

<b>Location:</b>	176 11 <sup>th</sup> Street, 198 11 <sup>th</sup> Street, 1100 Jackson Street (see map on the reverse)
<b>Assessors Parcel Number:</b>	(APN: 002 -0081-002-00, 002 -0081-007-00; and 002 -0081-008-00)
<b>Proposal:</b>	Demolition of two commercial building and one office building and construction of a 22-story, mixed-use building containing 291 units, 3,660 sq. ft. of ground floor commercial, and 369 parking stalls.
<b>Applicant:</b>	Tom Peterson / (510) 444-7191
<b>Owners:</b>	Lakeshore Partners, LLC
<b>Planning Permits Required:</b>	Major Conditional Use Permit for a large-scale development over 100,000 square feet of new floor area or more than one hundred twenty (120) feet in height; Interim Major Conditional Use Permit for FAR that exceeds zoning but consistent with the General Plan; Minor Conditional Use Permit for General Retail Sales; Minor Variances for the front and corner side yard setback, courtyard width, driveway dimensions, and dimension of parking space against a wall or other obstruction; Design Review.
<b>General Plan:</b>	Central Business District
<b>Zoning:</b>	S-2 Civic Center Zone S-4 Design Review Combining Zone S-17 Downtown Residential Open Space Combining Zone
<b>Environmental Determination:</b>	Infill Exemption; CEQA Guidelines Section 15332
<b>Historic Status:</b>	The structure at 1110 Jackson Street is a Potentially Designated Historic Property (PDHP); Survey rating: C3. The project abuts 2 buildings in the R. J. Pavert Apartment Historic District. The building at 168 11th Street is a Designated Historical Property (DHP) with a survey rating of rating of B+a3. The structures at 150 11th Street and 1151 Madison Street are PDHP's with ratings of Dc2+ and C2+. The project is diagonally across 12th Street from the Main Post Office and Custom House Building. This building is a City Landmark with the Oakland Cultural Heritage Survey (OCHS). It is rated A3 and is a DHP of the highest importance. It is also listed on the National Register of Historical Places.
<b>Service Delivery District:</b>	Downtown Metro
<b>City Council District:</b>	2
<b>Date Filed:</b>	September 22, 2005
<b>Staff Recommendation:</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For further information:</b>	Contact case planner <b>Heather Klein</b> at <b>510 238-3659</b> or by e-mail at <b>hklein@oaklandnet.com</b> .

**SUMMARY**

Lakeshore Partners has submitted an application to demolish two commercial building and one office building and construct a 291-unit residential high-rise with 3,660 sq. ft. of ground floor commercial. The .66 acre project site is located at the western edge of the Channel District neighborhood and specifically on the corner of 11<sup>th</sup> Street, 12<sup>th</sup> Street, and Jackson Street. The architectural style of the building is modern. This style will be in distinct contrast to the adjacent Jackson Center I, recently approved Jackson Center II, the Oakland Post Office, and other civic buildings in the area. The project is also distinct in terms of mass, bulk, and scale.

**(Contains map showing the project site and general vicinity)**

The project requires a Major Conditional Use Permit for a large-scale development over 100,000 square feet of new floor area or more than one hundred twenty (120) feet in height; an Interim Major Conditional Use

Permit for FAR that exceeds zoning but consistent with the General Plan; and a Minor Conditional Use Permit for General Retail Sales. The project also requires Minor Variances for the front and corner side yard setback, courtyard width, driveway dimensions, and dimension of parking space against a wall or other obstruction; Furthermore, design review is required for the project. Additional discussion of these issues is provided later in the ZONING COMPLIANCE and DESIGN ISSUES sections of this report.

Overall, staff believes that the project will be a positive contribution to this neighborhood and recommends approval of the project subject to the findings and conditions. The required variances are justified given the constraints of this site and the nature of the project.

## **SITE DESCRIPTION**

### Existing Conditions

The project site is bounded by 11<sup>th</sup> Street, 12<sup>th</sup> Street, and Jackson Street. A 1-story office building and two 2-story commercial buildings containing a grocery store and retail establishments are located on the project site. The structure at 1110 Jackson Street is a PDHP with a survey rating of C3. The project also abuts 2 buildings in the R. J. Pavert Apartment Historic District. The building at 168 11th Street is a DHP. It is rated B+a3 and is of major importance. The structures at 150 11th Street and 1151 Madison Street are PDHP's with ratings of Dc2+. The project is diagonally across 12th Street from the Main Post Office and Custom House Building. This building is a City Landmark with the Oakland Cultural Heritage Survey (OCHS). It is rated A3 and is a DHP of the highest importance. It is also listed on the National Register of Historical Places.

### Surrounding Area

The proposed project site is .66 acres and is located along the western edge of the Channel District. Diagonally to the north is the Main Post Office and Custom House Building. To the northeast, across 12<sup>th</sup> Street, is a County parking garage. Diagonally to the west is Lincoln School. A recently approved 6-story residential building and 2-story residential structures are located to the south and southwest. Directly adjacent to the site, to the east, are apartment buildings, Family Bridges Inc, and the Wells Fargo Plaza office building.

## **PROJECT DESCRIPTION**

The project proposes the construction of a 22-story, mixed-use, high-rise (222' tall) building. Plans show the project built to the property line for the first 7 levels, except a 2' setback is provided along the interior side setback. At the 8<sup>th</sup> story a 12' setback is proposed from the corner of 12<sup>th</sup> and Jackson Streets and on the 11<sup>th</sup> Street elevation adjacent to the Family Bridges building. Additional "notches" are shown at the interior corners for open space.

The building construction type will be concrete and is modern in architectural style. The intent of the design is to articulate the building and provide interest through the use of separate masses that break up the overall bulk of the building.

The base is delineated by three sub-massings. First, a 3-story pre-cast concrete element begins in the middle of the structure along 11<sup>th</sup> Street and wraps all the way around the building to mid-building on 12<sup>th</sup> Street. This element contains the storefront retail, the flex units and the loading entrance on the ground floor. Metal screen panels on the 2<sup>nd</sup> level and decorative metal work at the 3<sup>rd</sup> level punctuate this pre-cast element and screen the parking garage. Second, the entrance element rises up from the ground level all the way to the roof and is delineated by the porte-cochere awning and metal screen, limestone with punched openings to the garage; and a column of balconies above. Third, the rest of the base is delineated through the use of metal louvers.

A large pre-cast concrete element dominates the middle portion of the building on both the 11<sup>th</sup> and Jackson Street façades. This element extends down to the base and is further broken down by a large horizontal expanse of 2-story windows. The pre-cast element is also broken up vertically by a double row of balconies. At the corner, a vertical element of metal panels and windows wrap around at both the 11<sup>th</sup> and 12<sup>th</sup> Street corners. The 12<sup>th</sup> Street and interior side property line facades are blank walls of cement plaster with reveals and small recessed windows.

The top is highlighted by floor to ceiling windows, large metal fins/trusses, and an angled roof with a metal soffit.

The ground floor plan shows a porte-cochere; the main residential entrance/lobby; 5 residential flex spaces; 3 retail spaces totaling 3,660 sq. ft.; and the garage and loading entrance. The porte-cochere is a roofed structure covering the driveway at the entrance of a building to provide shelter while entering or leaving a vehicle. The residential units are accessed up several steps and into a recessed niche. The applicant is proposing 3 retail spaces with 15' clear ceilings. These spaces will provide 138 linear sq. ft. of store front retail at the corner of 11<sup>th</sup> and Jackson Streets. Floors 2-6 (and the basement level) show 369 parking stalls in a mechanically ventilated parking garage. The 7th floor is the beginning of the residential stories. The condominiums are a combination of one and two bedroom units.

