

INTRODUCTION/BACKGROUND

The current submittal before the Landmarks Preservation Advisory Board (LPAB) and Planning Commission is Amendment #2 to a previously approved Bond Companies project for the Cox Cadillac site. The Bond Companies assumed control of the project site, subsequent to the City's approval of the AvalonBay project for this site.

On December 5, 2001 the City of Oakland Planning Commission certified an Environmental Impact Report and approved a proposal submitted by AvalonBay for the Cox Cadillac site. The AvalonBay project rehabilitated the former Cox Cadillac showroom for commercial uses and residents' common areas, with demolition of the shed buildings related to the showroom, and called for construction of a seven-story residential structure on approximately two acres in the Adams Point Neighborhood.

Since the previous AvalonBay project, the City of Oakland designated the Cox Cadillac Showroom as an historical landmark on April 9, 2002.

Since the Bond Companies have assumed control of the project, two proposals have been approved. First, a proposal consisting of a 40,000 square foot retail grocery store that included rehabilitation of the Landmark Cox Cadillac showroom with an addition to the rear, 125 residential units and accompanying required parking, was reviewed and approved by the Planning Commission on March 3, 2004. Next, an amended application (Amendment #1) consisting of removal of the residential units and podium open space, enlargement of the retail grocery store addition, redesign of the addition architecture, including materials, colors, parking, landscape, relocation of parking entries, truck loading, and relocation of the stair/elevator element from the Cox Cadillac showroom to an the area adjacent to the east wall of the existing showroom, was reviewed and approved by the Planning Commission on June 16, 2004. The Amendment #1 approved application has again been modified. The current proposal, Amendment #2, consists of the following changes since the June 16, 2004 Amendment #1 approval:

Exterior Changes

- redesign of the parking from a two-story parking structure (partially a rooftop parking area) to a rooftop parking area and a surface parking area;
- relocation of the rooftop parking access further north along Vernon Street;
- redesign of the entry vestibule at the east end of the existing Landmark Cox Cadillac Showroom;
- reconstruction of the showroom roof (versus partial reconstruction);
- reconfiguration of the lower driveway to "T" into Vernon Street instead of connecting as a merge;
- reduction in parking spaces from 210 to 204 spaces;

Interior Changes

- removal of the showroom ceiling which will expose the metal trusses of the earlier Cable Car Barn period;
- elimination of the internal connection between the surface and roof parking area;

- an approximate +/-1,000 square foot addition to the service area of the retail grocery store.

This revised project is before the LPAB and Planning Commission as Amendment #2, minor revisions to the June 16, 2004 approved project. The Landmarks Preservation Advisory Board (LPAB, Board) will review the amendment for Design Review modifications, and comment on historic and cultural issues as they relate to the City Landmark Cox Cadillac site, including the showroom building and new construction adjacent to the showroom building, at their March 14, 2005 meeting. Their recommendations will be communicated to the Commission in an oral report at the March 16, 2005 Planning Commission meeting. Staff is recommending that the Commission review the amendment, discuss any issues raised by the Commission and Approve the proposed amendment, including the Environmental Impact Report Addendum #2, subject to the revised Findings, Conditions of Approval and Mitigation Monitoring Program.

The chart below outlines differences between the original Bond Company Approved project and the two subsequent amendments with respect to planning permits required.

	Previous Approved Project	Amendment #1	Amendment #2
Use Permit	Construction of up to 125 residential units located in two to four-story buildings over a three story podium including a parking garage and grocery store addition and rehabilitation of the existing City of Oakland Landmark Cox Cadillac showroom.	Grocery store addition of 44,300 sq. ft. (net increase of 16,000 sq. ft.) to the rear of the 11,700 sq. ft. Landmark Cox Cadillac showroom.	Grocery store addition of +/- 45,300 sq. ft. (net increase of +/- 1,000 sq. ft) to the rear of the 11,700 sq. ft. Landmark Cox Cadillac showroom. +/- 50,000 sq. ft. retail area, +/- 7,000 sq. ft. service areas.
Major Variance	Reduced rear and side setbacks	Reduced side setbacks	Reduced side setbacks
Major Variance	Two loading berths where three are required	Two loading berths where three are required	Two loading berths where three are required
Major Variance	Reduced parking	Reduced parking	Reduced parking
Conditional Use Permit	Creation of more than one driveway	Creation of more than one driveway	Creation of more than one driveway
Design Review	Required	Required	Required

PROPERTY DESCRIPTION

The project site is an approximately two acre site located at 230 Bay Place. The site is located on an outer corner of Oakland' Adam's Point neighborhood, generally bounded by Harrison Street, Bay Place, Vernon Street, Vernon Terrace and a public stairway leading from Harrison Street to Vernon Terrace. The properties surrounding the site are a mix of commercial, residential and institutional uses.

