

<b>Location:</b>	<b>Block T-12 in City Center bounded by Martin Luther King, Jr. Way, 12<sup>th</sup> Street, Jefferson Street, and 11<sup>th</sup> Street.</b>
<b>Proposal:</b>	Construction of a residential project with up to 450 residential units located within a low-rise building containing up to four stories and two high rise towers containing up to 20 and 24 stories, respectively.
<b>Project sponsor:</b>	Shorenstein Realty Investors Three, L.P.
<b>Owner:</b>	City of Oakland Redevelopment Agency
<b>Case File Number(s):</b>	<b>PUDF05-611</b>
<b>Planning Permits Required:</b>	Final Planned Unit Development for Block T-12 and Design Review.
<b>General Plan:</b>	Central Business District
<b>Zoning:</b>	C-51 Central Business Service Commercial Zone/S-17 Downtown Residential Open Space Combining Zone
<b>Environmental Determination:</b>	An Environmental Impact Report was certified in April, 2000 for the City Center project; an Addendum to the City Center EIR was prepared in June 2005 and is relied upon for this project.
<b>Historic Status:</b>	N/A (vacant site)
<b>Service Delivery District:</b>	Downtown/West Oakland/Harbor
<b>City Council District:</b>	3
<b>Status:</b>	Staff report includes findings for approval
<b>Action to be Taken:</b>	Approve the Final Planned Unit Development and Design Review
<b>Finality of Decision:</b>	Appealable to City Council
<b>For further information:</b>	Contact case planner <b>Rick Tooker</b> at (510) 238-6281 or by e-mail at <a href="mailto:ricktooker@sbcglobal.net">ricktooker@sbcglobal.net</a>

## SUMMARY

In April 2000 the Planning Commission approved a Preliminary Planned Unit Development (PUD) for the City Center project, a mixed-use office and residential project proposed by the Shorenstein Company for four downtown blocks designated as Blocks T5/6, T9, T10, and T12. The Preliminary PUD has subsequently been amended on two occasions since April 2000, including most recently on August 3, 2005 when the Planning Commission adopted a residential alternative to the originally conceived office project on Block T12 to include between 275 and 450 residential units in up to a 25-story high-rise tower. An office building with ground-floor commercial space has already been constructed on Block T9 and a predominantly residential building with ground-floor commercial space is presently under construction on Block T10. This application represents the third development within the four-block City Center project area. As submitted, the proposal for Block T12 contains up to 450 residential units and a parking ratio of at least one parking space per residential unit located in an underground garage. (*See the detailed Project Description below*).

Review of the proposed project for Block T12 requires consideration of a Final PUD and Design Review. The project design was reviewed by the Design Review Committee on December 14, 2005 and has been refined to address the Committee's comments. Additionally, the Oakland Redevelopment Agency has approved an amended Disposition and Development Agreement (DDA) with the Applicant authorizing residential development of the site subject to Planning Commission review and approval of the required discretionary permits for Block T12.

**BACKGROUND**

The Oakland Redevelopment Agency has maintained a DDA for a twelve-block area of Downtown Oakland, including Block T12, for nearly 35 years. The original DDA between the Agency and Grubb & Ellis Company included the entire twelve-block downtown area and was executed on November 4, 1970. As a result of various factors reflecting changing local and regional market conditions, the DDA has been amended on several occasions, including in 1996 when the remaining development rights under the DDA were assigned to Shorenstein Realty Investors Three, L.P. (including the four-block City Center Project).

An affiliate of the Shorenstein Company constructed a 470,000 square foot office building with 7,500 square feet of ground-floor commercial space on Block T9, the first block of the four-block City Center Project to be developed. With the initiation of the "10K Downtown Housing Program" in 1999 to attract 10,000 new residents into the Central Business District, the development of new housing has become the focus of much of the development on Agency-owned land. Reflecting this policy, Block T-10 (the second block of the four-block City Center Project proposed for development) was revised in 2004 from an office building to a predominantly residential project and is presently under construction by Olson Urban Housing to include 251 residential units and 2,600 square feet of ground-floor commercial space. Approvals remaining as part of the original PUD include buildings on Blocks T12 and T5/6, of which the Final PUD and Design Review for Block T12 is proposed in this application. Under the recently adopted amendment to the DDA between the Agency and Applicant, Shorenstein Realty Investors Three is not required to exercise its option to purchase Block T5/6 until 2013.

Block T-12 was originally proposed in April 2000 (Case File No. PUD99-215) to include 584,000 square feet of office space in a 26-story high-rise tower with 220 parking stalls located in a subterranean garage. However, consistent with City policy and market conditions supporting infill housing in the downtown in close proximity to services, the Applicant proposed a residential development as an alternative to the office project on August 3, 2005 (Case File No. PUD05-185) to include the following options:

- Option 1** – Construction of up to 275 residential units and an equal number of parking spaces in two adjoining 8-story buildings with two levels of predominantly underground parking.
- Option 2** – Construction of up to 450 residential units and 430 parking spaces in two adjoining 8-story buildings (similar to Option 1) and up to a 17-story high-rise tower above the 8-story podium with three levels of predominantly underground parking.

The Planning Commission approved the Amendment to the Preliminary PUD for the proposed residential development alternative recommending the Applicant pursue the larger of the two residential options above (Option 2) consistent with City policy to support increased residential density in the Central Business District. The Applicant is now prepared to pursue Option 2 (up to 450 units) and has submitted a request for approval of a Final PUD, which represents the final project entitlements prior to authorizing the preparation of construction documents and issuance of a building permit. As required by the Conditions of Approval of the Preliminary PUD (Case

File. PUD05-185) and the City's Planning Code, Design Review is also required by the Planning Commission as part of the Final PUD.

### **PROPERTY DESCRIPTION AND SURROUNDING AREA**

The project site is approximately one and one-half acres (60,000 square feet) in area located within the urban, largely built-out area of downtown Oakland bounded by 11th, 12th and Jefferson Streets and Martin Luther King Jr. Way. The site presently serves as a privately-operated, publicly accessible, surface parking lot containing approximately 200 spaces. The site is accessed from Jefferson Street, mid-block between 11<sup>th</sup> and 12<sup>th</sup> Streets. A cyclone fence currently surrounds the site. There are four small trees adjacent to the property in the public right-of-way, including two Magnolias (7"-8" dbh) and two Locusts (10"-11" dbh), which will be removed with the project and replaced as part of a comprehensive landscaping plan, to include new street trees.

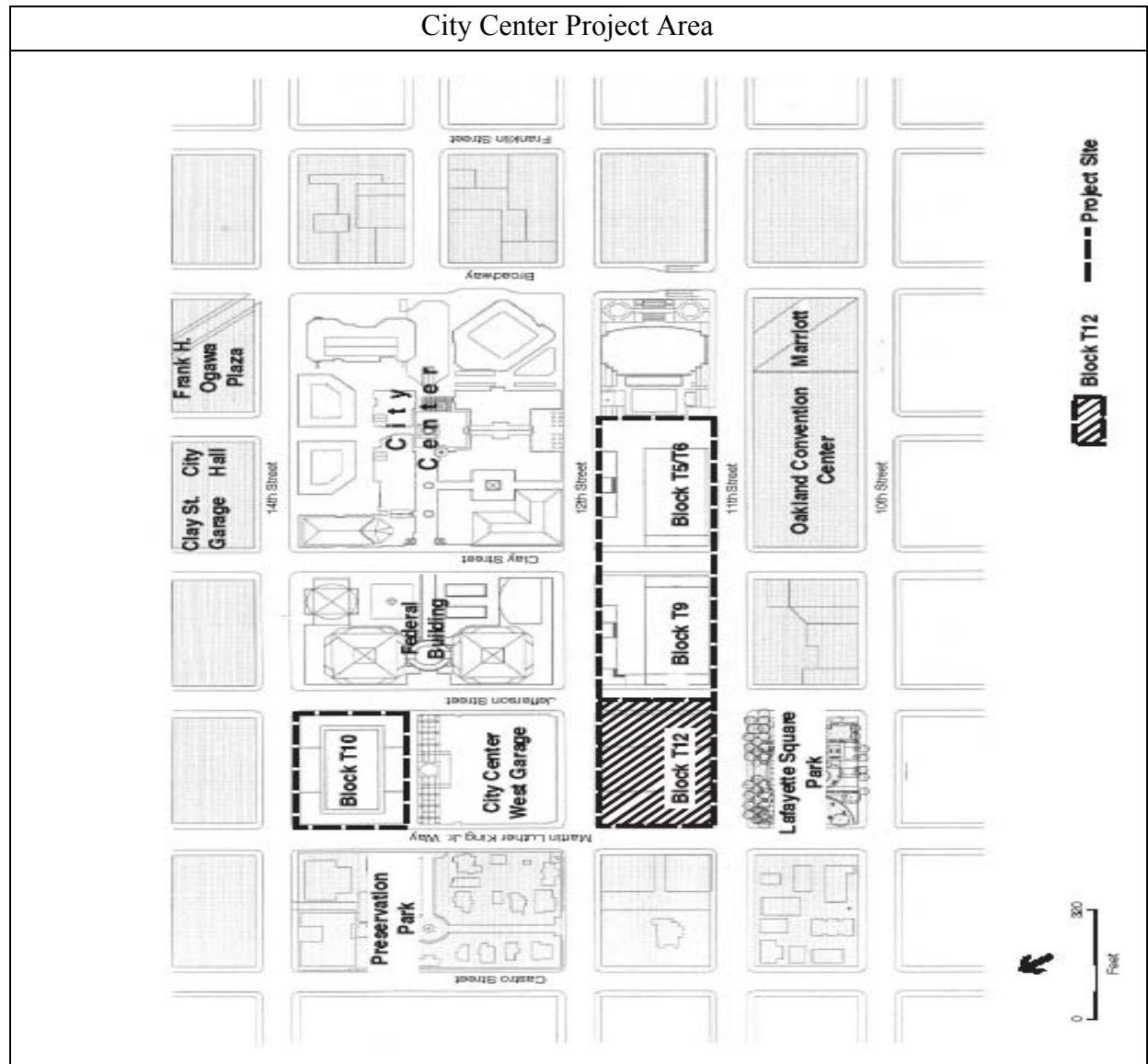
Land uses in the area include the City Center West Parking Garage to the north, Lafayette Square Park to the south, a 21-story office building at 555 City Center to the east, and the Landmark Place development to the west. Preservation Park and the African-American Museum and Library are located within close proximity to the site across Martin Luther King, Jr. Way and 12<sup>th</sup> Street, as is the Ronald V. Dellums Federal Building located across Jefferson and 12<sup>th</sup> Streets. The project site is also located close to public transit, including BART and AC Transit. The 12<sup>th</sup> Street/City Center Bart Station is approximately three blocks west of the project site, while the nearest AC Transit bus stop is located within one-half block directly southeast of Block T-12 on 11<sup>th</sup> Street near the corner of 11<sup>th</sup> and Jefferson Streets. (*See vicinity plan on the next page*).