Open space is provided through a 2,090 sq. ft. landscaped courtyard on residential level 7 and a 3,528 sq. ft. roof deck. Additional open space totaling (16,260 sq. ft.) is provided through private balconies located on the exterior and interior facades. Plans also show proposed street trees.

Attachment A provides the site plan, floor plans, and building elevations for the project, along with supplementary plans and details.

## GENERAL PLAN ANALYSIS

### Land Use and Transportation Element

The General Plan designation for the project site is Central Business District (CBD). The maximum residential density provided in the CBD category is 300 dwelling units per gross acre or 500 dwelling units per net acre. The .66 acre project site could support a maximum of 329 units. The 291-unit project on the site is under the maximum allowable density by 38 units. The .66 acre project site has a maximum Floor Area Ratio (FAR) of 20.0 while the project is only proposing a commercial FAR of .12.

The General Plan states the *intent* of the CBD designation is to “encourage, support, and enhance the downtown area as a high density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment, and transportation in northern California.” The General Plan states that the *desired character* of future development in the area should include “a mix of large-scale offices, commercial, urban (high-rise) residential, institutional, open space, cultural, educational, arts, entertainment, service, community facilities, and visitor uses.”

The following General Plan Land Use and Transportation Policies and Objectives apply to the proposed project:

Policy D1.8: The area between the Channel Park Arts, Educational, and Cultural Center and the waterfront should be developed as a walk-able urban residential district incorporating commercial development and open space as appropriate to take advantage of the cultural and recreational amenities provided by the center and the channel to the estuary, and east transportation by BART. **The proposed project adds much needed housing Downtown that will strengthen the identity of the neighborhood and takes advantage of the many cultural and recreational opportunities in the immediate area.**

Furthermore, the ground floor plans show a large commercial space on 11<sup>th</sup> Street as well as street trees that will provide an active street front thereby creating strong linkages from the Downtown core to Lake Merritt. The residential spaces along Jackson with small recessed stoops contribute to a walk-able urban district.

Policy D10.1 Housing in the downtown should be encouraged as a vital component of a 24-hour community presence. **The General Plan envisions fairly high density in this area which would help achieve a twenty-four hour presence in the Downtown and enhance a sense of community. The proposed project will add 291 new residential units to Oakland's housing stock in the Channel District.**

Policy D10.2: Housing in the downtown, should be encouraged in identifiable districts, within walking distance of the 12<sup>th</sup> Street, 19<sup>th</sup> Street, City Center, and Lake Merritt BART stations to encourage transit use, and in other locations where compatible with surrounding uses. **Adding housing units near BART stations, and throughout the City, is a key goal of the General Plan. The project is proposing 291 residential units at the western edge of the Channel District. The project site is located within walking distance (2 blocks) from the Lake Merritt Bart station. In addition to the BART, the site can be readily served by 12 AC Transit bus routes including the 15, 40, 40L, 43, 59, 59A, 82, 82L, and 88.**

Policy D10.5: Housing in the downtown should be safe and attractive, of high quality design, and respect the downtown's distinct neighborhoods and history. **The proposed project is designed with high quality materials including pre-cast concrete panels; decorative metal work, grilles, and screens; metal and glass balconies; and residential stoops. The project also includes extensive streetscape improvements.**

**As far as respecting the district neighborhood and history, the surrounding area does not exhibit a distinct architectural style. There are large civic buildings such as Lincoln School, the County Assessor's Building, the round County parking garage, the Oakland Museum, and Laney College built during the 60's-70's. In addition, there are small Queen Ann residences and new multi-unit construction. The proposed structure will be woven into a downtown urban fabric that includes these structures listed above as well as new development that will occur on many of the surrounding surface parking lots.**

Policy D11.1: Mixed-use developments should be encouraged in the downtown for such purposes as to promote its diverse character, provide for needed goods and services, support local art and culture, and give incentive to reuse existing vacant or underutilized structures. **The project proposes 3,660 sq. ft. of ground floor retail. This space will encourage a more active street front and will contribute to a walk-able pedestrian environment and encourage linkages between Downtown and Lake Merritt. The inclusion of housing strengthens the neighborhood cohesion and identity and is within walking distance to Lake Merritt, the Oakland Museum, and Laney College.**

The proposed project meets the referenced objectives, the general intent of the CBD land use designation, and is a good fit for this area.

The current zoning potentially conflicts with the CBD land use designation, in that, the S-2 zone does not permit a maximum FAR equal to the General Plan. In these situations, pursuant to the *Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations* (as amended Dec. 2001), the General Plan governs, and the higher FAR is permitted with an Interim Major Conditional Use Permit. (Section 17.01.100.B)

Historic Preservation Element

There are no existing historical resources on the project site, and the site is not located within a historic district. There is, however, a potentially designated historic property located at 1110 Jackson Street. The project is proposing the demolition of this PDHP with an Oakland Cultural Heritage Survey (OCHS) of C3 [C, Secondary Importance; 3, not in an Area of Primary Importance (API) or Area of Secondary Importance (ASI)]. This one-story commercial building was built in 1941 by Ray Keefer. The demolition of this building is not considered to be a significant impact for CEQA purposes (See Historic Analysis, Attachment B). Staff has included findings required per Policy 3.5 for the demolition of this structure in the Findings section and a condition of approval per Policy 3.7 later in the report.

There are other historic or potentially designated historic properties in the immediate vicinity of the project site. The project abuts 2 buildings in the R. J. Pavert Apartment Historic District. The building at 168 11th Street is a Designated Historical Property (DHP) with a survey rating of rating of B+a3. The structures at 150 11th Street and 1151 Madison Street are PDHP's with ratings of Dc2+ and C2+. The project is diagonally across 12th Street from the Main Post Office and Custom House Building. This building is a City Landmark with the Oakland Cultural Heritage Survey (OCHS). It is rated A3 and is a DHP of the highest importance. It is also listed on the National Register of Historical Places. However, the project is not proposing to demolish these structures or materially damage them so that they would be ineligible for the Register of Historic Places.

**ZONING COMPLIANCE**

Density

The project site is zoned S-2 Civic Center Commercial. The maximum residential density is set forth in the R-80 regulations pursuant to Section 17.106.030, which states that “for mixed use projects in the CBD, the allowable intensity of development may be measured according to the maximum FAR allowed by the zone without a separate residential density calculation, provided that the maximum number of units pursuant to the residential density allowed by the General Plan is not exceeded.” Staff did not compute a separate residential density calculation due to the project being under the General Plan density by 38 units. According to the S-2 zone the maximum FAR is 3.85. Staff has calculated an FAR of 13.14 for the proposed project. The project exceeds the maximum allowed FAR for this zone by 9.29. As stated above in the GENERAL PLAN ANALYSIS, the 291 units and 3,600 square feet of commercial are permitted with approval of an Interim Major Conditional Use Permit.

Overlay Zones

The S-4 Design Review Combining Zone and the S-17 Downtown Residential Open Space Combining Zone are additional zoning designations overlaid on the site. The S-4 is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities. In the S-4 zone no building, other than a new Secondary Unit shall be constructed unless plans for such proposal have been approved pursuant to the design review procedure. The S-17 zone allows for a reduced open space requirement of 75 sq. ft. per unit.