The site currently contains the original Cox Cadillac showroom. The two auto service sheds have been demolished per the previous entitlements, in compliance with conditions and mitigations. The rest of the site contains a paved surface parking lot.

The site itself is of an irregular shape (see the site location map on the back of page 1), and slopes significantly upward from Bay Place toward Vernon Terrace. In addition, three sides of the site front on streets: Harrison Street, Bay Place and Vernon Street. The site is less than one mile from Interstate 580 and Interstate 980. The site is approximately three quarters of a mile from the 19th Street BART station. There are multiple AC Transit routes in the vicinity of the project, including a transbay bus, traveling from Oakland to San Francisco.

GENERAL PLAN ANALYSIS

The General Plan Land Use and Transportation Element (LUTE) classifies the portion of the property fronting Bay Place as Neighborhood Center Mixed Use. The intent of this classification is to "identify, create, maintain and enhance mixed use neighborhood commercial centers." The LUTE states that future development in this area should be "commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor retail." The remainder and majority of the site is classified Urban Residential. The site is located just outside the downtown district, as defined by the LUTE. The Urban Residential classification is intended to "create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise or high-rise residential structures in locations with good access to transportation and other services. Ground floor commercial uses are also encouraged." The property is located within walking distance of the 19th Street BART station and sits on several major arterial roadways. Multiple AC Transit lines also serve the property. The project consists of ground floor retail with good access to transportation, and therefore conforms to the intent of both the Urban Residential and neighborhood Center Mixed Use General Plan classifications.

The proposed project is also consistent with many other General Plan objectives and policies applying to the project, including:

Provide mixed use, transit-oriented development that encourages public transit use and increases pedestrian and bicycle trips at major transportation nodes (Objective T.1). Although the project is no longer mixed-use, the proposal is within walking distance of the 19th Street BART station and is one to two blocks away from at least seven AC Transit lines, including one transbay bus lines. The proposed major new

grocery store in the central core of the City to meet the needs of residents in the project and residents of the surrounding neighborhoods.

High-quality design standards should be required of all new construction. Design requirements and permitted procedures should be developed and implemented in a manner that is sensitive to the added costs of those requirements and procedures (Policy N3.8, Required High-Quality Design). The proposed building bulk has been significantly reduced from the initial Bond approved project, and the roof parking area has been further reduced with Amendment #2.

Preserving History and Community (Policy N9.8) and Respecting Architectural Integrity (Policy N9.9). Locations that create a sense of history and community within the City should be identified and preserved where feasible. The City encourages rehabilitation efforts which respect the architectural integrity of a building's original style. The project will rehabilitate the historic City of Oakland Landmark Cox Cadillac showroom building.

GENERAL PLAN HISTORIC PRESERVATION ELEMENT

Historic Status

The site is a historic resource because it is listed on the Local Register of Historic Resources. Since the previous AvalonBay project, the City of Oakland designated the Cox Cadillac Showroom as an historical landmark on April 9, 2002.

General Plan

Because the demolished auto repair sheds are considered historic properties, the City's Historic Preservation Element of the General Plan requires the City, when considering a decision on the project, to make certain findings. According to Policy 3.5 in the Historic Preservation Element, one of three findings must be made when a discretionary approval will result in the demolition of historic property.

Historic Preservation Element - Policy 3.5: Historic Preservation and Discretionary Permit Approvals

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

- (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or
- (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure; or
- (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

This revised proposal must also meet the findings. The demolition of the sheds has moved forward under the previous project approval (Avalon Bay), subject to the required mitigation measures and conditions of approval and the Policy 3.5 findings based on the most recent proposal approved at the March 3, 2004 Planning Commission. Staff made these findings based on the March 3, 2004 approved proposal. The revisions to the approved project would also have to meet the Policy 3.5 findings. Staff believes that the Landmarks Preservation Advisory Board and Planning Commission will be able to make findings (1) and (2), on the submitted plans, subject to conditions.