### **PROJECT DESCRIPTION**

The proposed project would replace the existing surface parking lot with the larger of the two residential options (Option 2) approved by the Planning Commission as part of the Preliminary PUD in August 2005. As submitted, up to 450 residential units will be located within three separate buildings on the project site. A low-rise building ("Building C") approximately 40 feet in height will extend along the 11<sup>th</sup> Street frontage of the project site and will contain 28 loft-style units, 14 of which will be accessed directly from 11<sup>th</sup> Street by elevated stoops to provide a residential feel along the street frontage. These lofts fronting on 11<sup>th</sup> Street contain two levels as illustrated on Section B-B of the attached project plans. The other 14 lofts will be accessed by exterior stairs located on the north side of Building C from an interior plaza elevated approximately five feet above street grade. Building C will be three stories high from the courtyard side (the top story which will be 500 square feet or less) plus a story partially below grade from the courtyard side (providing an overall appearance of four stories as viewed from 11<sup>th</sup> Street).

The 28 lofts in Building C will range in size from approximately 1,060 to 1,460 square feet. The lower-level units will contain entry porches and private terraces and the upper level units will

contain private decks. Three of the lower level units will be accessible via ramps, substantially



as shown on the 1<sup>st</sup> level floor plans.

The proposed project will also include two high-rise towers (Buildings A and B) containing 20 and 24 stories (+/-227 and +/-266 feet), respectively, fronting on Martin Luther King Jr. Way to the west and Jefferson Street to the east. The floor plans of these buildings are essentially identical to one another with each containing eight to nine two-story, loft-style units at grade. These lofts range from approximately 1,060 square foot one-bedroom units to approximately 2,000 square foot two-bedroom units. Units facing the interior plaza have private terraces. The upper floors of the high-rise towers contain a mix of units ranging from approximately 560 square foot studios to approximately 1,980 square foot two-bedroom units with dens or third bedrooms. Many of the high-rise units are provided private balconies. The upper three floors in

each high-rise tower are designed as premium and penthouse flats containing private rooftop terraces. Access to the high-rise towers will be provided from Martin Luther King, Jr. Way and Jefferson Street leading to the first level lobby and hallway with the elevators located within the center of each building.

Parking will be contained in three levels of underground parking at a ratio of at least one space dedicated per residential unit with tandem parking spaces available for some units. Up to 460 parking spaces and an additional 90 tandem spaces would be available. As approved in the original PUD in April 2000 and the Amendment in August 2005, up to 200 additional parking spaces may be made available in the City Center West Garage through a lease agreement with the Redevelopment Agency. Vehicle access to the parking garage will be located mid-block on 12<sup>th</sup> Street where there will also be two off-street truck loading spaces. A third loading space is located in the garage and takes advantage of the variance approved by the Planning Commission in August 2005 relating to dimensions for the truck loading space. Pedestrian access to the garage will be from the high-rise tower elevators, an elevator to the garage provided within the central plaza and stairs at the northwest corner of Building A and northeast corner of Building B.

The project also includes a pedestrian podium elevated approximately two to five feet above the street grade, which serves as a landscaped central plaza and passive open space for residents to enjoy. The space will also be used to access the lofts at the north side of Building C and the secondary entrances to Buildings A and B. This area comprises approximately 20,200 square feet of common open space at grade. Access to the central plaza is provided via Martin Luther King, Jr. Way, Jefferson Street and 12<sup>th</sup> Street by curvilinear stairs and ramps with specialized pavement treatments. The entries will be gated in a manner that will be kept as visually open and welcoming as possible, with the gates set back away from the sidewalks in the public rights-of-way so as not to provide a sense of separation between the public and private space.

## **GENERAL PLAN ANALYSIS**

***Land Use and Transportation Element (LUTE)*** – The project site is located in an area designated in the City’s General Plan as the Central Business District (CBD). This classification is intended to help implement the vision of the downtown encouraging, supporting and enhancing the 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. Urban high-rise residential uses are encouraged in the CBD at a residential floor area (FAR) of up to 20.0 and approximately 500 units per gross acre; however in some instances the actual FAR/density may be less, as regulated by the Planning Code. The proposed project would be within the FAR limits of the General Plan, established at approximately 10.5 (up to 9.4 is proposed). Similarly, the proposed density would be consistent with that allowed in the Central Business District, established at 480 units (up to 450 units are proposed).

The Land Use and Transportation Element contains other policies relating to this project including, but not limited to, the following:

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

The project has been designed to be compatible with its surroundings, which include adjacent mid-rise residential uses at Landmark Place, high-rise office buildings with ground-level commercial space at 555 City Center, a mid-rise parking garage at City Center West Garage, and small-scale buildings at Preservation Park. (See the Design Review section for additional analysis).

*Policy D6.1 Developing Vacant Lots: Construction on vacant land or to replace surface parking lots should be encouraged throughout the downtown, where possible.*

The project would replace an underdeveloped lot with residential uses, which presently serves as an open parking lot that is paved from property line to property line.

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

Increasing housing opportunities is vital to continuing to reinforce the preeminence of the downtown. As a result, policies contained in the General Plan encourage high-density residential uses, often mixed with commercial retail, service and office uses on one site or within close proximity to one another. The “10K Downtown Housing Program” initiated in 1999 is just one example of the City’s efforts to attract new residents into the downtown, recognizing the importance of housing within the context of maintaining a diverse and vibrant downtown with around-the-clock activity, seven days a week. Additionally, policies that support increased activity in the downtown assuring the presence of “eyes on the street” for enhanced safety, providing parking for vehicles and bicycles, and promoting visually interesting buildings that complement their surroundings, respect the character, history and pedestrian-orientation of the downtown, and enhance the attractive skyline are all important to realizing the long-term vision of the city.

*Policy D10.2 Locating Housing: 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.*

The project would provide housing in close proximity to the 12<sup>th</sup> Street/City Center BART station and to AC Transit bus stops.

**Housing Element** – The project is also consistent with policies contained in the City revised General Plan Housing Element. The Housing Element is a statement of the City’s current and future housing needs and establishes goals, policies and implementing programs to address these

needs. The Housing Element is based on eight goals that provide direction and guidance for meeting the City's housing needs, including:

1. *Provide adequate sites suitable for housing for all income groups;*
2. *Promote the development of adequate housing for low- and moderate-income households;*
3. *Remove constraints to the availability and affordability of housing for all income groups;*
4. *Conserve and improve older housing and neighborhoods;*
5. *Preserve affordable rental housing;*
6. *Promote equal housing opportunity;*
7. *Promote sustainable development and smart growth; and*
8. *Increase public access to information through technology.*

The proposed project would generally be consistent with goals 1, 6, and 7. Goal 5 is not applicable since the site is presently used for parking, while goal 8 is directed at City actions. The tax increment provided by the development of residential units on the site, under State law, would be used, in part, by the Redevelopment Agency to support development of affordable housing in the city, which is consistent with Goals 2 and 3.

***Open Space Conservation and Recreation Element*** – The project site is also guided by policy direction contained in the General Plan's Open Space Conservation and Recreation Element (OSCAR). The Central Planning Area encompasses a <sup>+/-</sup>1,600 acre area that includes the downtown, and encourages the provision of private open space in multiple-family residential development. As submitted, the Applicant has designed the buildings around a large, private central plaza set atop a pedestrian podium over the subterranean garage. Private terraces, porches, balconies and roof decks are also accessible to many of the proposed units. The central plaza is substantially different from that designed in August 2005 as part of the Preliminary PUD, which at the time fronted on Lafayette Square Park to the south seemingly aggregating the open space between the two sites. As submitted in this revised proposal, the open space is more intimate with meandering walks varied landscape treatments and pavement surfaces and an open area within the relative center of the space. Although the space is for private use, it would be visible through the entries at Martin Luther King, Jr. Way, Jefferson Street and 12<sup>th</sup> Street. Approximately 20,200 square feet of open space will be available on the site to residents, which helps to implement the applicable open space policies contained in the OSCAR.