The following table depicts the project's comparison to the S-2 development standards:

**Zoning Regulation Comparison Table**

<b>Criteria</b>	<b>Requirement S-2</b>	<b>Proposed</b>	<b>Comment</b>
Yard – Front*	10'	0'	Does not meet the S-2 requirements. A Variance is required.

Yard – Side Yard Corner Lot Line		10'	0'*	Does not meet the S-2 requirements. A Variance is required.
Height		No maximum	222' to the roof	Meets the S-2 requirements.
Usable Group Open Space		75 sq. ft. / unit = 21,825 sq. ft.**	16,260 sq. ft. of private open space and 5,618 sq. ft. of group open space = 21,878 sq. ft.	Meets the S-17 overlay of 75 sq. ft. of open space / unit requirement.
Parking	Commercial	19 spaces	19 spaces	Meets the S-2 requirements.
	Residential	1 space / unit = 291 spaces	350 spaces	Meets the S-2 requirements.
FAR		3.85****	13.14	Does not meet the S-2 requirements. Permitted with approval of an Interim Major Conditional Use Permit.

*Table Notes:*

\* According to the definition of a front yard, the project site is a thorough lot which has 2 front yards and therefore no rear yard.

\*\*The S-17 overlay zoning requirement of 75 sq. ft. of open space per unit supercedes the underlying S-2 zoning requirement.

\*\*\*The maximum permitted floor-area ratio is 3.50, except that this ratio may be exceeded by ten percent on any corner lot.

The criteria for review and approval of this facility at this location includes the following: The General Use Permit Criteria in Section 17.134.050, the criteria for Variances in Section 17.148.050 apply, the Design Review Criteria in Section 17.136.070 (including the additional design review criteria for higher residential density projects), and the findings per Policy 3.5 of the Historic Preservation Element. All applicable criteria are analyzed and appropriate findings are made in the *FINDINGS* Section of this report.

**ENVIRONMENTAL DETERMINATION**

Based on the size and location of the project site, as well as the findings of the traffic report, historic analysis, shade and shadow study, and wind study, staff has concluded that the project is able to satisfy the in-fill exemption under the California Environmental Quality Act (CEQA), Section 15332. The categorical exemption criterion follows with a brief summary of staff’s analysis in bold print:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; **As demonstrated in the General Plan Analysis section of this report, the application is consistent with all applicable General Plan policies and the Central Business District designation. The Zoning Analysis and Required Findings sections demonstrate that,**

**with approval of the CUP's and Variances, the project is consistent with the Zoning Ordinance.**

- b) **The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; The project site encompasses approximately .66 acres. The site is located within downtown Oakland and is currently occupied by 3 structures and a parking lot. The project is substantially surrounded by commercial, civic, and residential urban uses.**
- c) **The project site has no value as habitat for endangered, rare or threatened species; The project site contains no known endangered, rare, or threatened species and is currently occupied by existing structures and a parking lot.**
- d) **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; A traffic report was completed specifically for this project and submitted on November 28, 2005 (See Attachment C). Traffic impacts from the project were reviewed at several intersections within proximity to the project site. The project is anticipated to generate approximately 948 new net daily trips, 58 AM peak hour trips and 87 PM peak hour trips. Level of Service (LOS) was calculated for 6 intersections. The report's findings indicate that all intersections would operate at a LOS B or better even in the cumulative 2010 and 2025 conditions.**

**The trips associated with the project would generate far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District (BAAQMD) considers the normal minimum traffic volume that should require a detailed air quality analysis. There may, however, be minimal localized temporary impacts to air quality during demolition and construction, as well as temporary noise impacts. The applicant is required to comply with all applicable City regulation and operation procedures as part of the issuance of building or grading permits, including standard dust control measures. Standard and uniformly applied construction noise conditions of approval have been imposed for this project. Further, the proposed residential units would be required to comply with California Code of Regulations Title 24 noise insulation standards. These measures have been incorporated into the conditions of approval. Recommended conditions (Nos. 12-21) specify the required construction period management procedures.**

- e) **The site can be adequately served by all required utilities and public services. The project site is located in a highly urbanized area within downtown Oakland. The site is occupied by two existing structures that are currently served by utility and public services.**

**Staff has also concluded that the project would not cause a cumulative impact. The project, with an articulated façade, building setbacks, and planned landscaping along the street frontages including at least 11 street trees would not result in a hazardous wind condition (Study available at the Planning and Zoning Office). The traffic report's findings indicate that all intersections would operate at a LOS B or better even in the cumulative 2010 and 2025 conditions. The historical report completed for the project (Attachment B) determined that the PDHP located at 1110 Jackson Street was not a historic resource per CEQA and that the project would not result in a substantial adverse change to a historic resource.**

**KEY ISSUES**

The proposal seeks to develop a high-density, mixed-use project. Staff believes that the overall site plan and height are appropriate to the area. Although the architectural character is different from the surrounding buildings, the structure will be woven into a downtown urban fabric that includes urban residential development, historic properties, civic buildings, and 60's utilitarian commercial buildings. The project, if executed with high quality materials and construction could create a signature property for the Channel District. Staff believes that the overall site plan, height, and architectural character are appropriate to the area.

Variances

- *Front and Corner Side Yard Setbacks:* Section 17.76.170 states that a front and corner side setback of 10' shall be provided for all residential facilities and the applicant is proposing a 0' setback. Staff believes the intent of this regulation was to provide landscaping in front of civic buildings that are generally located in this area. The units, retail, and the porte-cochere element are well articulated to provide a visually rich and varied ground floor and façade treatment. The ground floor including multiple unit and retail entries will create activity at the street level and a pedestrian friendly environment, which is a goal of the General Plan. Accordingly, staff would support a request for a variance from the setback requirements.
- *Minimum Court between opposite walls:* When there are living room windows on the same lot facing each other on opposite walls, the zoning regulations require the minimum width of internal courts to equal one foot of width for each foot of height. The proposed courtyard is 67' in length and 33' in width. This is 17' narrower than the zoning requirement per Section 17.108.120. A courtyard is necessary to achieve adequate open space per unit, even though private balconies and roof gardens are proposed. Staff believes that a variance can be supported given the General Plan goal of high density in this areas in relation to the physical constraints and context of the site, since the project site has an irregular L-shape. Strict compliance with the minimum court regulation would result in a loss of 16 units if the project retained the current plan configuration. Staff believes the court is wide enough to protect unit privacy and provide necessary emergency response to the units.
- *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width:* Section 17.116.200 states that when a parking space abuts a wall or other similar obstruction, the stall width shall be increased by 3'. Section 17.116.210 states that where parking is at a ninety degree angle a maneuvering aisle of 24' is required. Staff believes that the findings can be met for the variance based on the following rationale: Strict compliance would preclude an effective design solution that fulfills the basic intent of the Planning Code's regulations, and maximizes the number of off-street spaces available for the project. Staff has already recommended a parking management plan that includes a requirement that the Covenants, Conditions and Restrictions (CC&Rs) for the units stipulate residents' awareness that many parking spaces are deficient in additional width. Further, these parking spaces will be used consistently by the same group of people on a daily basis, thus creating familiarity with how to maneuver in and out of the spaces.