The design of the new construction is of a high quality, employing design elements, colors and materials that are reflective of the architecture in the surrounding neighborhood. In addition, the project provides public benefits including a major new grocery store in the central core of the City, the provision of infill housing near transit, and the rehabilitation and adaptive reuse of a City Landmark

Environmental Review –Historic Resources: Modifications to Previously Approved Historic Rehabilitation of the Cox Cadillac Showroom

The historic building rehabilitation work will generally consist of the following, most of which were evaluated in Addendum #1:

- the retention and rehabilitation of the South and West exterior building walls, their finish materials, and ornamental features, along with the replacement, in-kind of exterior doors and windows;
- the removal and reconstruction, in kind, of the East exterior building wall;
- the removal and reconstruction, in kind and with the use of salvaged and replicated historic building elements, of the historic roof and floor structures;
- the removal and selective reconstruction of interior materials and ornamental features;
- the construction of a new, 2-story, rear addition, and a new, east side entry vestibule addition.
- the construction of new sidewalks and landscaping along the historic building's South and West frontages.

The current proposal modifications include the following:

North Exterior Wall:

Under Addendum #2, the North wall is removed as previously proposed in the two approved Bond Company proposals. However, in Addendum #2, it is replaced with a short new wall and a line of columns to re-support the historic building form. As indicated in the Approved Project, the North exterior wall is not significant. It is the building's rear wall, and until recently was largely concealed by the original shed building, and it will again be concealed with the new addition to the rear of the Showroom.

Interiors

The interiors of the showroom have continuously deteriorated over time. As early as 1997, the Page & Turnbull report describes the condition of the interior as follows:

“The condition of this room is fair to poor, mainly because leaks have compromised some of the plaster. A coat of white paint has been placed over what appears to have been amber plaster, stenciled with blue detail.”

In the February 2005 Muller & Caulfield Architects report, under the Condition of Existing Building, the report states that:

“existing conditions were not foreseen when the original approach to preserve the building was formulated in 2001.”

It further states,

“The roof and ceiling structure have continued to deteriorate due to additional moisture damage. A new hole was made in the roof in 2002 to fight a fire in the building. Additional roof damage occurred in 2004 when vandals stole the ornamental crests from the ridge of the roof.”

The most recent Preservation Architecture historic report finds,

“the building interior ornamentation is in very poor condition, and the ceiling is in ruin.”

In addition, it has since been determined that extensive excavation for the removal of toxic soils below the existing brick walls is required, that new deep footings to support existing walls below the existing marshy soil are required, in addition to structural repair and strengthening work.

As a consequence of these conditions, the interior ornament is proposed to be removed and selectively reconstructed, in kind, without reconstruction of the interior ornamental plaster ceiling. The existing metal roof trusses would be exposed and visible from within the interior space, similar to its period as a cable car powerhouse.

EIR Mitigations

Staff has outlined below Mitigation E.1 which needs review with the current modified submittal.

Conformance with the Secretary of Interior Standards

The certified EIR (AvalonBay Project, 2001) found one impact which could be affected by the revised submittal, as follows:

E.1. The proposed project would rehabilitate the historic auto showroom. This is a significant but mitigable impact.

Mitigation Measure E.1: Final building permit plans and specifications for the auto showroom shall be reviewed and confirmed to be in conformance with the Secretary of Interior's Standards for Rehabilitation by a qualified historical architect identified by the City of Oakland.

Implementation of these measures would reduce Impact E.1 to less-than-significant.

As discussed above the current historic report finds that the rehabilitation work is equivalent to that of the Approved Project, with the exception of the North Exterior Wall and the Interiors. The historic report states that these two additional rehabilitation and reconstruction scopes of work would impact the historic building during the term of construction and potentially impact its character. Therefore an additional Mitigation Measure is proposed to maintain the building's integrity, as follows:

Amendment #2 Proposed Mitigation Measure: Retain the integrity of the original building volume, inside as well as out, by retaining and rehabilitating, and/or reconstructing in-kind, the South, East and West exterior walls with their ornamentation and doors and windows, the overall floor structure, and the overall roof structure. The North exterior wall must be designed such that, if the new construction were removed in the future, the historic building would remain an integral, free-standing edifice.

