parks, Recreation, and Cultural Affairs, a neighborhood meeting may be convened in the vicinity of the park or open space land affected by the proposed change in use or improvement. If such a meeting is held, it shall be noticed via posting on the premises of the park or open space land and on utility poles within ~~seventy-five (75)~~ three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood organizations and individuals who have expressed an interest in the subject park or project area.

C. Public Hearing. A public hearing shall be required for any change in use or improvement and shall be conducted and heard by the City Planning Commission and/or the Parks and Recreation Advisory Commission, as provided by subdivisions 1 and 2 of this subsection.

1. Major Conditional Use Permits.

a. An application for a major conditional use permit, as required by Sections 17.11.060 and 17.11.090, shall be considered first by the Parks and Recreation Advisory Commission (PRAC) and second by the City Planning Commission. Each commission shall conduct a public hearing on the application. Notice of the PRAC hearing shall follow the procedure outlined at Section 17.135.030(C)(2). Notice of the City Planning Commission hearing shall be given by posting notices within three hundred (300) feet of the property involved in the application; a substantially enlarged notice shall also be posted on the premises of the subject property. Notice of each hearing shall also be given by mail or delivery to all

persons owning real property in the city of Oakland within three hundred (300) feet of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing. Notice shall also be provided to those community or neighborhood groups included in the Planning Department data base that are within the service area radius of the impacted park. Additional outreach shall be provided through press releases and other notification as warranted by the size and location of the project.

b. The PRAC shall schedule its public hearing within forty-five (45) days after receiving the application for consideration. The PRAC shall make a recommendation to the Planning Commission at the conclusion of the hearing. In the event the PRAC has not acted on the application within forty-five (45) days, the project shall automatically be forwarded to the City Planning Commission.

c. The City Planning Commission shall determine whether the proposal conforms to the use permit criteria set forth in Section 17.11.110 and to other applicable criteria, and shall make a recommendation to grant or deny the application, or recommend such changes or impose such conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final within ten calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.134.070.

2. Minor Conditional Use Permits.

a. An application for a minor conditional use permit, as required by Sections 17.11.060 and 17.11.090, shall be considered by the Parks and Recreation Advisory Commission prior to a final decision by the Director of City Planning. The Parks and Recreation Advisory Commission shall hold a noticed public hearing on the application and shall make a recommendation to grant or deny the application, or recommend such changes or conditions of approval as are in its judgment necessary. Notice of the public hearing shall be provided by posting on the premises of the park or open space land and on utility poles within ~~seventy-five (75)~~ three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood organizations and individuals who have expressed an interest in the subject park or project area.

Chapter 17.136 DESIGN REVIEW PROCEDURE

17.136.060 Procedures for consideration- Regular design review.

A. Proposals in General Design Review Zones and Miscellaneous Cases—Decisions Ultimately Appealable to City Council. (This procedure shall apply if regular design review is required under any provision of the zoning regulations other than, or in addition to, Section 17.22.030, 17.24.030, 17.26.030, 17.28.030, 17.30.030, 17.32.030, 17.40.030, 17.50.030, 17.52.020, 17.54.030, 17.56.030, 17.58.020, 17.60.030, 17.62.020, or 17.76.030.) An application for regular design review shall be considered by the Director of City Planning. ~~However,~~ The Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. However, if the project requires development of an Environmental Impact Report, or involves 25,000 square feet of floor area and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for decision rather than acting on it himself or herself. At his or her discretion, notice may be given and a public an administrative hearing may be held. ~~If notice that such an application has been filed for the Director's review and action is to be given, it-~~ Notice shall be given by posting notices thereof within ~~seventy-five (75)-~~ three hundred (300) feet (three hundred (300)-feet-in-the R-36 zone) of the property involved in the application; notice shall also be given by mail or

delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within ~~soventy five (75) three hundred (300) feet (three-hundred (300)-feet-in the-R-36-a-one)~~ of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director or the Commission, as the case may be.

The Director or the Commission may seek the advice of outside design professionals. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her or its judgement necessary to ensure conformity to said criteria.