Design Issues

Staff presented the project before the Design Review Committee (DRC) on October 26, 2005. Staff had several concerns including additional parking spaces for the residents exceeding the zoning requirements, the overall scale, bulk, and massing of the building, and the pedestrian treatment along the ground level.

At the DRC meeting, staff was concerned that the building was “over parked” considering the adjacency of BART and several AC Transit lines. Staff stated that we would be amenable to locating that additional floor below grade. The applicant agreed with the Committee and revised the plans to include a basement level of parking with 58 parking stalls. In addition, the applicant revised the floor plans to include an extra level of housing on the floor previously occupied by parking. This did not increase the height of the building, but did increase the number of units from 275 to 291. This change also reduced the ratio of parking spaces to units from 1.32 spaces per unit to 1.25 spaces per unit which is more in keeping with the City’s Transit First Policies.

Staff was also concerned with overall scale, bulk, and mass of the building. Staff also stated that there was not clearly defined base, middle, and top portions. The relocation of 1 floor of parking underground helped to solve these issues. The base is now more defined with the removal of another material and massing element. In addition, the applicant also reduced the large pre-cast element on the 11<sup>th</sup> Street façade by increasing the vertical element of metal panels and windows that wraps around the corner. Furthermore, the applicant included a “notch” in the building adjacent to the Family Bridges building. This “notch” helped to acknowledge the smaller historic structure and emphasized the entrance element of the project. Although the changes to the façade are subtle, staff believes that the building’s mass and bulk are clearly articulated and broken down in scale. Staff also believes that the design changes are appropriate to architectural intent of the building and will be successful in this location.

The applicant presented staff with detailed drawings for the pedestrian level. Staff believes that the recessed residential entries, the stoops, the retail spaces, and the porte-cochere will be unique additional to the pedestrian and residential experience.

Staff was also concerned with the blank facades adjacent to the smaller existing buildings that occupy the rest of the block. The applicant has included small windows on these facades and staff will continue to work with the applicant on these elevations through the inclusion of additional windows, color, material, and thick reveals.

#### Community Concerns

A number of concerns have been identified concerning pedestrian safety and construction impacts by adjacent neighbors and Lincoln School. These concerns have been conveyed to the City by both the project sponsor and by Councilmember Kernighan’s office. Given the increase in intensity on this site and adjacent neighbors, particularly the Family Bridges Community Services building at 168 11<sup>th</sup> Street, serving seniors and the Lincoln School, the project sponsor has offered to directly involve the community in the review of the construction management plan (COA’s # 12, 13 and 14.) In addition, staff recommends that the final design for the driveway, building access and loading provisions be completed prior to the issuance of a building permit to minimize pedestrian conflicts (COA #29).

A concern has also been raised about the desire for a traffic signal and other traffic improvements at the corner of 11<sup>th</sup> and Alice, due to the pedestrian-traffic conflicts associated with students crossing the street to Lincoln School. The Traffic Engineering Division is currently reviewing this concept. A condition of approval has been incorporated to require the project sponsor to pay a fair share, based on the number of units, for a future traffic improvement program should this be approved. There are other residential projects in the vicinity that are in planning that could also contribute to these improvements. As part of this approval, the specific amount has been established at \$50,000.

#### **CONCLUSION**

The proposal seeks to develop a high-density, mixed-use project in the Channel Park neighborhood. The project will be woven into a downtown urban fabric that includes civic, residential, and commercial

buildings. As stated above, staff anticipates a change in the area with the redevelopment of many of the area's surface parking lots. The project meets the primary goal of providing new housing units and an active ground floor in the Downtown. The proposal will enhance the area, strengthen neighborhood identity, and will be a major addition to this neighborhood. Furthermore, the project is clearly in conformance with the General Plan goals and policies. The conditional use permit and variances for the front and corner side yard setback, courtyard width, driveway dimensions, and dimension of parking space against a wall or other obstruction are warranted and are not anticipated to create adverse impacts, pursuant to the attached Findings and Conditions of Approval.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination for Infill Exemption.
2. Approve the Interim Major Conditional Use Permit, Minor Conditional Use Permit, Minor Variances and Design Review, subject to the Conditions of Approval based on the attached findings.

Prepared by:

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Heather Klein  
Planner II, Major Projects

Approved for forwarding to the  
City Planning Commission:

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Gary Patton  
Major Projects Manager

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Claudia Cappio  
Development Director

**ATTACHMENTS:**

- A. Plans and Elevations
- B. Historic Architectural Evaluation; Preservation Architecture; dated November 22, 2005
- C. Traffic Study; Dowling Associates; dated November 23, 2005
- D. TPM Conditions of Approval: Letter from Jon Ewigleben, Engineering Services, dated November 30, 2005 and Philip Basada, Fire Services, dated November 18, 2005

**FINDINGS FOR APPROVAL**

This proposal meets the required findings under Section 17.134.050 (General Use Permit Findings); Section 17.76.110 (Use Permit Findings for Civic Center Zone); Section 17.148.050 (Variances findings); Section 17.136.070.A (Residential Design Review findings, including the additional design review criteria for higher residential density projects), and the findings per Policy 3.5 of the Historic Preservation Element, as set forth below. Required findings are shown in bold type below and are also contained within other sections of this report and the administrative record; explanations as to why these findings can be made are in normal type.

**Section 17.134.050 (Interim Major Conditional Use Permit Criteria)**

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

*a) Major Conditional Use Permit for a large-scale development over 100,000 square feet of new floor area or more than one hundred twenty (120) feet in height:*

*b) Interim Major Conditional Use Permit for FAR that exceeds zoning but consistent with the General Plan:*

a-b): An Major Conditional Use Permit is requested for a large-scale development over 100,000 sq. ft. of new floor area or more than 120 feet in height. The project is also requesting an Interim Conditional Use Permit for a maximum FAR that exceeds the zoning regulations but is consistent with the General Plan. Although the project is proposing 379,950 sq. ft. of floor area, the General Plan designation of Central Business District encourages urban high-rise residential and high densities and intensities of development. The project at 13.14 FAR is well under that allowed by the CBD (20 FAR). The proposed project will not adversely affect the livability or appropriate development of abutting properties, nor will the proposed project negatively affect the neighborhood character. On the contrary, there is no identifiable character, architectural style, or scale in the area. The structures in the immediate vicinity included civic center activities, parking garages, historic resources, and mid to high-rise residential buildings. The project's design will enhance and promote the unique character of the Channel District neighborhood and the addition of new residents will support the Chinatown and Downtown economy. Furthermore, the landscape improvements, the retail, and the residential stoops will enhance the streetscape and reestablish the important connection from Lake Merritt to Downtown. The traffic analysis concluded the project will not have a significant impact upon surrounding intersections and will maintain the current level of service.

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

*a) Major Conditional Use Permit for a large-scale development over 100,000 square feet of new floor area or more than one hundred twenty (120) feet in height:*

***Findings***

b) *Interim Major Conditional Use Permit for FAR that exceeds zoning but consistent with the General Plan:*

a-b): The location of the proposed project at the edge of Channel District, adjacent to the Civic Center, Laney College, the Oakland Museum, and the Public Library, will promote and enhance the area and revitalize this linkage from the water to downtown. The design and use of high quality materials compliment the unique character and will be an attractive addition to the neighborhood. The site plan, with ground floor commercial along 11<sup>th</sup> Street and residential stoops along Jackson Street, will contribute to a successful streetscape. Future residents will have convenient access to shopping, entertainment, public transportation, and civic institutions.