The historic report finds that with the incorporation of the new Amendment #2 Mitigation, the potential impacts would be reduced to less than significant.

All other Historic Mitigation Measures from the 2001 Certified EIR are met under Amendment #2, as follows:

- Mitigation Measure E.2a relates to salvaging and reuse of materials in relation to demolition of the sheds. The sheds have been removed per the required Conditions and Mitigations.
- Mitigation Measure E.2b relates to required Historic American Building Survey documentation, which has been completed and distributed per the required Conditions and Mitigations.
- Mitigation Measure E.2c requires that a canopy be constructed to define the Harrison Street steps. The Amendment #2 project includes the recommended canopy.

Secretary of Interior's Standards for Rehabilitation: The historic report finds that with the completion of the rehabilitation work as indicated, that the proposed modifications of Amendment #2 appear to be in compliance.

ZONING ANALYSIS

The project is zoned C-30, District Commercial Thoroughfare with an S-12, Residential Parking Combining Zone overlay.

Conditional Use Permit

The project will require a Major Conditional Use Permit under Section 17.94.080D of the S-12 regulations which states “all activities located in the S-12 Zone shall be limited to a single driveway, except upon granting of a conditional use permit...” The proposed project will remove seven existing curb cuts on the site, but will create three new ones to serve the project. Despite an overall reduction in the number of driveways serving the project, a conditional use permit is still required. In order to grant the conditional use permit, the Planning Commission needs to make one of four specific findings related to the driveway, pursuant to Section 17.94.080D of the Planning Code (see attaché findings).

Design Review

Design Review is required for designated Landmarks under Section 17.102.030B. of the Planning Code.

Landmark Design review approval may be granted subject to the determination that the proposal conforms to 1) and 2) below or to one or both of the criteria in 3).

- 1) That the proposal will not adversely affect the exterior features of the designated landmark;
- 2) That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their settings;
- 3) If the proposal does not conform to the criteria set forth in subdivisions 1 and 2:
 - a) That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or
 - b) That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by consideration of equity.

Staff is including below previous Landmarks Preservation Advisory Board comments from previous reviews of this project that may still be applicable for Amendment #2.

Landmarks Preservation Advisory Board sub-committee comments – April 6, 2004

- Add parking lot trellises with vines to break up the vast expanse of the parking lot;
 - *The previous (Amendment #1) included roof trellises; they have been eliminated from this submittal.*
- What is the material along the solid bays along Harrison (should not be metal grate); Please submit catalogue cut and material sample; Integral planting should be included in the landscape design.

- *Currently, the drawings indicate green screen (vinyl covered wire mesh).*
- Show outdoor plaza area as shown on previous submittal.
 - *Outdoor tables and chairs are not included in this submittal, but are intended to be located in the front of the store.*
- Show height/articulation of mechanical room on parking lot roof. How is it buffered from homes to rear? From parking lot?
 - *The height is shown on the section drawings. The mechanical areas will be enclosed on the side, open at the top. Screening should be discussed.*

Landmarks Preservation Advisory Board comments – February 9, 2004 and May 10, 2004

- Although foam cornices are *standard*, approval of this proposal requires landmark design review findings, specifically that the design quality of the proposed project is at least equal to that of the original structure.
 - *The previous applicants (Amendment #1 have responded to this by proposing a higher quality foam assembly. At a previous public hearing review meeting, the applicant informed the board that the foam proposed, EPS – Expandable Pre-coated Polystyrene Stucco, had been changed to a built-up cement plaster assembly of about one-half inch. It would be a flat plaster, smooth finish, which would provide crisp, clean lines.*
- The Board questions the number of control joints along Harrison. The applicant's architect responded that the quantity of control joints could be modified and that there were more than required.
 - The new proposal has reduced the number of vertical control joints.

Design Review Issues

Staff recommends that the LPAB and the Planning Commission review the above recommendations with respect to Amendment #2.