A determination by the Director shall be come final ten days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.136.100. In those cases, which are referred to the Commission by the Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event that the last day of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

B. Proposals Requiring Regular Design Review Only Because of Creation of Five or More Units—Decision (This procedure shall apply if regular design review is required under any provision of the zoning regulations other than, or in addition to, Section 17.22.030, 17.24.030, 17.26.030, 17.28.030, 17.30.030, 17.32.030, 17.40.030, 17.46.030, 17.50.030, 17.52.020, 17.54.030, 17.56.030, 17.58.020, 17.60.030, 17.62.020, or 17.76.030.) An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. However, if the project requires development of an Environmental Impact Report or involves 25,000 square feet of floor area or twenty five (25) or more dwelling units and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director shall refer the application to the Commission for decision rather than acting on it himself or herself. If the Director refers the application to the Commission for decision, it shall be processed pursuant to Subsection (A) of this Section. At his or her discretion, notice ~~may be given and a public~~ an administrative hearing may be held. ~~If notice that such an application has been filed for the Director's review and action is to be given, it~~ Notice shall be given by posting notices thereof within ~~seventy five (75) three hundred (300) feet (three-hundred (300)-feet-for-Telecommunications-projects)~~ three hundred (300) feet ~~(three-hundred (300)-feet-for-Telecommunications-projects)~~ of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within ~~seventy five (75) three hundred (300) feet (three-hundred (300)-feet-for-Telecommunications-projects)~~ three hundred (300) feet ~~(three-hundred (300)-feet-for-Telecommunications-projects)~~ of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director.

17.136.110 Revocation.

In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the City Planning Commission may, after holding a public hearing, revoke any design review approval. Notice of the hearing shall be given by posting notices thereof within ~~seventy five (75) three hundred (300) feet~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the design review approval, to all parties who have commented on the initial

application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Ord. 11816 § 2 (part), 1995; prior planning code § 9310)

Chapter 17.138 DEVELOPMENT AGREEMENT PROCEDURES

17.138.090 Periodic review and revocation.

A. **Periodic Review.** Each development agreement shall be reviewed at least once every twelve (12) months, and the review period shall be specified in the agreement. Application for periodic review shall be made on a form prescribed by the City Planning Department and shall be filed with such department. The application shall be accompanied by the fee prescribed in the fee schedule in Chapter 17.150. Failure to file for such review within the time limits specified in the agreement shall render the agreement null and void. The applicant or successor in interest shall be required to demonstrate good faith compliance with the terms of the agreement. If the Director of City Planning finds that such compliance has been deficient, he or she shall forward this finding and his or her recommendation to the City Council, for consideration in accordance with subsection B of this section.

B. **Revocation.** At any time the Council may, at a public hearing, consider whether there are grounds for revocation of any development agreement. Notice of the hearing shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the development agreement, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. At the hearing, the applicant or successor in interest shall be required to demonstrate good faith compliance with the terms of the agreement. If as a result of such review, the Council finds and determines, on the basis of substantial evidence, that the applicant or successor thereto has not complied in good faith with the terms or conditions of the agreement, the Council may revoke or modify the agreement in whole or in part. (Prior planning code § 9358)

Chapter 17.140 PLANNED UNIT DEVELOPMENT PROCEDURE

17.140.120 Revocation.

In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the City Planning Commission may, after holding a public hearing, revoke a planned unit development permit. Notice of the hearing shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the permit holder, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in

accordance with Section 17.140.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Prior planning code § 9411)

Chapter 17.142 SITE DEVELOPMENT AND DESIGN REVIEW PROCEDURE

17.142.030 Procedure for consideration.

A. Applications Involving One or Two Dwelling Units on a Single Parcel. An application for site development and design review involving one or two dwelling units on a single parcel shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission rather than acting on it himself or herself. If development of an Environmental Impact Report is required the Director shall refer the application to the City Planning Commission for decision. At his or her discretion, notice may be given and a public an administrative hearing may be held. ~~If notice that such an application has been filed for the Director's review and action is to be given, it~~ Notice shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. If a public hearing is to be held, a written notice shall be given by registered mail to an officer of each homeowner's association that has registered on a mailing list maintained by the Director. Such registration shall be effective for one calendar year. It is the responsibility of each association to maintain a current name and address for such notification. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director or the Commission, as the case may be.