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

a) *Major Conditional Use Permit for a large-scale development over 100,000 square feet of new floor area or more than one hundred twenty (120) feet in height:*

b) *Interim Major Conditional Use Permit for FAR that exceeds zoning but consistent with the General Plan:*

a-b): The proposed development will provide an essential service to the community by continuing ground floor retail along the already established and successful streetscape. The construction of new residential units will also support the Oakland Chinatown, Civic Center, and Downtown economy. The proposed streetscape and landscape improvements will revitalize this corner and re-establish the connection from Lake Merritt to Downtown.

**D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

a-b): The proposed project conforms to all applicable design review criteria including the residential design review findings as outlined later in this section.

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

a-b): The proposed project conforms in all significant respects with the "Central Business District" General Plan land use designation. The project will support the objectives and policies of the Land Use and Transportation Element (LUTE) for this area including encouraging the construction of housing units to provide a 24-hour community presence (Policy D10.1); encouraging mixed-use developments in the Downtown in identifiable district near transit (Policy D1.8, D10.2, and D11.1); and construction with high quality design and materials (Policy D10.5).

In addition, the project meets the objectives and policies of the Historic Preservation Element which acknowledge that it would be unrealistic to believe that lands adjacent to historic structures will remain vacant or unchanged. A city like Oakland will continue to grow and change primarily through redevelopment of existing buildings and underused parcels. The General Plan policies and objectives encourage such actions. New construction adjacent to a historic building or district, in and of itself, is not an impact to the historical resource. Rather, design attention and

major revisions have been completed to assure that the characteristics and qualities of historic properties will not be materially altered. Further policies and conditions outline the findings if PDHP's are to be demolished (1110 Jackson Street). Staff has made the appropriate findings and included property relocation per Policy 3.7 as a condition of approval.

**Section 17.76.110 Use Permit Criteria for Commercial Activities**

- 1. That the proposed activity is intended primarily to serve the civic center area in which it is located or the employees and patrons of the center.**

The applicant has not signed a lease with any commercial tenant for the ground floor retail spaces. However, given the small size of the spaces, it is assumed that any commercial activity would be neighborhood serving including the surrounding civic center employees and residences in the area.

- 2. That the proposed activity will not attract vehicular traffic which will create or aggravate traffic congestion or interfere with the movement of traffic generated by permitted activities.**

A traffic study was completed for this project. The traffic study concluded that given the small size of the commercial spaces, it is highly unlikely that the spaces will be destination serving commercial. The traffic study also showed that the project, including the commercial spaces would not have a significant impact on traffic congestion or the Level of Service at key intersections. The proposed building will have parking spaces available to the commercial patrons consistent with the Zoning Ordinance.

- 3. That the proposed activity is accommodated or served by facilities of such size, design, and location as will tend to keep the activity subordinate in impact and function to permitted activities within the civic center zone.**

As stated above the proposed retail spaces are small in size and are unlikely to be destination serving commercial spaces. This in and of itself will keep the commercial activity subordinate to existing civic activities in the S-2 Zone.

**Section 17.148.050(A) 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.**

- Front and Corner Side Setback:* Pursuant to Section 17.76.170, a front and corner side setback of 10' is required to be unobstructed. The project is built directly to the property lines along these edges. Strict compliance would preclude livability efficiency, and appearance of the building. It would also require the removal of units, parking, and retail spaces. Replacement of these activities would cause the building to be higher, and more bulky, Staff believes that a variance can be supported since having residential stops and retail built directly to the property line would encourage an active streetscape which is a key goal of the General Plan in Downtown.
- Minimum Court Dimension:* When there are living room windows on the same lot facing each other on opposite walls, the zoning regulations require the minimum width of internal courts to equal one foot of width for each one foot in height. The proposed courtyard has a depth of 33'. This is 17' narrower than the zoning requirement. Strict compliance with this regulation would require a loss of 16 units, that the

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units surrounding the courtyard become significantly smaller, or the addition of another residential level. These options would preclude an effective design solution and operational efficiency for the building. Staff believes that the court is wide enough to protect unit privacy and that a variance can be supported given the General Plan goal of high density in the area in relation to the physical constraints and context of the site.

- c) *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width:* Section 17.116.200 states that when a parking space abuts a wall or other similar obstruction, the stall width shall be increased by 3'. The variance related to the width of standard sized parking spaces adjacent to walls or other obstructions is requested in order to maintain the maximum number of parking spaces within the limited confines of the parking structure, and restricted by the necessary ramps and column and sheer wall placement. Strict compliance would preclude an effective design solution that improves livability for the residents, operational efficiency and appearance, and that balances the City's desired density for this site (pursuant to the General Plan policies and housing goals outlined earlier in this report) without increasing the size of the parking area. Strict compliance would also reduce the total number of off-street parking spaces. Further, these spaces will be consistently used by residents who are familiar with how to maneuver in and out of the garage. No conflicts with doors opening or vehicles entering or exiting the spaces should occur because of the positioning of the columns toward the rear of the spaces. Staff has proposed a condition of approval requiring a parking management plan, which should alleviate any potential parking space conflicts (Condition No. 24).

**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.**

- a) *Front and Corner Side Setbacks:* Staff believes that the intent of the setback regulation was to provide for landscaping and large congregation areas that one would normally see in front of civic institutions. If the project were to comply with the setback requirement, residential units, parking spaces, and retail would need to be removed. Replacement of the square footage would increase the height and appearance of the building. This would also result in an inefficient site plan. Strict compliance would preclude an effective design solution and would be inconsistent with the General Plan goals of creating an active street front in Downtown. Having residential stoops and retail built directly to the property line would ensure an active streetscape and the success of those spaces.
- b) *Minimum Courtyard Dimension:* As stated above, strict compliance with this regulation would require the loss of 16 units or that the units surrounding the courtyard become significantly smaller. The addition of another residential level to replace the lost units or square footage would preclude an effective design solution and functionality for the building. Staff believes the court is wide enough to protect unit privacy and provide adequate access for fire personnel in an emergency. The additional width is not needed to meet the open space requirement since private balconies, rooftop gardens, and streetscape improvements are also proposed.
- c) *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width:* Strict compliance with the additional width of parking spaces adjacent to walls or columns would preclude the project's effective design solution that fulfills the basic intent of the Planning Code's regulations. It would require the parking garage to be larger to maintain the same number of parking spaces or reduce the total number of spaces. Pursuant to proposed Condition No. 24, with proper parking assignment and management, the lack of additional width should not have detrimental effects.