Most of the remaining design review items outlined above are minor, with the exception of the rooftop landscaping/screening and screening of the mechanical equipment. Because this is a large expanse of parking lot area, and highly visible by residents on the above adjacent properties, and because most of the existing landscaping along the edges of the property have been removed, it is important that this rooftop area be softened and broken down in scale. This is not only a visual, but a sustainable issue. Landscaping and/or some architectural structures supporting vegetation not only improves the visual appearance, but reduces heat buildup. In addition to the vegetated structures, staff has

recommended that the applicant consider light-colored surfaces, using coatings and integral colorants for asphalt to achieve light colored surfaces, to reduce the heat island effect and perhaps to create large scaled-pattern that provides visual relief for both residents and customers.

Condition of Approval #51 addresses all of the above items.

VARIANCES

Automobile Parking Requirements

Amendment #2 would supply 204 on-site parking spaces.

Commercial: Per Section 17.116.080, one space for each 200 square feet of commercial floor area is required. For the grocery store, +/-50,000 sq. ft. of retail space, 250 spaces would be required. The traffic report updated for the project assessed the projected demand for a store in a central city location and based on data provided by Whole Foods representatives for actual shopping duration. Per these criteria, the peak hour Whole Foods customer parking demand would be 168 spaces. Employee demand would be 38 spaces. The total parking demand is 206 spaces resulting in a parking supply shortfall of two parking spaces based on demand and 46 spaces based on zoning code.

Therefore, the applicant is requesting a parking variance for up to 46 retail parking spaces as required by code. This is the same variance request as the previously approved June 16, 2004 proposal. As in the previous staff report, staff suggests that parking demand can be successfully accommodated through a parking management plan. The Addendum #2 to the EIR for this Amendment #2 to the Cox Cadillac, Bond Companies project includes a Mitigation Measure (B.4) which requires the establishment and implementation of an on-site parking management plan to monitor parking usage, and to make other adjustments, if needed to ensure that the on-site parking spaces are used in a manner that accommodates customer demand to the greatest feasible extent. Specifically, the plan shall monitor the lower level parking area and restrict general uses access if parking demand for the lower level parking is observed to exceed supply. This plan would be reviewed and approved by the City, and monitored and evaluated by the City after the first six months of full operation.

With respect to the environmental review completed for the modified project, a 2002 State Court of Appeal decision held that parking is not part of the permanent physical environment, that parking conditions change over time as people change their travel patterns, and the unmet parking demand created by a project need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects (i.e., air and traffic). The Addendum has concluded (based on the traffic analysis report) that there are no physical environmental impacts associated with the proposed reduction of 42 spaces. Based on the proposed parking management plan to mitigate the shortfall, the less than significant impacts would be further reduced.

Staff believes the findings for reduced parking can be met given:

- the irregular shape of the lot;
- the proximity to public transportation;
- location of neighborhood-serving commercial development within close proximity of established transit routes and nodes;
- balancing parking demands with promoting economic activities in neighborhood commercial areas;
- the promotion of pedestrian activity by the strong pedestrian oriented design;
- the project's modifications to the streets and signals to accommodate and ease heavier pedestrian traffic.

General Plan transportation policies and classification of this area also support a parking variance. The Adams Point Neighborhood is one of the most dense Oakland neighborhoods and thus typical of its General Plan Urban Residential classification, which characterizes this classification as having excellent access to shopping and services. This project will provide residents of this neighborhood with excellent pedestrian access to grocery shopping. The following transportation policy supports the parking variance, and parking management plan:

- *Transportation Policy T3.7 supports resolution of conflicts between public transit and single occupant vehicles in favor of transportation mode that has the greatest possibility to provide the greatest mobility and access for people, rather than vehicles, giving due consideration to the environmental, public safety, economic development, health, and social equity impacts.*

This policy and others support economic vitality, the use of public transit, and a pedestrian oriented development over private vehicle use. In addition, staff notes that there is an established use pattern for grocery stores. After the initial opening, the overwhelming majority of users are repeat customers and will accommodate their schedules in the best way to avoid peak time. Further, given the central location of this site, it is expected that many customers can walk.

OTHER ISSUES:

Traffic Improvements

Relocation of the ground floor driveway at Bay Place/Vernon Street intersection to Vernon Street: (about 50 feet north of the previously proposed location): Per the Fehr and Peers analysis dated March 8, 2005, based on a qualitative analysis, the realigned intersection is expected to operate at better conditions than the previously analyzed intersection.

Trip Generation: Per the Fehr and Peers analysis dated March 8, 2005, the current proposed project would not significantly change the project trip generation and distribution.