## ZONING ANALYSIS

***Zoning Summary*** – The project site is within the City's C-51 District (Central Business Service Commercial), which is intended to “create, preserve, and enhance areas for medium-intensity development of offices and business service activities, and is typically appropriate to serve commercial areas immediately adjoining the core of the central district.” The zoning regulations allow a wide variety of permitted and conditionally permitted land uses, including residential, civic, and commercial activities under the C-51 classification. The proposed project is consistent with the underlying zoning regulations applicable to the property. The project site is also located in the S-17 Downtown Residential Open Space Combining Zone. This overlay district is intended

to supplement the regulations of the underlying zoning district (in this case the C-51 District) to provide open space standards for residential development that are appropriate to the unique density, urban character and historic character of the Central Business District.

The following table identifies the applicable development standards and whether the project complies with the standards:

Zoning Criteria	C-51/S-17 Development Standards	Proposal	Comments
Land Use	A variety of residential, civic, commercial, and light manufacturing uses allowed.	Multifamily Residential	Proposed use is permitted.
Unit Density	480 units	450	Complies with allowable density.
Floor Area Ratio	10.5 (w/PUD)	9.4	Will comply with Final PUD approval.
Front Yard	None required unless adjacent to residential zone	N/A	Site not adjacent to residential zone.
Street Side Yard	None required unless lot to rear is in residential zone	N/A	Site to rear is not in residential zone.
Interior Side Yard	None required for through lot	N/A	No setback required since project site is a full City block.
Courts	Minimum separation required between opposite exterior walls facing buildings with legally required windows (where at least one of the buildings contains a living room) - 50'	30' to 40'	Reduction of court setback is allowed as part of a PUD.
Rear Yard	15'	0' to 11'	Variance approved on August 3, 2005 for setback.
Building Height	No maximum height unless adjacent to certain residential zones	Building A up to 20 stories (+/-227'); Building B up to 24 stories (+/-266'); and Building C up to 4 stories (+/-40').	No maximum height is prescribed since project site is not adjacent to residential zones.
Open Space	75 sf/unit	Private open space for 181 units; Common open for 269 units at 20,200 sf or 75 sf/unit.	Complies with open space standard.
Parking	1 space/residential unit;	Up to 460 proposed with up to 90 tandem spaces.	Proposed parking complies with this regulation.
Loading	3 loading spaces required	3 provided	Complies with the loading requirement with Variance approved in August 2005.

Recycling Space	2 cubic feet of space per unit.	Amount of area not shown on plans	Condition of Approval requires provision of adequate recycling space.
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**Project Entitlements** – The project requires approval of a Final PUD for Block T12. Per Planning Code Section 17.58.020, Design Review is also required for residential projects with three or more units in the C-51 District.

The Preliminary PUD approved in August 2005 included two residential options, one of which contained up to 450 units in up to a 25-story building. The plans that accompanied the Preliminary PUD application were generally conceptual in nature and have since been refined as part of this Final PUD application. The Planning Commission is required under Section 17.140.060 to examine the proposed project to determine if it conforms to the previously approved Preliminary PUD and any design-related issues identified in the Preliminary PUD and to hold a public hearing on the project. The Planning Commission may either approve or deny the PUD or require changes in the proposed development through conditions of approval to ensure conformity to applicable City standards. Where additional information is necessary to make a final determination, the Planning Commission may also continue an application.

**ENVIRONMENTAL REVIEW**

**Background** – An EIR was prepared for the original City Center Project, including Block T-12, and certified by the Planning Commission on April 26, 2000. At that time, the project consisted of predominantly office buildings on Blocks T5/6, T9 and T12 and limited residential uses proposed on T-10. The original proposal for Block T12 consisted of a 26-story office building with approximately 584,000 square feet of floor area. In 2002, Block T-9 was developed by the Applicant as a high-rise office building. Subsequent to certification of the EIR and prior to 2003, market demand for office space declined while interest in developing housing increased. As a result of this, in October 2003 an Addendum to the City Center EIR (Addendum #1) was prepared for a modified project on Block T-10, considering a change in land use from mostly office development to a residential development of up to 400 residential units and 24 stories. Block T-10 is currently under construction by Olson Urban Housing and will consist of 251 residential units and 10 stories and 2,600 square feet of ground floor commercial space.

A similar process was applied to Block T-12 in 2005 with preparation of an Addendum to the City Center EIR (Addendum #2) for a proposed alternative land use for Block T-12 consisting of up to 450 residential units. Addendum #2 was reviewed as part of the July 2005 Oakland City Council and Redevelopment Agency approval of an amended Disposition and Development Agreement (DDA) with the Applicant authorizing residential development for Block T-12, establishing the sales price for the property, amending the timeline for develop the property, and extending the terms associated with development of Block T5/6. Addendum #2 was also reviewed by the Planning Commission in August 2005 as part of its approval of the Preliminary PUD of the residential alternative on Block T12. At that time, the Planning Commission independently determined that Addendum #2 fully analyzed all potential environmental effects of the residential alternative and determined that none of the changes to the project, or

circumstances under which it would be undertaken, or new information of substantial importance required preparation of a subsequent or supplemental EIR.

The Planning Commission also determined that, because Addendum #2 to the original City Center Project EIR certified in 2000 was presented and independently reviewed and adopted, no subsequent or supplemental EIR is required under CEQA as a component of the review of the Preliminary PUD and that the Statement of Overriding Consideration originally adopted in April 2000 remains valid and effective.

As described above, Addendum #2 evaluated the differences between the potential environmental effects analyzed by the original City Center Project EIR for the office use proposed for Block T-12 and the potential environmental effects resulting from the proposed residential alternative for Block T-12. Addendum #2 found: the environmental effects of the proposed residential development are less than or equal to those presented in the Final PUD (up to 450 units in no more than 24 stories); there are no substantial changes that require major revisions to the previous EIR, including changes in circumstances as a result of project modifications that would cause new or more intense significant impacts; and there is no new information of substantial importance that identifies new or more intense significant impacts. The residential proposal in the Final PUD continues to clearly support the City's residential policies, as discussed in this Staff Report and adds additional support to the Statement of Overriding Consideration.

## ANALYSIS

**Site Layout** – The project is designed with the 20 to 24 story high-rise buildings (227' to 266' in height to the top of the rooftop mechanical enclosures) located in the northwest and northeast corners of the property, respectively, where they complement the higher-density mixed-use urban scale of the downtown to the north and east. Buildings to the northeast of the project site range in heights between 280 and 305 feet, while buildings across 12<sup>th</sup> and Martin Luther King Jr. Way range between 50 and 75 feet in height, reflecting compatibility of the proposed buildings to the urban scale across 12<sup>th</sup> and Jefferson Streets. These buildings are tight to the property lines with step backs at the building corners. A pedestrian entry to the elevated podium is located mid-block on 12<sup>th</sup> Street where stairs and an accessible ramp set within raised planters provide an attractive entrance to the property and vistas into the central court. At the east of the podium entry is the ramp down to the subterranean parking levels and a loading area for two trucks recessed back from 12<sup>th</sup> Street (the third truck loading space for vans is located on the first level of the garage). The trash compactor and utilities closet is also located within this recessed area tucked behind a wall to reduce their visibility. Seven loft-style units with the living rooms facing outward toward the street are located along the north walls of Buildings A and B, which are elevated slightly above the grade at the sidewalk. The building plane along the north property line provides slight variations in depth at the windows, metal panels beneath the windows and at the building corners and at the stone and precast columns. Similar detailing is provided along the Jefferson Street and Martin Luther King, Jr. Way facing elevations, except that these elevations provide the lobby entrances into the tower buildings. *(See partial enlarged east elevation which illustrates movement on the tower buildings).*

Building C which fronts on 11<sup>th</sup> Street and Lafayette Square Park provides a more residential presence than the urban scaled high-rise buildings. This building will contain up to four stories and will be approximately 40 feet in height. Elevated stoops provide semi-private entrances separated by low planters and a combination of glass and stone. (*See closeup view*). Units are staggered with the corners being located approximately five feet back from the south property line and the mid-block units are setback 15 feet from the south property line.

Within the interior of the site is the elevated courtyard which provides pedestrian circulation between buildings and is accessible from Jefferson (east), Martin Luther King, Jr. Way (west) and 12<sup>th</sup> Street (north). As noted above in the project description, this courtyard is an integrated open space of approximately 20,200 square feet with walkways of colored and scored concrete and various landscaping treatments. Within the relative center of the open space is a modified oval-shaped turf area that provides passive space for residents to enjoy. Private terraces front on the courtyard space with low fences or walls that provide a sense of privacy, but are not so tall that they limit the apparent width of the space down into a narrow passage.

**Architecture** – The project is located in a transitional area between existing mid- to high-rise commercial, office and public buildings across 12<sup>th</sup> and Jefferson Streets and existing mid- to low-rise residential buildings located across Martin Luther King, Jr. Way. Lafayette Square Park is located to the south, which represents a large open space within the urban environment. As submitted, the Applicant has designed the residential project to include the high-rise buildings (Buildings A and B) along the 12<sup>th</sup> Street frontage, creating a checker board pattern of towers with 555 City Center and the Federal building. The design of the towers, with the combination of materials, overhanging balconies and roof gardens, emphasizes stepping and vertical configuration of the facade, so as to add visual interest to the skyline, consistent with the General Plan LUTE Policy D2.1. (*See southwest view*).

The low-rise, loft-style building fronting on 11<sup>th</sup> Street (Building C) serves to step down development from the urban core outward to Lafayette Square Park to the south and Landmark Place to the west. The design of the building is substantially more refined than when presented to the Design Review Committee in December 2005 and includes a combination of metal, natural wood siding and precast panels in soft gray and warm brown and tan tones. Glazing is tinted in a slight green color, which together with the other materials provides a compatible and appropriate mix of materials within the urban area and will complement the surrounding development. The design of the high-rise and low-rise buildings provide some variations from one another, particularly because the difference in vertical and horizontal expressions. Additionally, the use of wood on Building C provides uniqueness to the use of materials on the high-rise buildings. However, these buildings complement each other and provide an appropriate scale within the larger context of their respective streets and the surrounding neighborhoods.