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.**
- a) *Front and Corner Side Setbacks:* The request for the elimination of the 10' front and side yard setbacks will not affect the character, livability, or development of the adjacent parcels. These setbacks would generally apply to civic buildings with the need for landscaping and large areas at the entrance similar to that found adjacent to the Post Office Building. Since this is a mixed-use building, what are encouraged are active and pedestrian oriented street fronts. The building meets this goal by providing retail spaces along 11<sup>th</sup> Street and residential stoops. This approach will ensure the success of the retail components and provide linkages between Lake Merritt and the Downtown.
- b) *Minimum Courtyard Dimensions:* The variance for the minimum courtyard dimension will not affect the livability, character, or appropriate development of adjacent parcels, since this is an internal issue to the project. The lack of 19' in width will not compromise unit privacy and will provide adequate access for fire personnel in an emergency. Furthermore, there is adequate open space within the project, including private patios, private balconies, and a roof garden.
- c) *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width:* The variance for the width of parking spaces adjacent to walls or similar obstructions will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area. The variance will result in minor effects to the internal operations of the garage and will not be detrimental to the public welfare. Granting of the variance will ensure that the design of the project is compatible with the scale and architectural character of the area and is consistent with plans and development policies for the area. If the variance is not granted and the project remained at its current size, the project would need to provide fewer parking spaces or additional space for parking, likely raising the height of the building or eliminating commercial/office space on the ground floor along the street.
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.**
- a-c) The project meets the intent of the zoning regulations by supporting appropriate development that will enhance and benefit the surrounding neighborhood, while meeting the goals of the General Plan. The variances can be supported and meet the general intent of the zoning regulations. The ground floor elevations retail and residential stops are well articulated and will provide for a successful and active street front. This is a goal of the General Plan and these spaces would not be successful with strict compliance to the setback requirements. Furthermore, staff believes that the setback requirements are intended for civic and not residential or retail buildings. The minimum court regulation will not adversely affect the resident's open space since the project is over the zoning requirement with private patios and balconies. The implementation of a parking management plan to mitigate the deficiency in parking space dimensions and maneuvering aisle dimensions and well designed.

**Section 17.136.070A (Residential Facilities Design Review Findings)**

- 1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;**

As stated above in the report, the project site is located in an area with no identifiable architectural context. The surrounding buildings include historic structures, 60's utilitarian buildings, civic buildings, a parking garage, as well as several new mid-rises. The applicant is proposing a building with high quality materials including pre-cast concrete panels, metal grilles, screens, canopies, louvers, large expanses of glass, and deeply recessed windows. The project is urban or modern in design and uses distinct massing elements to reduce the overall scale and bulk of the building. Although the project is larger than many buildings in the area, the project is under the allowable density and facilitates the construction of housing, which is a major goal of the General Plan.

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

As stated above, the area has many different architectural styles and no real identifiable characteristics. Staff anticipates a dramatic change in the area as many of the surface parking lots in the areas are redeveloped. The proposed project will enhance the neighborhood by affectively utilizing a Downtown site for a well-designed mixed-use building. The project will help to provide a 24-hour presence in the area near transit and will constructed of high quality materials. Furthermore, the project will strengthen the identity of the neighborhood and takes advantage of the many cultural and recreational opportunities in the immediate area. The ground floor plans show a large commercial space on 11<sup>th</sup> Street as well as street trees that will provide an active street front thereby creating strong linkages from the Downtown core to Lake Merritt. The residential spaces along Jackson Street with small recessed stoops contribute to a walkable urban district.

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

The proposed project site is flat and is currently occupied by 2 small commercial buildings, 1 office building, and a surface parking lot. The site contains no notable landscaping. Therefore, the project will have no affect on the existing topography or landscape.

- 4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;**

See response #3

- 5. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by City Council.**

The proposed project is consistent with the General Plan land use designation for the site, with Conditional Use Permit, and Variance findings, and with the Design Review Criteria as discussed in more detail throughout the report.

**Additional Criterion for Higher Residential Density Projects:**

**That the proposal will provide for its residents sufficient sunlight, privacy, and quiet, and in general, a convenient, attractive, and functional living environment, with consideration given to site planning, building and room orientation, circulation, and similar relevant factors.**

The proposed project provides sufficient sunlight, privacy, and quiet for the residents. The plans show adequate usable open space with a large landscaped courtyard, private balconies, private patios, and a roof garden. The units are oriented along a double loaded corridor each with a view to the outside for adequate light. The site planning with the amount of commercial/ retail space is appropriate for the location and will provide an attractive and functional living environment. Furthermore, the residents will be near many cultural amenities including Lake Merritt, Laney College, the Oakland Museum, and the Public Library.

**Policy 3.5 of the Historic Preservation Element (Alterations to Historic Resources findings)**

**Policy 3.5 of the Historic Preservation Element states that for additions or alterations to Potential Designated Historic Properties (PDHPs) requiring discretionary City permits, the City will make a finding that:**

- 1. the design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; or**
- 2. the proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or**
- 3. the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.**

The project is proposing the demolition of a Potentially Designated Historic Property at 1110 Jackson Street. The building was constructed in the moderne style by Ray Keefer in 1941 as the neighborhood grocery store. This property has a rating by the Oakland Cultural Heritage Survey (OCHS) of C3 [C, Secondary Importance; 3, not in an Area of Primary Importance (API) or Area of Secondary Importance (ASI)]. The demolition of this building is not considered to be a significant impact for CEQA purposes pursuant to the Historical Analysis (Attachment B). The demolition of the building meets Policy 3.5 finding number 3. The building does not meet the criteria for individual listing on the National Register of Historic Places because of: its low rating; the absence of a relationship to an Area of Primary Importance; and lack sufficient design distinction and historical associations. It is not located within a historic district; nor is it listed as a City of Oakland landmark. Furthermore, the building can never be rehabilitated to achieve a higher rating. The surrounding area is a mix of small commercial buildings, potential historic properties, high-rise buildings, surface parking lots, and recently approved projects. There is no identifiable neighborhood character or style. However, the proposed project will be woven into a downtown fabric that includes civic, residential, and commercial buildings. Furthermore, the project is appropriate to the area and meets many goals of the General Plan.

**16.24.040 Lot Design Standards**

**Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:**

**A No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:**

- 1. Lots created in conjunction with approved private access easements;**
- 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

The parcel has street frontages along 11<sup>th</sup>, 12<sup>th</sup>, and Jackson Streets.

**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 side lot lines of the proposed parcel run at right angles to the street on which they front.

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

The proposed parcel conforms to the zoning regulations of the S-2 (Civic Center Zone) and S-17 (Downtown Residential Open Space Combining Zone) subject to the Variances that were granted as part of the overall project approval (Case File Number CMDV05-487).

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

1. Where the area is still considered acreage;
2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.

The proposed parcel will be subdivided for condominium purposes. The Parcel Map merges parcels and is greater in measure than the surrounding parcels.

**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.**

An existing structure is currently located on a portion of the project site, while the remaining portion is devoid of vegetation and other natural features.

**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.**

The proposed lot merger and subsequent condominium subdivision is consistent with the Central Business District General Plan Land Use Designation.

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

The proposed lot merger and subsequent condominium subdivision is consistent with the Central Business District General Plan Land Use Designation and the Planning approval.

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

The site is flat, in an urban area, and future development can be easily accommodated.

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

The location and orientation of the parcel is physically suitable for the proposed development

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considering that the site is flat and devoid of natural features. The proposed parcel creates an adequate and appropriate density of development.

**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.**

The subject property is located in an urban area and is surrounded by developed commercial and mixed use properties.

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

The merger of the parcels and the condominium subdivision are not expected to cause serious public health problems. In addition, the proposed development would be served by public water and sewer service, and would therefore not require the use of on-site sewage disposal or domestic water well.

**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.)**

No such easements exist on the subject property.

**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 subdivision of the lot for condominium purposes does not exclude the possibility of for future passive or natural heating or cooling opportunities.