17.142.080 Revocation.

In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed conditions of approval, the City Planning Commission may, after holding a public hearing, revoke any site development and design review approval. Notice of the hearing shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the site development and design review approval, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.142.060. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Prior planning code § 9459)

Chapter 17.148 VARIANCE PROCEDURE

17.148.020 Definition of major and minor variances.

A. Major Variance. A "major variance" is a variance which involves any of the following provisions:

1. Allowable activity types or facility types;

~~2. Performance standards;~~

~~2. 3. Maximum number of living units;~~

~~3. 4. Minimum lot area, except in the situation mentioned in Section 17.106.010B;~~

~~4. 5. Maximum floor-area ratio;~~

~~5. 6. Maximum size of Commercial or Manufacturing establishments;~~

~~7. Required off-street parking where the proposed waiver or reduction totals ten or more parking spaces, or where the proposed waiver or reduction totals one or more spaces in the S-12 zone;~~

~~8. Projections above view plane in S-10 zone situations as mentioned in Section 17.90.070.~~

6.9. Restriction on overconcentration of Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities as set forth in Section 17.102.212B.

7. Any application that requires development of an Environmental Impact Report.

8. Any application referred by the Director of City Planning to the City Planning Commission for decision pursuant to Section 17.148.040(B)(1).

17.148.040 Procedure for consideration.

A. Major Variances.

1. In All Zones Except the S-11 and S-14 Zone. An application for a major variance shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application; ~~a substantially enlarged notice shall also be posted on the premises of the subject property.~~ Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing. The Commission shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to promote the purposes of the zoning regulations. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. In the S-11 Zone. The procedure for consideration of major variances in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.

3. Alcoholic Beverage Sales Commercial Activities. In addition to following the provisions of subsection (A)(1) of this section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Section 17.102.210(B)(3).

B. **Minor Variances.**

1. In All Zones Except the S-11 and ~~S-14~~ zones. An application for a minor variance shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission rather than acting on it himself or herself At his or her discretion, ~~notice may be given and a public~~ an administrative hearing may be held. ~~If notice that such an application has been filed for the Director's review and action is to be given, it-~~ Notice shall be given by posting notices thereof within ~~seventy-five (75)~~ three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within ~~seventy-five (75)~~ three hundred (300) feet of the property involved. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny the application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgement necessary to promote the purposes of the zoning regulations. The determination of the Director of City Planning shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.148.060. In those cases which are referred to the Commission by the Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

2. In the S-11 Zone. The procedure for consideration of minor variances in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.

3. In the S-14 Zone. An application for a variance shall be considered by the Planning Official. Notice of the application shall be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within seventy-five (75) feet of the property involved. All such notices shall be given not less than five days prior to the date set for the hearing, if such is to be held, or, if not, for decision of the application by the Planning Official. The Planning Official shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny the application a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgement necessary to promote the purposes of the zoning regulations. The Planning Official shall render a decision on the application within twenty (20) working days after the filing of a complete application. The determination of the Planning Official shall become final immediately.

17.148.060 Appeal to Planning Commission—Minor variances.

~~In All Zones Except the S-14 Zone-~~ Within ten calendar days after the date of a decision by the Director of City Planning on an application for a minor variance, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party.

SECTION 5. Except as specifically set forth herein, this Ordinance suspends and supercedes all conflicting resolution, ordinances, plans, codes, laws, and regulations.

SECTION 6. This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to permits already issued

or to applications approved by the City Planning Commission for which permits have not been issued.

SECTION 7. If any provisions of this Ordinance or application thereof to any person of circumstances is held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

SECTION 8. This Ordinance shall be reviewed by the City Planning Commission one year from the date of its adoption.

Introduced 4/18/00

IN COUNCIL, OAKLAND, CALIFORNIA, MAY - 2 2000, 2000

PASSED BY THE FOLLOWING VOTE:

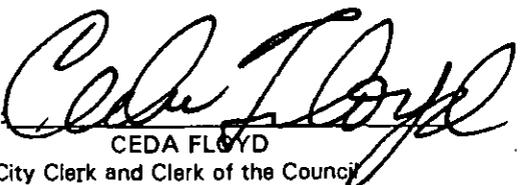
AYES- BRUNNER, CHANG, MILEY, NADEL, REID, RUSSO, SPEES AND
PRESIDENT DE LA FUENTE - 8

NOES- *None*

ABSENT- *None*

ABSTENTION- *None*

ATTEST


CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Hlee
City Attorney

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION DENYING THE APPEALS A12-146 & A12-148, THUS UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF CASE NUMBERS CMDV09-107, TPM-09889, ER09-0006 AND CERTIFICATION OF THE EIR FOR THE COLLEGE AVENUE SAFEWAY PROJECT LOCATED AT 6310 COLLEGE AVENUE