**Courtyard Separation Requirement** – Staff believes that the refinements made to the approved Preliminary PUD for Block T12 are consistent with the City's criteria and regulations. One exception from the Planning Code proposed in the project relates to the minimum depth of the

courtyard between opposite facing walls on the same site, where at least one wall contains a living room window. As submitted, the south walls of the high-rise buildings, which contain living room windows, and the north wall of the low-rise building, which contain bedrooms or sitting rooms with legally required windows for ventilation, are separated by 30 to 40 feet. Under Section 17.108.120, the minimum separation is required to be 50 feet to provide the desired privacy and access to natural light and air. This distance is based on the height of Building C from grade at the pedestrian podium level to the top of building parapet. Given the quality of the courtyard design between the buildings, with planters, shrubs and trees and low fences or walls at the terraces, the potential adverse impact on privacy and access to light and air appears to be mitigated. Therefore, Staff believes that the reduction from this requirement is justified (only six units are affected), as allowed under the City's regulations in Section 17.122.100.

***Landscaping and Pavement Treatment Plan*** – The project plans contain an illustrative landscape site plan identifying the location of planter areas, and trees, including tree plantings in the public sidewalk. Additionally, this preliminary plan indicates the design and placement of specialized pavement treatments. The following summarizes key components of the plan (*See landscape plan*):

- 11<sup>th</sup> Street - 12 Magnolia trees with tree guards and grates set at 12 feet on center and a natural grey concrete sidewalk with scoring as shown. Elevated planters are provided at the entrances to the loft-style units with accent trees located in front of at least four of the units located toward the relative middle of the block. Sidewalk is natural grey color with scoring to match existing sidewalks north of 12<sup>th</sup> Street and specialized pavement color to integrate with the site at the entrance to at least the two mid-block units at the accessible ramps.
- Martin Luther King, Jr. Way – 7 Magnolia trees with tree guards and grates set at 12 feet on center, with the exception of at the entrance to Building A where a slightly larger gap between trees is provided at approximately 15 feet. Potted plants flank the lobby entrance. Additional accent trees are located at the west end of Building C to soften the building wall. Sidewalk is natural grey color with scoring to match existing sidewalks north of 12<sup>th</sup> Street and specialized pavement color to integrate with the site at the entrance to the lobby to Building A and the pedestrian podium.
- Jefferson Street – 7 Magnolia trees with tree guards and grates set at 12 feet on center, with the exception of at the entrance to Building B where a slightly larger gap between trees is provided at approximately 15 feet. Potted plants flank the lobby entrance. Additional accent trees are located at the east end of Building C to soften the building wall. Sidewalk is natural grey color with scoring to match existing sidewalks north of 12<sup>th</sup> Street and specialized pavement color to integrate with the site at the entrance to the lobby to Building B and the pedestrian podium.
- 12<sup>th</sup> Street – 11 Gingko trees set at 8 feet on center with a gap at the subterranean garage entrance/exit and truck loading area. Sidewalk is natural grey color with scoring to match existing sidewalks north of 12<sup>th</sup> Street and specialized pavement color to integrate with the pedestrian podium.

- Central Plaza – A mix of groundcover, shrubs and accent trees located within the pedestrian podium along the walkways and clustered around the turf area between the tower buildings. Planters provide buffering of the low fences or walls at the rear of Building C where the sunken terraces are located and at the ground-level units of Buildings A and B facing inward to the central courtyard. A multi-colored pavement treatment is used to distinguish the walkways and semi private space leading to individual unit entrances.
- Lighting – Decorative lamp posts are shown on the southeast elevation to complement those used elsewhere in the area, particularly at Lafayette Square Park. Lighting is not yet shown in the central plaza area.

The illustrative landscape plan is supported by photographs further describing the intended project design (*See landscape imagery*). However, this plan will require further refinement as part of the construction documents provided with a building permit application, to include such information as the use of materials at the garden walls, stairs, patios and terraces. Additionally, the actual placement of trees, plantings, decorative lights within the public sidewalk, the type of fixtures provided at building entrances and a lighting plan for the central plaza will also be required as part of a final landscape plan.

#### DESIGN REVIEW COMMITTEE COMMENTS

The project design presented as part of this Final PUD was reviewed by the Design Review Committee (DRC) on December 14, 2005. The DRC expressed its support for the higher density residential option and the proposal to develop the site consistent with the urban character of high-rise buildings in the City Center Project. Further, the DRC supported completion of the southwest quadrant of the City Center Project in a manner that reinforced the mix of uses in the area. However, the DRC also expressed its desire for additional refinement, as the initial design appeared to emphasize more detail on the high-rise towers over the loft-style units on Building C. Although the DRC supported the concept of the two towers in the northerly portion of the site and the low-rise building in the southerly portion of the site, additional detail was required for consideration at Final PUD review.

Since the December 2005 DRC meeting, the Applicant has continued to refine the project design to include substantially more detail. As described above, the new residential proposal for Block T-12 contains up to 450 residential units and up to 460 parking spaces (not including the potential for tandem spaces) located in three subterranean garage levels. Unlike the August 2005 residential option presented in the Preliminary PUD, which contained a single tower located in the northeast corner of the site and an eight-story U-shaped building opening onto Lafayette Square Park to the south, the revised project is composed of two high-rise buildings along 12<sup>th</sup> Street and low-rise loft-style units along 11<sup>th</sup> Street. The project will achieve the following urban objectives:

- Complete the southwestern quadrant of City Center with residential buildings to reinforce the mix of uses in the area.

- Orient the residential towers to complement and step down from the existing high-rise buildings at City Center.
- Locate the towers along 12<sup>th</sup> Street across from the existing parking garage to create a residential presence on the street.
- Design townhouses along 11<sup>th</sup> Street that step down and provide a low scale residential edge to Lafayette Square Park.
- Design townhouses that transition to the recently built residential project (Landmark Place) across Martin Luther King, Jr. Way.

Staff believes that these plans provide sufficient information for the Planning Commission to take action on the Final PUD, provided additional detail is presented subject to the attached conditions, such as in the case of a final landscape and lighting plan to be reviewed and approved by the Planning Director.

**RECOMMENDATION**

Based on the analysis contained within this report, Staff believes that the proposed project is appropriate in this location and is attractively designed. The proposed project will further the overall objectives of the City's General Plan, particularly related to providing new infill housing in close proximity to services. Therefore, staff recommends the following actions be taken by the Planning Commission:

1. Find that no further environmental review is required under CEQA for the proposed Final PUD on Block T-12 of the City Center Project because Addendum #2 to the original City Center Project EIR certified in 2000 was presented and independently reviewed and adopted by the City Council and Oakland Redevelopment Agency on July 19, 2005, and again by the Oakland Planning Commission as part of the Preliminary PUD on August 3, 2005. Addendum #2 fully analyzed all potential environmental effects of the residential alternative and determined that none of the changes to the project from office to residential development, or circumstances under which the project will be undertaken, or new information of substantial importance required preparation of a subsequent or supplemental EIR and reaffirmed the Statement of Overriding Consideration adopted for the 2000 City Center Project EIR;
2. Approve the Final Planned Unit Development for Block T-12 of the City Center project and Design Review of the site plan, architecture and illustrative landscape plan, subject to the attached Findings and Conditions of Approval, including the Mitigation Monitoring and Reporting Program.

Prepared by:

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RICK TOOKER

Contract Planner, Community and  
Economic Development Agency

Approved for forwarding to the City Planning  
Commission:

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GARY PATTON  
Deputy Director of Planning and Zoning  
Major Projects Manager

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CLAUDIA CAPPIO  
Director of Development

**ATTACHMENTS**

- A. Application submittal materials
- B. Reduced Project Plans
- C. Design Review Committee Report dated December 14, 2005
- D. Preliminary PUD Report dated August 3, 2005

**FINDINGS FOR APPROVAL**

This proposal meets the required findings under Oakland Planning Code Sections 17.140.080 (Planned Unit Development Permit Criteria), 17.140.060 (Final Planned Unit Development Criteria), and 17.136.070 (Design Review Criteria), as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in standard type. The project's conformance with the following Findings is not limited to the discussion below, but is also included throughout the analysis contained in this report, the City Center Project EIR, Addendum #2 to the City Center EIR, and elsewhere in the administrative record associated with this project.

**Section 17.140.080 Planned Unit Development Permit**

The findings below apply to the amended Preliminary Development Plan for the City Center project and to the Final Development Plan for Block T10.

**A. That the location, design, size, and uses are consistent with the Oakland Comprehensive Plan and with any other applicable plan, development control map, or ordinance adopted by the City Council.**

The proposed project includes up to 450 residential units located in two high-rise building along 12<sup>th</sup> Street and a third low-rise building located along 11<sup>th</sup> Street. Parking at a minimum of 1 space per unit and possibly up to 550 spaces when considering 460 individual stalls and 90 tandem spaces will be provided in three levels of underground parking, with the potential for up to 200 additional spaces becoming available through an agreement with the City in the City Center West Parking Garage located immediately north of the project site. The project is consistent with the City's General Plan, including, but not limited to, policies D2.1 (Enhancing the Downtown), D6.1 (Developing Vacant Lots), D10.1 (Encouraging Housing) and D10.2 (Locating Housing). The project is also consistent with the intensity allowed by the General Plan and Planning Code of the City, and with several policies regarding provision of infill housing units in close proximity to mass transit. With approval of the Final Planned Unit Development, which includes variances for a reduction in the dimensions of the required parking and loading spaces and a modification to the rear yard setback on a portion of the property previously approved by the City in August 2005, the project conforms to all applicable criteria and standards in the City's Planning Code and, with the recommended Conditions of Approval in place, is substantially consistent with the amendment to the Preliminary Development Plan for the City Center project approved in August 2005.