## CONDITIONS OF APPROVAL

### GENERAL STANDARD CONDITIONS

#### 1. **Approved Use.**

##### *a. Ongoing.*

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans dated **November 21, 2005** and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

#### 2. **Effective Date, Expiration, and Extensions**

##### *a. Ongoing.*

This permit shall become effective upon satisfactory compliance with these conditions. **This permit shall expire on December 7, 2007** unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

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

##### *a. Ongoing.*

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval by the City Planning Commission.

#### 4. **Modification of Conditions or Revocation**

##### *a. Ongoing.*

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

#### 5. **Recording of Conditions of Approval**

##### *a. Prior to issuance of building permit or commencement of activity.*

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

#### 6. **Reproduction of Conditions on Building Plans**

##### *a. Prior to issuance of building permit.*

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

#### 7. **Indemnification**

##### *a. Ongoing.*

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**8. Waste Reduction and Recycling**

**a. *Prior to issuance of a building or demolition permit.***

Prior to issuance of any building permits including the grading and/or demolition permit the project applicant will submit a demolition/construction waste diversion plan and operational waste reduction plan for review and approval by the Public Works Agency. The plan will specify the methods by which the development will make a good faith effort to divert 50% of the demolition/construction waste generated by the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. The operational diversion plan will specify the methods by which the development will make a good faith effort to divert 50% of the solid waste generated by operation of the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7283 for information.

**9. Litter Control**

**a. *Prior to issuance of building permit***

A litter control plan that ensures that the premises and surrounding area are kept free of litter shall be submitted to and approved by the Zoning Administrator prior to application for a building permit. The plan shall include, but not be limited to:

- Distribution of proposed locations of litter receptacles on site and in the public right of way. The design and location of litter receptacles shall be consistent and coordinated with the City's street furniture program.
- A management schedule for keeping the premises and surrounding area free from litter originating from the operation of the commercial activities; and
- Daily sweeping and trash collection of the premises, the public sidewalk and the gutter area of the public street immediately adjacent to the project.

**10. Electrical Facilities**

**a. *Prior to installation.***

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

**11. Improvements in the Public Right-of-Way**

**a. *Prior to issuance of building permit for work in the public right-of-way***

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with Conditions of Approval 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 locations of facilities required by the East Bay Municipal Utility District (EBMUD), 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.

The applicant shall submit public improvement plans that that comply City specifications. Review and confirmation of the street trees by the City's Parks and Recreation Division is required as part of this condition.

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 certificate of occupancy.

### **STANDARD CONDITIONS FOR CONSTRUCTION PERIOD MANAGEMENT**

#### **12. Construction Hours for Major Projects.**

##### ***a. During all construction activities.***

The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Department. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, and then only within the interior of the building with the doors and windows closed without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays.

#### **13. Construction Period Parking, Traffic, and Pedestrian Access**

##### ***a. Prior to issuance of a demolition or building permit***

The project sponsor and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management and pedestrian access strategies to reduce traffic congestion and the effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction.

The project sponsor shall submit a construction management and staging plan to the Building Services Division with the application for the first building permit for the project for review and approval. The plan shall include at least the following items and requirements:

- 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. In addition, the information shall include a construction-staging plan for any right-of-way.
- Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.

- Notification procedures for adjacent property owners and public safety personnel (about 48 hours) regarding when major deliveries, detours and lane closures will occur.
- Provision for accommodation of pedestrian flow.
- Location of construction staging areas.
- Provisions for monitoring surface streets used for haul routes so that any damage to the street paving and debris attributable to the haul trucks can be identified and corrected.
- A temporary construction fence to contain debris and material and to secure the site.
- Provisions for removal of trash generated by project construction activity. The applicant shall ensure that debris and garbage is collected and removed from the site daily.
- At least one copy of the approved above referenced plans that include the Approval Letter and the Conditions of approval for this project shall be available for review at the job at all times.
- All work shall apply the “Best Management Practices” (BMPs) for the construction industry, including BMPs for dust, erosion, and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.
- Dust control measures as set forth in Condition 14, below.
- Noise control measures as set forth in Condition No. 16, below.
- A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. The Planning and Zoning Division shall be informed who the Manager is prior to the issuance of the grading permit.
- Such a plan shall be submitted for review and comment to the Family Bridges Center and owner interested neighbors, to the extent feasible, shall include participation by the Center in the development of the plan. The plan should strive to minimize the use of 11<sup>th</sup> Street by construction vehicles and to reduce the loss of on-street parking during all stages of construction.

**14. Dust Control Measures.**

***a. During all construction activities.***

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall include:

- Watering all active construction areas at least twice daily, or as required to control dust;
- Water or cover stockpiles of debris, soils, sand, or other material that can be blown by the wind;
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved roads, parking areas, and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites,

- Sweeping adjacent public rights of way (preferably with water sweepers) and streets daily if visible soil material or debris is carried onto these areas.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

**15. Grading, Erosion and Drainage Plan.**

***a. Prior to issuance of grading permit and during construction.***

The applicant shall submit for review and approval by the Building Services Division a Site Grading, Drainage, and Erosion Control plan in conformance with City standards and “Best Management Practices” (BMP) for use during construction.

- The plan shall indicate the methods, means, and design to conduct site run-off, attenuate storm drainage flow, and minimize sedimentation and erosion during and after construction activity (utilizing a combination of permeable surfaces, subsurface-drainage, silt debris barriers, drainage retention systems, and/or filtration swale landscaping). All graded slopes or disturbed areas shall be temporarily protected from erosion by implementing seeding, mulching and/or erosion control blankets/mats until permanent erosion control measures are in place. No grading shall occur without a valid grading permit issued by the Building Services Division or within the period of October 15 through April 15 unless specifically authorized in writing by the Building Services Division. The plan will be in effect for a period of time sufficient to stabilize the construction site throughout all phases of project development. Furthermore, storm drainage facilities shall be designed to meet applicable regulations.
- In order to minimize potential water quality impacts to surface runoff during construction, the proposed project will require standard erosion control measures as part of the project prior to issuance of grading or building permits. The applicant will be required to prepare a construction period erosion control plan and submit the plan to the Building Services Division for approval prior to issuance of a grading or building permit. The plan will be in effect for a period of time sufficient to stabilize the construction site for all phases of the project. These standard measures will address construction period erosion on the site by wind or water.
- Construction operations, especially grading operations, shall be confined as much as possible to the dry season in order to avoid erosion of disturbed soils.
- Final project landscaping plan shall be submitted to the Planning Department for review and approval.

**16. Construction Related Noise Control.**

***a. During all construction activities.***

To reduce daytime noise impacts due to construction, to the maximum feasible extent, the City shall require the applicant to develop a site-specific noise reduction program, subject to city review and approval, which includes the following measures:

- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
- Designate an on-site complaint and enforcement manager shall be posted to respond to and track complaints.
- Hold a preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- 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).
- 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 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, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

**17. Pile Driving and other Extreme Noise Generators**

***a. During all construction activities.***

- To further mitigate other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation is achieved. A third-party peer review, paid for by the applicant, shall be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the applicant. A community meeting shall be held after the peer review but prior to approval of a noise reduction plan by the City. A special inspection deposit shall be determined by the Building Official, and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:
  - Erect temporary plywood noise barriers around the construction site, to shield adjacent uses;
  - 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;
  - Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
  - Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.