Bicycle Parking Requirements: To meet the bicycle parking requirements, the Traffic Analysis requires 18 short-term spaces and 3 long-term spaces. Condition of Approval #13 requires that the location and method to meet these requirements be reviewed and evaluated by staff prior to issuance of a building permit. In addition, given other Whole Foods operations in the Bay Area, staff suggests that the bicycle parking

demand be monitored during the first six months of operation. If necessary, bicycle parking spaces should be increased.

Setback Requirements

The project requests a variance from the required setback regulations. As a historic mitigation to the loss of the Harrison Street auto shed, the applicant is proposing to build the new Harrison Street building base to the property line in order to maintain the strong street edge that the current shed buildings on the site, built to the property line, have historically created. The project therefore requests a variance from Section 17.46.160 of the Zoning code which requires a 7.5 foot side setback along this frontage.

Loading Zone Requirements

According to Section 17.116.140, projects that contain 50,000 to 99,999 square feet of commercial space, require three berths. The proposal includes +/-57,000 square feet of commercial space, and therefore requires three on-site loading berths to serve the commercial portion of the project. Two loading berths are provided.

Staff believes that the findings for granting this variance can be made given the irregular lot shape and topography of the site, and the unique circulation characteristics of the site. The site sits on one major arterial and two residential streets. The proposed two on-site loading berths are accessed off Harrison Street. Adding another loading berth off of Vernon Street or Bay Place would encourage truck travel on residential streets and could create circulation conflicts on Vernon Street where sight distances are limited for drivers traveling down Vernon Street to Bay Place. As a further recommendation, staff has also incorporated loading restrictions for the Harrison Street docks to assure that peak hour congestion periods are avoided (Condition of Approval #37).

RECOMMENDATIONS

Based on analysis contained in this report, the Addendum #2 to the 2001 Certified Final Environmental Impact Report and elsewhere within the administrative record, staff believes that the proposed project is an appropriate mix of land uses at this location and an appropriate and attractively designed urban infill project that will further the overall objectives of the General Plan. Thus, staff recommends that the:

LANDMARKS PRESERVATION ADVISORY BOARD

1. Receive any testimony from the applicant and interested citizens;
2. Review and comment on the historic resource issues as they relate to the showroom building and new construction adjacent to showroom building.
3. Recommend Design Review approval to the Planning Commission, subject to Conditions of Approval addressing the issues for discussion, any issues raised by the Board, and any recommendations submitted by the Board.

PLANNING COMMISSION

1. Receive any testimony from the applicant and interested citizens;

2. Approve the Addendum #2 to the Final Environmental Impact Report based on the attached findings;
3. Adopt the attached Mitigation Monitoring and Reporting Program;
4. Approve the Major Conditional Use Permit, the Variances and Design Review subject to the attached findings and conditions of approval.

Respectfully submitted:

Claudia Cappio
Director of Development

Prepared by:

Joann Pavlinec, Planner III
Major Projects and Historic Preservation

Attachments: A: Plans, Elevations, Sections – 3/05
B. Plans, Elevations, Sections – 6/04
C. Environmental Impact Report Addendum #2
D. Draft, Final Environmental Impact Report, and
Environmental Impact Report Addendum #1
(Available under separate cover at: Planning Division
250 Frank Ogawa Plaza,
Suite #3315
Oakland, CA 94612)

FINDINGS FOR APPROVAL

Modifications to the Findings to reflect Amendment #2, EIR Addendum #2 are indicated in underlined type for additions and ~~cross-out type~~ for deletions.

This proposal meets the required findings under the following:

- Planning Code Section 17.134.050 (General Use Permit Criteria);
- Historic Preservation Element - Policy 3.5: Historic Preservation and Discretionary Permit Findings;
- Planning Code Section 17.102.030B (Landmark Design Review Findings);
- Planning Code Section 17.94.080D (Special Conditional Use Permit for more than one driveway);
- Planning Code Section 17.148.050 - Variances for:
 - reduced side setbacks;
 - two loading berths (where three are required); and
 - reduced parking;

Required findings are shown in bold type; explanations as to why these findings can be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but includes all discussions in the report, the Environmental Impact Report, and elsewhere in the record.