**B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development.**

The design and size of the project are appropriate for the location and compatible with the surrounding area, which includes a wide variety of uses, building heights, and building types. In particular, the project is designed with the taller building elements on the City Center (12<sup>th</sup> Street) side of the site and the lower elements and open space fronting on the west (11<sup>th</sup> Street) side to create a checkerboard effect to better relate to City Center, Lafayette Square Park, Preservation Park and Landmark Place.

**C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets.**

The proposed project on Block T-12 will generate additional traffic compared to the existing surface parking lot located on the site; however, traffic impacts resulting from development as a residential project would be consistent with the intent of the underlying zoning designation of the property and the residential alternative would generate approximately 71 percent less traffic than the office space originally evaluated in the City Center Project EIR in April 2000. Further, vehicles associated with the project would be directed out of the downtown area during the a.m. peak hours and toward the downtown during the p.m. peak hour, which would reduce congestion compared to the original office project. Additionally, similar to the benefits of Landmark Place located immediately to the west of the project site, another residential development, the project would provide housing within close proximity to the 12<sup>th</sup> Street/City Center BART station and AC Transit bus stops, therefore encouraging transit use.

**D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services.**

The proposed project site is located in a developed urban area that is adequately served by existing utilities and service systems, such as water supply, wastewater treatment, storm water drainage, and solid waste disposal. The proposed project will integrate these services and provide improvements to the existing public infrastructure as needed. The public sidewalk around the perimeter of the site will be improved to include new surface treatment and landscaping, which will encourage additional pedestrian circulation, ease of access to public transportation, and use and enjoyment of nearby retail opportunities and services.

**E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations.**

The proposed project represents an attractive residential development that will serve to benefit the surrounding area fitting well into the neighborhood context with its new mix of urban high rises and surrounding historic neighborhoods. The project brings new residents

into the downtown area consistent with City policy, which will continue to encourage growth of local business and resident serving uses. The design of the project will provide a welcoming and attractive design, nearby nightlife, shopping and employment opportunities within a short walk or on bicycle. Access to regional transportation is also nearby.

- F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices.**

The proposed project will be well integrated into its setting, will harmonize with surrounding areas, and will not harm major views. Since the project site is an entire city block, sufficient buffering will be provided in the form of spatial separation and landscaping. Substantial grading will occur as a result of constructing the subterranean parking garage, which will be mitigated in accordance to the adopted mitigation measures and Mitigation Monitoring and Reporting Program adopted as part of the original City Center Project EIR and Addendum #2 to the City Center Project EIR for the Block T-12 site.

**Section 17.140.060 Final Planned Unit Development**

**The proposal conforms to all applicable criteria and standards and conforms in all substantial respects to the preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, it conforms to applicable design review criteria.**

With the recommended Conditions of Approval in place, the proposed Final Development Plan conforms to all applicable criteria and standards contained in the City's Planning Code and is generally consistent with the amendment to the Preliminary Development Plan for Block T12 of the City Center project approved on August 3, 2006, which contained a high-density residential option with up to 450 units and three levels of subterranean parking located in up to a 24-story building above grade. Further, the proposed Final Development Plan conforms to all applicable design review criteria, including compatible height and design of the proposed high-rise tower buildings (Buildings A and B) relative to other structures north of 12<sup>th</sup> Street and the height and design of the proposed low-rise building (Building C) relative to other structures and Lafayette Square Park south and west across 11<sup>th</sup> Street and Martin Luther King, Jr. Way, thereby enhancing the desirable neighborhood characteristics of this transitional site between the mixed-use urban core and predominantly residential areas.

**Section 17.136.070 Design Review Criteria:**

- 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.**

Although this site is in a transitional area located between the urban core and edge of the Central Business Service Commercial District, the surrounding area contains a mix of residential, commercial, and civic building in structures ranging in height and design. The proposed design includes pre-cast concrete, glass and stone and the building foundations would be shallow, spread footings. The superstructure of the buildings would be steel, concrete or a combination of both a steel frame with a concrete core. The orientation of the towers will compose with, and step down from the existing high-rise buildings in City Center, such as 555 12<sup>th</sup> Street and the Federal buildings, creating a checkerboard pattern of towers so as to maintain a pleasant orientation of towers looking onto and across plazas. The placement of the towers along 12th Street across from the existing City Center West parking garage will also create a residential presence along 12<sup>th</sup> Street, while the loft-style units along 11th Street will step down and provide a low scale residential edge to Lafayette Square Park and the recently built residential project across Martin Luther King Jr. Way.

Further, the variety of architectural elements appears well-balanced and interesting. The multi story buildings provide horizontal and vertical off-sets, various size windows and railings that break up continuous horizontal walls, and grid windows in flat and patterns that provide a rhythm to the structure effectively blending the modern building elements in a comfortable urban residential scale. The high-rise towers complement the building elements of the low-rise structure providing a combination of architectural elements that will enhance the urban skyline and will help to integrate the project into its surroundings relating setting, scale, bulk, height, materials and textures.

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

The development of the project will enhance the desirability of this part of the downtown area by adding new housing units in the neighborhood. The design of the proposed project is attractive and will serve to enhance the character of this area of Oakland. Additionally, the City's General Plan recognizes the importance of variety in the use of buildings and their design and character in the downtown. The project will help to enhance these characteristics by providing compatible development with the nearby buildings of architectural and historic distinction, particularly at Preservation Park which provides a Victorian-era development that solidifies the uniqueness and variety in the area. The design of buildings plays an important role in continuing to reinforce the preeminence of the downtown and the appropriate transition from the west, with its low- to mid-rise buildings at Preservation Park and Landmark Place, to the east with its mid- to high-rise buildings at City Center West Garage and 555 City Center, and the project will provide an appropriate design and scale to the downtown.

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

The project will not affect the topography or landscape of the area. The site is an essentially vacant, flat, infill parcel that is surfaced with asphalt to provide parking in the downtown. Street trees are proposed along the street frontages and an interior landscaped courtyard will be provided, which will integrate the neighborhood and Lafayette Square Park to the south of the project site.

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

The proposed project will be located on a flat infill site and is not situated on a hill.

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

The proposed project is consistent with the land use designations and design goals and policies of the General Plan. The project provides high-density, well-designed housing located within convenient access to BART and other forms of mass transit. The project is also generally consistent with the Planning Code. Where variations are proposed, such as in the case of previously adopted variances from zoning, including a reduction in the dimensions of the required parking and loading spaces and a modification to the rear yard setback on a portion, and in the case of a proposed reduction in court depth between opposing structures with required windows, these are considered to be minor and help to provide a project where its benefits outweigh any adverse consequences.

**CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM FOR THE CITY CENTER BLOCK T12 PROJECT (PUDF05-611)**

**1. Approved Use**

**a. Ongoing**

This action by the Planning Commission (“this Approval”) includes the approvals set forth below:

1. Final Planned Unit Development (“PUD”) for Block T12 of the City Center T12 Project consisting of up to 450 residential units and up to 550 parking spaces, including 90 tandem parking spaces (at least 1 space for each unit), as set forth in the project plans presented as part of the application submittal materials reviewed and approved by the Planning Commission on February 1, 2006, and as modified by these Conditions.

2. Residential Design Review, as approved in accordance with Section 17.136 of the Oakland Planning Code.

## 2. Scope of This Approval

### 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 Public Works Agency, Building Services Division and the Fire Marshal. Minor changes to the approvals may be approved administratively by the Planning Director; however, major changes to the approvals shall be subject to review and approval by the City Planning Commission.

### b. *Ongoing*

The project shall be constructed and operated in accordance with the authorized uses as described in the Staff Report and in the project plans presented as part of the application submittal materials reviewed by the Planning Commission on February 1, 2006, and as amended by these Conditions of Approval and the associated Mitigation and Monitoring Reporting Program ("MMRP"). Any additional uses other than those approved with this PUD (other than those approved by the Preliminary Planned Unit Development Approval granted in April 2000 and amended August 2005, which shall require only Final Planned Unit Development Approval) will require separate application and approval.

### c. *Ongoing*

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

## 3. Effective Date, Expiration, and Extensions

### a. *Ongoing through project completion.*

These approvals shall become effective upon satisfactory compliance with the conditions provided herein, and shall be deemed to have expired in two years unless construction has begun under the necessary permits by that date. Upon written request and payment of required fees prior to the expiration of these approvals, the Zoning Administrator may grant a one-year extension of the expiration period, with additional extensions subject to approval by the Planning Commission. The entitlements for the amended Planned Unit Development shall comply with the Development and Disposition Agreement ("DDA") adopted between the City of Oakland Redevelopment Agency and the applicant.

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

The project sponsor shall submit a Construction Phasing and Management Plan, incorporating all applicable mitigation measures contained in the MMRP for the City

Center Project and Addendum #2 of the City Center EIR, as set forth in Condition of Approval No. 4. This plan shall also include the following additional measures and standards:

1. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
2. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
3. A plan to provide temporary access to the model units during active construction activities, including path of travel, securing the active construction areas and parking.
4. A construction litter/debris control plan to ensure the site and surrounding area is kept free of litter and debris.

*c. Prior to issuance of certificate of occupancy.*

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until: (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval; or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City. For purposes of these Conditions, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.