WHEREAS, the project applicant, Ken Lowney of Lowney Architects, filed an application on behalf of Safeway Stores Inc. on May 6, 2009, to demolish the approximately 25,000 square foot grocery store, parking lot, and auto service station and construct a two-story approximately 62,000 square foot commercial building that would contain a Safeway supermarket of approximately 51,500 square feet, approximately 10,500 square feet of ground floor commercial spaces, and a partially subterranean parking garage and upper level parking structure for 171 off-street parking stalls; and

WHEREAS, a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) was issued on October 30, 2009 and a scoping session was held before the Planning Commission on November 18, 2009 ; and

WHEREAS, a Draft Environmental Impact Report (DEIR) was prepared and a Notice of Availability was issued on July 1, 2011 beginning a comment period that ended on August 16, 2011 ; and

WHEREAS, the DEIR was duly noticed for the Planning Commission hearing of July 20, 2011 to receive public comment, and continued to a later date August 3, 2011 to receive further public comment; and

WHEREAS, a Notice of Release and Availability along with the Response to Comments Document (which together with the DEIR make up the Final EIR (FEIR)) was published on July 6, 2012. The Response to Comments Document included written responses to all comments received during the public review period on the DEIR and at the public hearings on the DEIR held by the Planning Commission ; and

WHEREAS, the project was duly noticed for the Planning Commission hearing of July 25, 2012; and

WHEREAS, the City Planning Commission took testimony and considered the project at its duly noticed public hearing of July 25, 2012. At the conclusion of the public hearing, the Commission deliberated the matter and voted (5-0-0) to approve the Project adopting the CEQA findings including certification of the EIR, rejection of alternatives as infeasible and a Statement of Overriding Considerations; and

WHEREAS, on August 6, 2012, the appellant, Joel Rubenzahl representing Berkleyans for Pedestrian Oriented Development (BPOD), filed an appeal of the Planning Commission decision to the City Council; and

WHEREAS, on August 6, 2012, the appellant, Stuart Flashman representing Rockridge Community Planning Council (RCPC), filed an appeal of the Planning Commission decision to the City Council; and

WHEREAS, after giving due notice to the Appellants, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on October 16, 2012; and

WHEREAS, the Appellants, 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 October 16, 2012; now, therefore be it

RESOLVED: The City Council, having independently heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Applications, EIR, the decisions of the Planning Commission, and the Appeals, hereby finds and determines that the Appellants have not shown, by reliance on evidence in the record, that the Planning Commission decision was made in error, that there was an abuse of discretion by the Planning Commission, and/or that the Planning Commission decision was not supported by sufficient, substantial evidence in the record. This decision is based, in part, on the October 16, 2012, City Council Agenda Report, the July 25, 2012, Planning Commission staff report, and the EIR, which are hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeals are denied, the Planning Commission decision to adopt the above-referenced CEQA findings and approve the Project are upheld, and the Project and the applications therefore are approved; and be it

FURTHER RESOLVED: That, in further support of the City Council's decision to deny the Appeals and approve the Project, the City Council affirms and adopts as its own findings and determinations (i) the October 16, 2012, City Council Agenda Report, including without limitation the discussion, findings, conclusions, specified conditions of approval (including the Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCAMMRP")) (each of which is hereby separately and independently adopted by this Council in full); and (ii) the July 25, 2012, Planning Commission staff report, including without limitation the discussion, findings, conclusions, conditions of approval and SCAMMRP (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: 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 Determination with the appropriate agencies; and be it

FURTHER RESOLVED: The record before this Council relating to this Resolution includes, without limitation, the following:

1. the Applications, including all accompanying maps and papers;
2. all plans submitted by the Applicant and its representatives;
3. all staff reports, decision letters, and other documentation and information produced by or on behalf of the City, including without limitation the EIR and supporting technical studies, all related and/or supporting materials, and all notices relating to the Applications and attendant hearings;
4. all oral and written evidence received by City staff, the Planning Commission, and the City Council before and during the public hearings on the Applications;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) the Oakland Municipal Code; (c) the 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: 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 (a) the Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, California; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

LEGAL NOTICE: This action of the City Council is final and is not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision was announced, unless a different date applies.