- A process with the following components shall be established for responding to and tracking complaints pertaining to pile-driving construction noise:
- A procedure for notifying City Building Division staff and Oakland Police Department;
- A list of telephone numbers (during regular construction hours and off-hours);
- A plan for posting signs on-site pertaining to complaint procedures and who to notify in the event of a problem;
- Designation of a construction complaint manager for the project; and
- Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities.

**18. Site Maintenance.**

***a. During all construction activities.***

The applicant shall ensure that debris and garbage is collected and removed from the site daily.

**19. Cultural Resources found during Site Work and Construction.**

***a. Prior to issuance of any grading permits and throughout construction.***

In accordance with the California Environmental Quality Act (CEQA) Section 15064.5, if the applicant discover any previously unidentified cultural resources during any onsite or offsite construction phase of the proposed project, the project applicant is required to cease work in the immediate area until such time as a qualified archaeologist and the City of Oakland can assess the significance of the find and make mitigation recommendations, if warranted. To achieve this goal, the contractor shall instruct the construction personnel on the project as to the potential for discovery of archeological, pre-historic, historic, cultural, or human remains. The contractor shall ensure that all construction personnel understands the need for proper and timely reporting of such finds, and the consequences of any failure to report them. Any recommendations of the qualified archeologist shall be implemented prior to resumption of work in the affected area.

**20. Special Inspector**

***a. Throughout construction***

The project sponsor may be required to pay for on-call special inspector(s) as needed during the times of most intense construction or as directed by the Building Official. Prior to issuance of the demolition permit, the project sponsor shall establish a deposit with the Building Services Division to fund a special inspector who shall be available as needed, as determined by the Building Official or the Planning Director.

**STANDARD ENVIRONMENTAL CONDITION:**

**21. State, Federal, or County Authority Environmental Approval**

***a. Prior to issuance of building permit***

The applicant shall demonstrate, through written verification that required clearances have been granted and any applicable conditions have been met for previous contamination at the site from the appropriate State, Federal or County authorities or submit a Phase 1 and/or Phase II report for the existing buildings. The Planning Director shall review and provide a determination on the completeness of the reports.

**SPECIFIC PROJECT CONDITIONS**

***Conditions of Approval***

**22. Final Design Review**

*a. Prior to issuance of building permit.*

As the design development of the building proceeds, the design elements listed below shall be revised and shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. Only high quality materials will be approved. The Planning Director may exercise his/her standard authority to refer the design revisions to an appointed sub-committee of the Planning Commission or to the Planning Commission.

- Provide staff with detailed drawings as the residential entrance and port-cochere is further designed for review and approval.
- Provide staff with a mock up of the cladding pattern, including the reveals, and attachments for review at full scale.
- The applicant shall submit the final materials and colors for staff's review.
- The applicant will submit information that affirms that any metal treatment used on the building will be coated or sealed to prevent rusting.
- The applicant must provide staff with cut sheets for the all windows and details showing the window profiles which includes the aluminum panels. The applicant shall provide a minimum 2" window recess.
- The applicant shall submit a detail or "cut-sheet" of the garage service doors for staff review.
- The applicant shall apply for Small Project Design Review for a master signage plan.

**23. Covenants, Conditions, and Restrictions & Homeowner's Association**

*a. Prior to certificate of occupancy*

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

**24. Parking Management Plan**

*a. Prior to Certificate of Occupancy and On-going.*

The applicant shall establish an on-site parking management plan. The parking management plan shall include but not be limited to the following components and requirements:

- The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division for review to affirm that they include the provisions listed here.
- Acknowledgement that many and specific parking spaces are deficient in additional width. (Due to column or wall locations.)

- Require purchasers to acknowledge that maneuverability of several of the parking spaces within the garage may be affected by the location of columns or walls and that due care and caution should be used.
- The management plan shall also stipulate that each unit shall be assigned a minimum of one off street parking space and that such space is included within the lease or ownership rights of the unit.

**25. Irrigation Plan and Landscape Maintenance**

**a. Prior to issuance of building permit**

An irrigation plan shall be prepared by a licensed landscape architect or other qualified person and submitted in conjunction with the building permit submittal. All landscape and irrigation shall be installed prior to final building permit inspection.

**b. Ongoing**

All project landscaping shall be permanently maintained in a neat, safe, and healthy condition.

**26. Lighting Plan**

**a. Prior to issuance of building permit**

The applicant shall submit a lighting plan for review and approval by the Planning and Zoning Division, with referral to other City departments as appropriate. The plan shall include the design and location of all lighting fixtures or standards. The plan shall indicate lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site. Submit exterior features and locations.

**27. Compliance with Historic Preservation Policy 3.7 (Property Relocation Rather than Demolition).**

**a. Prior to issuance of a demolition permit**

The project sponsor shall advertise the availability of the building located at 1110 Jackson Street for relocation, and post a sign on the building advertising the availability. The building shall be made available at no cost. The project sponsor shall not be responsible for the costs of relocation. The project sponsor shall make the building available for a period of 90 days after such advertisement.

**28. Participation in a Traffic Improvement Program**

The scope for Phase II of the Revive Chinatown Transportation Plan is currently being developed. The project sponsor shall financially participate in a traffic improvement program based on the adopted recommendations in the study. The fair share basis shall be based on the total number of units and the commercial square footage, with final confirmation through a traffic assessment performed by a traffic engineer under the direction of the City. In the event the Project Applicant installs or otherwise pays for the entirety of any of the adopted traffic improvements in the study, the project applicant shall receive a credit or reimbursement for such work or costs that exceed its fair share. In no event shall the fair share amount exceed \$50,000.

**29. Port-cochere Design**

**a. Prior to issuance of a building permit**

The applicant shall submit detailed designs of the ground floor plan for the port-cochere that includes but is not limited to the following measures to avoid pedestrian/vehicular conflicts.

- Review the possibility of restricting on-street parking between the driveways to improve sight distances.

- Provide 24-hour security on site at the porte-cochere.
- Signage (stop-sign) and traffic calming measures to slow/stop traffic exiting the parking at the bottom of the ramp on the level area before the porte-cochere.
- Ensure that traffic enters the first driveway and exits from the second driveway.

**Tentative Parcel Map Conditions:**

**30. Effective Date, Expiration, and Extensions**

***a. Ongoing.***

This approval of the Tentative Map shall expire two (2) calendar years from the date of this letter, the effective date of its granting, unless the applicant files a Parcel Map with the City Engineer within two (2) years from the date of this letter. Failure to file a Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

**31. Scope of This Approval**

***a. Ongoing.***

The project is approved pursuant to the Subdivision Regulations of the Municipal Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. The proposal shall specifically comply with the conditions required by Philip Basada of the Fire Prevention Bureau per the attached memorandum, dated November 18, 2005 and with the items outlined in the attached letter from Jon Ewigleben of Engineering Services on November 30, 2005.

**32. Changes to Approval**

***a. Ongoing.***

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

**33. Modification of Conditions or Revocation**

***a. Ongoing.***

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

**34. Defense, Indemnification & Holdharmless**

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

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

***Conditions of Approval***

Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**35. Project Approval**

***a. Ongoing***

Development of the project is subject to approval pursuant to Case File CMDV05-487 and the conditions made part of that approval.

**36. Recordation of the Final Map for Approved Project**

a. For condominium purposes the final map shall be recorded prior to the certificate of occupancy for the 50 units pursuant to Case File CMDV05-487. The applicant shall discuss the recordation with Building Services, as this department may have a different timeframe for final map submittal.

**APPROVED BY:** City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)