**4. Mitigation Monitoring and Reporting Program**

All mitigation measures identified in the City Center EIR and Addendum to the City Center EIR are included in the Mitigation Monitoring and Reporting Program (MMRP) which is included in these conditions of approval and are incorporated herein by reference as conditions of approval of the project. The MMRP, in certain instances, has been further refined and/or clarified by the conditions of approval contained herein. To the extent that there is an inconsistency between the MMRP and the conditions, the conditions shall govern. The project sponsor shall be responsible for compliance with all applicable mitigation measures adopted and with all conditions of approval set forth below at their sole cost and expense. The MMRP identifies the time frame and responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division. The mitigation measures which would apply to the Block T12 project include measures B.1a, B.6, B.7, C.1, D.1a, D.1b, D.1c, D.1d, and F.2.

## MITIGATION MEASURES AND MONITORING PROGRAM

### TRAFFIC, CIRCULATION, AND PARKING

**Mitigation Measure B.1a:** At 12th and Brush Streets, the Block T12 project sponsor, along with the developer of Block T5/6 (Shorenstein or its successor) shall work with Caltrans and coordinate with the City to consider various improvement options, which could include signal timing improvements or additional lanes on the ramp. The developer shall fund its fair share of any required improvements. Because implementation of this measure requires consultation with Caltrans, the City cannot ensure that the mitigation measure could be implemented and the anticipated impact is therefore considered to be significant and unavoidable.

**Responsible Implementing Entity:** Oakland Public Works Agency, Traffic Engineering Division; Caltrans

**Monitoring Action(s):** Public Works Agency, Traffic Engineering Division to work with Caltrans to determine analyze feasible improvement options and determine project share of cost.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

**Monitoring Timeframe:** Prior to issuance of certificate of occupancy for last building.

**Mitigation Measure B.4:** The Block T12 project sponsor, along with the developer of Block T5/6 (Shorenstein or its successor) shall submit a transportation/parking study, subject to the review and approval of the City Traffic Engineering Division of the Public Works Agency and the Planning Division of the Community and Economic Development Agency, that evaluates then-current and forecast parking supply and demand for each subsequent project phase, prior to the final PUD approval of those phases. The study shall also determine the degree, if any, of the expected shortfall in transit capacity that could result from a shift away from auto travel and to transit use. Implementation of Mitigation Measure B.4 would ensure that development and occupancy of Blocks T12 and T5/6 would not adversely affect parking in the project vicinity.

If a parking shortfall is anticipated, the developer shall implement means of reducing parking demand and, to the extent deemed necessary, of increasing off-street parking supply in the City Center area through a variety of methods, which may include one or more of the following measures, as deemed appropriate by the City:

- The developer shall work with the Redevelopment Agency to construct (or provide in-lieu fees for City construction of) some portion of the shortfall of approximately 430 parking spaces that the project would generate;

- If office space were to be constructed on Block T12 or Block T5/6, the developer shall incorporate the use of valet parking in commercial parking garage(s) within buildings owned by the developer, including the City Center Garage. (Residential valet parking typically is less feasible than valet operation in commercial garages due to longer-term residential demand.) Valet operations typically increase garage capacity by between 30 percent and 50 percent, and these steps could accommodate nearly all of the project's calculated commercial parking shortfall;
- If office space were to be constructed on Block T12 or Block T5/6, the developer shall require employers to institute flexible work hours or telecommuting;
- The developer shall construct additional on-site parking for the affected subsequent phase(s) of the project;
- The developer shall work with the City to expand the existing City Center West garage;
- The developer shall connect the underground parking areas on two or more of the project's building sites;
- The developer and/or the City shall use one of the four building sites for above-ground (structure) parking;
- The developer shall participate in a potential future parking assessment district that may be created for an area including the project site; and/or
- The City shall require that the developer pay a development impact fee to offset the cost of providing additional parking in the City Center area.

In addition, parking demand could be reduced through steps to reduce use of single-occupancy vehicles. (These same steps would also reduce traffic and lessen emissions of criteria air pollutants.) Among the possibilities the applicant could undertake are:

- If office space were to be constructed on Block T12 or Block T5/6, the developer shall implement a carpool/vanpool program (e.g. carpool ridesharing for employees, assistance with vanpool formation, provision of vanpool vehicles, etc.) and distribute information to employees on transit and carpooling options (maps, schedules, information from Bay Area RIDES). This could be done at a lobby kiosk or other location where employees are likely to congregate;
- In coordination with AC Transit and City staff, the developer shall construct transit facilities such as bus turnouts/bus bulbs, benches, and shelters along the road segments that define the development blocks, or on other comparable nearby roadway segments that may be identified by AC Transit and City staff as the most appropriate location(s) to locate such facilities to most effectively serve the project;
- The developer shall establish a "transit store" to provide transit information and sell transit passes and tickets, as well as distribute transit maps and schedules. This "store" could be incorporated into a convenience store that might exist within the project;

## ***FINDINGS AND CONDITIONS***

- The developer shall provide preferential parking (e.g., near building entrance) and reduced/eliminated parking fees in project garages, the City Center Garage, and City Center West Garage for carpool and vanpool vehicles. If a waiting list for monthly parking develops assign priority in issuing new permits to carpools and vanpools;
- If office space were to be constructed on Block T12 or Block T5/6, the developer shall require employers to subsidize transit passes (such as through the Metropolitan Transportation Commission's "Commuter Check" program) and/or direct provision by the office developer of such transit pass subsidies; and
- The developer shall provide secure, weather-protected long-term bicycle parking for future residents and employees at the proposed retail and office uses, secure short-term bicycle parking for retail customers, and showers and lockers for employees bicycling or walking to work.

**Responsible Implementing Entity:** Oakland Public Works Agency, Traffic Engineering Division

**Monitoring Action(s):** Public Works Agency, Traffic Engineering Division to work with Caltrans to determine analyze feasible improvement options and determine project share of cost.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

**Monitoring Timeframe:** Prior to Final PUD approval for each subsequent phase after Block T12.

**(Mitigation Measure B.4 above does not apply because development of Block T12 will contain up to 450 residential units with at least one parking space per unit or as many as 550 spaces. This reflects up to 330 more parking spaces than would be available in the City Center Project if Block T12 were developed under the original office alternative.)**

**Mitigation Measure B.6:** The project shall provide an adequate number of bicycle parking spaces, as determined by the City, in location(s) either on-site or within a three-block radius, or through payment of appropriate in-lieu fees. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

**Monitoring Action(s):** Planning Division and Public Works Agency, Traffic Engineering Division shall review project's proposed bicycle parking plan.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

**Monitoring Timeframe:** Prior to ~~Final PUD~~ Building Permit approval for each subsequent phase after Block T12.

**Mitigation Measure B.7:** Prior to the start of excavation or construction on all project blocks, the project sponsors would submit to the City Traffic Engineering Division for review and approval a plan for managing construction-period traffic and parking. This plan would include information on routing of construction traffic, deliveries of large items, provision of off-street parking for construction workers, use of on-street parking spaces, off-street equipment staging, and any encroachment into public streets that would affect traffic flow, public parking, or pedestrian access and safety. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division

**Monitoring Action(s):** Public Works Agency, Traffic Engineering Division shall review project sponsor's construction-period traffic and parking plan.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

**Monitoring Timeframe:** Prior to issuance of building permits for each building.

## **AIR QUALITY**

**Mitigation Measure C.1:** The project sponsors (Shorenstein, or its successor, as applicable) shall require the construction contractor to implement a dust abatement program.

Elements of this program shall include the following:

- Water all active construction areas at least twice daily;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer);
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; and
- Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.

The above list of measures are recommended by BAAQMD as feasible control measures to reduce construction dust emissions at sites, such as the individual development blocks associated with the project, which are less than four acres in area. With implementation of these mitigation measures, the residual effect would be less than significant.

In addition, the following measures, which are identified in the EIR on the *Oakland General Plan Land Use and Transportation Element* (City of Oakland, 1997; p. III.E-26) for future development projects, are recommended to minimize construction equipment emissions during the construction period:

- Demonstrate compliance with BAAQMD Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 requires an authority to construct and permit to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
- Perform low- NO<sub>x</sub> tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Oakland Community and Economic Development Agency (CEDA), Building Services Division

**Monitoring Action(s):** CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout the construction period.

**Mitigation Measure C.2a:** Throughout operation of the project, the office developer (Shorenstein or its successor) shall implement Transportation Control Measures identified in the *General Plan Land Use and Transportation Element EIR*.

The following Transportation Control Measures shall be implemented to increase the likelihood that the assumed level of use of alternative travel modes (i.e., transit and carpool) that has been incorporated into the impact analysis would be exceeded in practice and, furthermore, to reduce estimated vehicle-related NO<sub>x</sub> emissions by four percent, which would reduce the impact to less than significant (i.e., to less than 80

pounds per day). (For each measure, the estimated effectiveness in reducing vehicle trips is given in parentheses.)

- Implement a carpool/vanpool program (e.g. carpool ridesharing for employees, assistance with vanpool formation, provision of vanpool vehicles, etc.) (effectiveness 1.0 to 4.0 percent of work trips);
- In coordination with AC Transit and City staff, construct transit facilities such as bus turnouts/bus bulbs, benches, and shelters along the road segments that define the development blocks (effectiveness 0.5 to 2.0 percent of all trips);
- Provide preferential parking (e.g., near building entrance) and reduced/eliminated parking fees in the City Center Garage and City Center West Garage for carpool and vanpool vehicles (effectiveness 0.5 to 1.5 percent of work trips for preferential location; 2 percent or more of work trips for reduced parking fees);
- Provide employer subsidy of transit passes (such as through the Metropolitan Transportation Commission's "Commuter Check" program);
- Provide secure, weather-protected long-term bicycle parking for future residents and employees at the proposed retail and office uses (effectiveness 0.5 to 2.0 percent of work trips);
- Provide showers and lockers for employees bicycling or walking to work at the proposed retail and office uses (effectiveness 0.5 to 2.0 percent of work trips); and
- Provide secure short-term bicycle parking for future retail customers (effectiveness 1.5 to 2.0 percent of non-work trips).

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Oakland Community and Economic Development Agency (CEDA), Planning Division and Building Services Division

**Monitoring Action(s):** For physical improvements, CEDA Planning Division shall review and approve project plans to ensure required improvements are included; Building Services Division shall verify construction of required improvements during field inspection. For ongoing programs during building operation, Planning Division, Building Services Division, and/or Oakland Public Works Agency, Traffic Engineering Division shall monitor on a complaints-received basis.

**Monitoring Responsibility:** CEDA, Planning Division and Building Services Division; Oakland Public Works Agency, Traffic Engineering Division

**Monitoring Timeframe:** Implementation will occur throughout operation of subsequent office buildings based on transportation plans to be submitted by the

office developer prior to the issuance of an occupancy permit for the T12 and T5/6 buildings.

**(Mitigation Measure C.2.a above does not apply because development of Block T12 will contain a residential use and the commercial development alternative approved in the Preliminary PUD would no longer be valid and in affect with approval of the Final PUD.)**

**Mitigation Measure C.2b:** The office developer (Shorenstein or its successor) shall implement Mitigation Measure B.5 (improvements to BART 12th Street Station exit gates) to facilitate use of BART by project workers.

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

**Monitoring Action(s):** Public Works Agency, Traffic Engineering Division shall review project sponsor's transportation study prior to submittal to BART and shall participate, as necessary, in discussions with BART and project sponsor.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

**Monitoring Timeframe:** Prior to Final PUD approval for each subsequent phase after Block T12.

**(Mitigation Measure C.2.b above does not apply because development of Block T12 will contain a residential use and the commercial development alternative approved in the Preliminary PUD would no longer be valid and in affect with approval of the Final PUD)**

## NOISE

**Mitigation Measure D.1a:** 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, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays.

**Responsible Implementing Entity:** Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

**Monitoring Action(s):** Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

**Mitigation Measure D.1b:** To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures:

- 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 and necessary);
- 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 dB. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dB. Quieter procedures shall be used such as drilling rather than impact equipment whenever feasible; and
- Stationary noise sources shall be located as far from sensitive receptors as possible. If they must be located near existing receptors, they shall be muffled to the extent feasible and enclosed within temporary sheds.
- If feasible, the noisiest phases of construction (such as pile driving) shall be limited to less than 10 days at a time to comply with the local noise ordinance.

**Responsible Implementing Entity:** Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

**Monitoring Action(s):** Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

**Mitigation Measure D.1c:** To further mitigate potential 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. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible:

- Erect temporary plywood noise barriers around the construction site, particularly along the eastern boundary along 14th Street to shield the adjacent multi-family residential buildings;
- 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.

**Responsible Implementing Entity:** Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

**Monitoring Action(s):** Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

**Mitigation Measure D.1d:** Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- A procedure for notifying the City Building Division staff and Oakland Police Department;

- A plan for posting signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem;
- A listing of telephone numbers (during regular construction hours and off-hours);
- The designation of an on-site construction complaint manager for the project;
- Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of pile-driving activities about the estimated duration of the activity; and
- 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 (including construction hours, neighborhood notification, posted signs, etc.) are completed.

**Responsible Implementing Entity:** Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

**Monitoring Action(s):** Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Implementation of Mitigation Measure D.1a through D.1d would reduce construction noise impacts to a less-than-significant level.

## **SHADOW AND WIND**

**Mitigation Measure F.2:** The City shall require the project sponsors (Shorenstein, or its successor, as applicable) to incorporate, to the maximum extent feasible, specific design elements in the final siting and designs for the high rises that would reduce ground-level winds within the Downtown Showcase District.

Recommended modifications to the building masses as tested [i.e., 425-foot towers tested for the 1997 General Plan Land Use and Transportation Element EIR] to reduce winds would include some of the design features already included in the project, such as:

- placing the buildings back from the sidewalk, which would likely reduce winds at the sidewalk itself;
- the introduction of curved facades, which could reduce the tendency of the project structures to intercept upper-level winds and direct them down to ground level; and

- placing the tower atop a lower podium level, which would serve to interrupt winds traveling down the tower before they reach ground level.

In addition, the use of facade articulation, to break up winds along the building face, and horizontally projecting wind screens, to disturb the downward flow of wind, could further serve to reduce ground-level winds.

This anticipated impact may remain significant even after implementation of these measures. Consistent with the 2000 FEIR, a condition of approval shall be incorporated into the Modified Project requiring further wind-tunnel testing for any project that includes development in excess of 100 feet in height, in order to reduce wind impacts to the maximum extent feasible, although it is possible that the impact would not be reduced to a less-than-significant level.

**Responsible Implementing Entity:** Oakland Community and Economic Development Agency (CEDA), Planning Division

**Monitoring Action(s):** For Block T12, if Option 2 (i.e., a building in excess of 100 feet tall) is selected, Planning Division shall require wind-tunnel testing. For subsequent phases of the City Center Project, Planning Division shall similarly require wind-tunnel testing for buildings taller than 100 feet, unless a qualified wind expert determines no testing is required.

**Monitoring Responsibility:** CEDA, Planning Division

**Monitoring Timeframe:** Prior to approval of ~~Final PUD~~ the first permit for Block T12 (i.e. demolition, grading or building permit) and approval of a Final PUD for ~~each phase of the City Center Project~~ Block T5/6.

## **GEOLOGY AND SOILS**

- Construction operations, especially excavation and grading operations, shall be confined as much as possible to the dry season, in order to avoid erosion of disturbed soils; and
- Final project landscaping plans shall be submitted to the Planning Director for review and approval.

**Responsible Implementing Entity:** Oakland Community and Economic Development Agency (CEDA), Planning and Building Services Divisions

**Monitoring Action(s):** CEDA, Planning Division shall review and approved landscaping plans; Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

**HYDROLOGY AND WATER QUALITY**

- The applicant shall be required to pay fees to compensate the City for the cost of any system upgrades required to accommodate increased runoff from the proposed project; and
- The applicant shall be required to grade unpaved areas to control surface drainage and redirect surface water away from areas of activity during excavation and construction; and
- The project applicant shall be required to comply with the Alameda Countywide Clean Water Program NPDES permit, and would implement appropriate source control and site design measures, and design and implement storm water treatment measures to reduce storm water pollution to the maximum extent practicable.

**Responsible Implementing Entity:** Oakland Community and Economic Development Agency (CEDA), Building Services Division; Oakland Public Works Agency

**Monitoring Action(s):** CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

**CULTURAL RESOURCES**

- An archival cultural resource evaluation shall be implemented prior to the start of construction or other ground-disturbing activities to identify whether historic or unique archaeological resources exist within the project site. The archival cultural resource evaluation, or “sensitivity study,” shall be conducted by a cultural resource professional approved by the City who meets the Secretary of the Interior’s Professional Qualifications Standards for Prehistoric and Historical Archaeology.

The purpose of the archival cultural resource evaluation is to: (1) identify documentation and studies to determine the presence and location of potentially significant archaeological deposits; (2) determine if such deposits meet the definition of a historical resource under CEQA Guidelines Section 15064.5 or a unique archaeological resource under CEQA Section 21083.2(g); (3) guide additional archaeological work, potentially including pre-construction subsurface archaeological investigation if warranted, to recover the information potential of such deposits; and (4) define an archaeological monitoring plan, if warranted. If excavation is the only feasible means of data recovery, such excavation shall be in accord with the

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provisions of CEQA Guidelines Section 15126.4(b)(3)(C). Any additional archaeological work and or monitoring shall be pursuant to a plan approved by the City. If a pre-constructing testing program is deemed necessary by the qualified professional as a result of the archival study, it shall be guided by the archival study and shall use a combination of subsurface investigation methods (including backhoe trenching, augering, and archaeological excavation units, as appropriate).

Representatives of established local Chinese-American organizations (including the Chinese Historical Society of America and the Oakland Asian Cultural Center) shall be invited to participate in a focused community review of the archival cultural resource evaluation prior to any subsequent recovery of potential resources or prior to the start of construction, whichever is earlier. The City shall consider the community comments in its review and approval of any plan for additional archaeological work or monitoring.

Should an archaeological artifact be discovered on-site during project construction, all activities within a 50-foot radius would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation, subject to approval by the City of Oakland, which shall assure implementation of appropriate mitigation measures recommended by the archaeologist. Should archaeologically significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

If historic or unique archaeological resources associated with the Chinese community are identified within the project site and are further determined to be unique, the City shall consult with representatives of an established local Chinese-American organization(s) regarding the potential use of the archaeological findings for interpretive purposes.

**Responsible Implementing Entity:** Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division

**Monitoring Action(s):** Project sponsor shall prepare and submit to Planning Division for review and approval an archival cultural resource evaluation. Project sponsor shall contact qualified archaeologist in the event that artifacts are discovered during construction. Archaeologist shall consult with Planning Division and with representatives of local Chinese-American community regarding any such discovery and shall undertake data recovery as warranted based on the nature of the discovery.

**Monitoring Responsibility:** CEDA, Planning Division

**Monitoring Timeframe:** Review and accept archival cultural resource evaluation prior to the start of any ground-disturbing activities. Direct data

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recovery, as applicable, in the event that artifacts are discovered during the construction period.

- In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and follow the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius until appropriate arrangements are made.

If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

**Responsible Implementing Entity:** Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Alameda County Coroner; Native American Heritage Commission

**Monitoring Action(s):** Project sponsor shall contact coroner in the event that human remains are encountered. Agencies shall respond to any such discovery as applicable.

**Monitoring Responsibility:** CEDA, Planning Division; Alameda County Coroner; Native American Heritage Commission

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

## **5. Design Review Requirements**

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

The final design elements listed below shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. The Planning Director may exercise his/her standard authority to refer the final design to the Design Review Committee or the Planning Commission:

1. Rooftop equipment shall be screened by methods integrated into the building structure. Screens shall not be used where they would disproportionately increase the mass of the building or introduce elements that are inconsistent with the high level of design quality reviewed as part of this approval.

2. Subject to the provisions of federal law, the placement of satellite dishes shall comply with the standards contained in the City's Municipal Code, where applicable, and shall be mounted to the roof screened from public view.
3. A detailed window schedule shall be submitted that shows all window types, how they open, and the amount of recess. The final design shall be approved by the Planning Director.
4. The design of the fences and gates shall ensure safety, visibility, high-quality design, and durability. The detailed design of all fences and gates proposed in various parts of the site shall be submitted and shall be designed to be harmonious with the architecture. The final design of fences and gates shall be approved by the Planning Director.
5. The materials and installation methods shall be shown on construction plans submitted as part of the building permit application and shall be detailed to provide a durable, long-lasting building facade, particularly at the base of the buildings.
6. Changes to the final color scheme in this approval shall be submitted for review and approval by the Planning Director.

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

### ***a. Ongoing.***

Violation of any term, condition, mitigation measure or project description relating to this approval is unlawful, prohibited and a violation of the Oakland Municipal Code. The City reserves the right, after notice and public hearing, to revoke the approvals or alter these Conditions or to initiate civil and/or criminal enforcement and/or abatement proceedings if it is found that the approved facility is violating any of the Conditions or the provisions of the Planning Code, or operates as or causes a public nuisance.

## **7. Recording of Conditions of Approval and Mitigation Monitoring Plan**

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

The project sponsor shall execute and record with the Alameda County Recorder's Office a copy of these Conditions and the mitigation monitoring plan on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

## **8. Reproduction of Conditions and Mitigations on Building Plans**

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

These Conditions and the Mitigation Monitoring Plan shall be reproduced on page one of all plans submitted for a building permit for this project.

## **9. Indemnification**

### ***a. Ongoing.***

The project sponsor 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 Building, Planning Commission, or City Council. The City shall promptly notify the project sponsor 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.

**10. Recycling Space Allocation Requirements**

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

The design, location and maintenance of recycling collection and storage areas shall substantially comply with the provision of the Oakland City Planning Commission “Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas”, Policy 100-28 and with the recycling space requirements of the Planning Code. The recycling location and area shall be clearly delineated on the plans. All trash areas shall be adequately screened as provided on the plans reviewed as part of this approval.

**12. Parking Study**

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

1. The project sponsor shall have a parking study prepared by an independent traffic engineer to demonstrate that the proposed layout and dimensions of the parking garage are functional and meet generally accepted standards, or what revisions are needed to meet such standards. The garage shall maintain the required sight distance at the garage driveway exit and truck loading areas or provide warning alarms or similar measures for pedestrian and vehicular safety. This parking study shall be submitted for the review and approval by the Planning Director.

**13. Lighting Plan**

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

An exterior lighting plan shall be submitted for review and approval by the Planning Director prior to issuance of any building permits. The lighting plan shall include the design and location of all exterior lighting fixtures or standards, and said lighting shall be installed such that it is adequately shielded and does not cast glare onto adjacent properties or into the public right-of-way (unless advantageous to the operation of adjacent public facilities). This plan shall include:

1. Details and specifications shall be provided for all exterior lighting on the project site, including within the public right-of-way, such as decorative light poles, wall-mounted fixtures, recessed fixtures, architectural lighting, pathway and garden lights, and similar fixtures.

**14. Landscaping Plans**

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

The project sponsor shall submit a detailed final landscaping plan that is substantially consistent with the approved site plan to the Planning Director for review and approval prior to the issuance of any building permits. This plan shall include:

1. Details and specifications for landscaping features, such as garden walls, street furniture, rocks, paving treatments at the public sidewalk, pedestrian podium, patios, terraces and stairs, and water features. In particular, the paving treatment for the sidewalk will need to be further developed and will also require review by the Public Works Agency.
2. Detailed irrigation plans and planting details, such as the location, number and sizes of the plant materials, and the specifications for planting.
3. Street frontage improvement plan (e.g. street tree planting and spacing, tree grates, sidewalk concrete color and scoring, streetlights, and furnishings such as bike racks and trash receptacles) to be coordinate with the improvements in other public rights-of-way to provide a continuous pedestrian flow.

**15. Signage Plan**

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

The project sponsor shall submit a signage plan for the project for review and approval by the Planning Director.

**16. Water, Wastewater and Storm Sewer Service**

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

The project sponsor shall provide the necessary information to the Public Works Agency, Design and Construction Services Division to reconfirm the existing capacity of the water, wastewater and storm service systems that serve the project site and the projected project demand. The project sponsor shall be responsible for payment of the required installation or hookup fees to the affected service providers. The project sponsor shall also be responsible for payment of sewer and/or storm water improvement fees as required by the Public Works Agency.

**17. 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 a demolition, grading or building 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.

## 18. 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. 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; and
- A management schedule for keeping the premises and surrounding area in a one-block radius free from litter originating from the operation of the future commercial activities; and
- Sweeping and trash collection of the premises, the public sidewalk, and the gutter area of the public street immediately adjacent to the project, as needed to keep the area free of litter.

## 19. Exterior Pay Phones

### *a. On-going*

There shall be no exterior pay telephones located on the project site without obtaining a pay phone permit.

## 20. Master Improvement Plan and Improvements in the Public Right-of-Way

### *a. Prior to Finalization of P-Job*

The project sponsor shall submit a detailed improvement plan prepared by a licensed Civil Engineer, with all conditions and requirements as set forth in these Conditions of Approval, for the private property and the public rights of way, including but not limited to curbs, gutters, pedestrian ways, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design, specifications and locations of the water pumping facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking, accessibility and all other required public improvements required to comply with all applicable City standards, including the landscaping plans, the street tree locations, and planting specifications. This plan shall be reviewed and approved by the City Engineer. Encroachment permits shall be obtained as necessary for any applicable improvements.

## 21. Electrical Facilities

### *a. Prior to Installation*

All electrical and telephone facilities, fire alarm conduits, street light wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street

lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Division.

## **22. Tree Removal Permit**

### ***a. Prior to issuance of the demolition or grading permit***

The project sponsor must obtain a tree removal permit, and/or tree protection permit as needed, from the Office of Parks and Recreation, and abide by the conditions of that permit, prior to construction adjacent to, or removal of, any protected trees located on the project site or in the public right-of-way adjacent to the project site.

## **23. Waste Reduction and Recycling Plan**

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

The project sponsor shall submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the construction and operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253.

## **24. Subdivision Maps**

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

The project sponsor shall obtain approvals for a Parcel Map Waiver or similar approval consistent with the City's subdivision requirements and State Subdivision Map Act for a Tentative Parcel Map in order to create condominium units.

## **25. Hazardous Materials Remediation**

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

Per the regulatory standards of the City Environmental Services Division of the Public Works Agency, the project sponsor shall sample the soil on the site to determine whether any further remediation is required. Based on the test results, the project sponsor shall submit any and all applicable documentation and plans required by the Regional Water Quality Control Board, the Alameda County Public Health Department, and the City's Fire Department, Office of Emergency Services, regarding remediation of any remaining contaminated soil and/or groundwater that may be identified on the site. These documents and plans shall be submitted to the Environmental Services Division, and shall demonstrate to the satisfaction of each agency with jurisdiction that all applicable standards and regulations have been met for the construction and site work to be undertaken pursuant to the permit. If warranted, the project sponsor must develop and submit for review by the Environmental Services Division a Soil and Groundwater Management Plan for construction and development activities at the site. The plan shall include, as required, any special health and safety precautions to mitigate worker exposure to contaminated soils, dust control measures to prevent the generation of dust that could migrate off-site, storm water runoff controls to minimize migration of soils to storm drains, measures to ensure the proper treatment and disposal of groundwater during dewatering activities, steps for ensuring compliance with applicable state and federal

regulations governing the transportation and disposal of hazardous wastes, and general protocol for addressing any unexpected hazardous materials conditions in the subsurface encountered during construction.

**26. 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.

**27. 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.
- 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

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problem. The Planning and Zoning Division shall be informed who the manager is prior to the issuance of the grading permit.

**28. Pre-construction Meeting with the Neighborhood**

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

A preconstruction meeting shall be held with the immediate neighbors within 300' of the job site to discuss neighborhood notification, location of staging areas, major deliveries, detours and lane closures etc. Both Planning staff and the building coordinator shall attend this meeting.

**29. Pre-construction Meeting with the City**

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

A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager with the City's project building coordinator to confirm that conditions of approval that must be completed prior to issuance of a demolition, grading or building permit have been completed (including pre-construction meeting with neighborhood, construction hours, neighborhood notification, posted signs, etc.). The Applicant shall coordinate and schedule this meeting with City staff.

**APPROVED BY:**

City Planning Commission: February 1, 2006 (date) \_\_\_\_\_ (vote)