Section 17.134.050 (General Use Permit Criteria):

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

The design and use is compatible with other recent commercial developments in the area. The design, with flat roofs, and scale of façade articulation, reflects the historic architecture of. In addition the project is compatible with the Cox Cadillac showroom that currently sits on the site and will be rehabilitated as part of the proposed project. The addition incorporates the same materials, stucco, and is scaled and located on the site so as not to distract from the historic Landmark Cox Cadillac showroom. The site is located in an already developed, urbanized area of Oakland and is adequately served by civic facilities and public utilities. In addition, the project is located within walking distance of the 19th Street BART station and served by multiple AC Transit bus lines, reducing the dependence of its residents on the automobile. The proposed grocery store use with outdoor café seating of the restored showroom will add to the vitality of the streetscape and will create interest at the pedestrian level of the project. Finally, the project will substantially meet parking demand (204 spaces provided, 206 spaces demand) for the project.

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

The project will provide neighborhood-serving shopping opportunities. The site is located near 19th Street BART and served by multiple AC Transit lines. The grocery store can be easily accessed for use by residents of the surrounding neighborhoods. In addition, the project is located within walking distance of downtown employment centers. The proposed design is attractive and of a high quality, and is compatible with the historic Cox Cadillac showroom as described above.

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

This grocery store will serve the residential community that already exists in the neighborhood. In addition, the project may act as a catalyst for additional commercial uses in the area, which would further enhance the basic community functions of the neighborhood. Finally, the project includes the extensive rehabilitation of an historic resource, the Cox Cadillac Showroom, which is currently in disrepair and therefore not contributing in an attractive way to the community.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedures at Section 17.136.040, 17.136.070 and 17.102.030B.**

See Section 17.102.030B - Landmark Design Review Findings below.

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

The proposal conforms to numerous General Plan policies related to creating new grocery store to serve residents, and promoting infill, development. The General Plan classifies the portion of the property fronting Bay Place as Neighborhood Center Mixed Use. The intent of this classification is to “identify, create, maintain and enhance mixed use neighborhood commercial centers.” The General Plan states that future development in this area should be “commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor retail.” The remainder and majority of the site are classified as Urban Residential. The Urban Residential classification is intended to “create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise or high-rise residential structures in locations with good access to transportation and other services. The classification also encourages mixed-use buildings. The property is located within walking distance of the 19th Street BART station and sits on several major arterial roadways. Multiple AC Transit lines, including a transbay bus line, also serve the property. The grocery store, within walking distance of the BART and

located on several arterial roadways conforms to the intent of both the Urban Residential and Neighborhood Center Mixed Use General Plan classifications.

Historic Preservation Element - Policy 3.5: Historic Preservation and Discretionary Permit Findings

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

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

The design of the new construction is of a high quality, employing design elements, colors and materials that are reflective of the architecture in the surrounding Adams Point neighborhood. The design incorporates proportions and scale of building elements and architectural articulation that responds contextually to the Historic Cox Cadillac showroom. The grocery store maintains the edge previously maintained by the sheds. The proposed addition to the historic showroom offers interest with a more limited and subtle set of variations of building form, color and articulation. The new construction limits the major materials to stucco also the major building material from the Cox showroom, with a minor glass curtain wall with a metal roof addition at the side of the showroom that facilitates high visibility of the east showroom façade.

- 2. The public benefits of the proposed project outweigh the benefit of retaining the original structure;**

The project provides public benefits including a major new grocery store in the central core of the City near transit, and the rehabilitation and adaptive reuse of a City Landmark.

Section 17.102.030B (Landmark Design Review Findings)

Design Review is required for designated Landmarks under Section 17.102.030B of the Planning Code. Design review approval may be granted subject to the determination that the proposal conforms to 1) and 2) below or to one or both of the criteria in 3).

- 1. That the proposal will not adversely affect the exterior features of the designated landmark;**

The new proposed building bulk has been significantly reduced from the previously approved project. Rehabilitation of the Cox Cadillac Showroom has been found to meet the Secretary of Interior Standards.

- 2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in**

themselves and in their settings;

The Harrison Street façade base maintains the building edge previously maintained by the sheds, and incorporates the same size and rhythm of the storefront openings along the grocery store area of this facade. The buildings forms, roof terminations, building materials and color allow the Cox Cadillac showroom to radiate its own importance, while the proposed addition still offers interest with a more limited and subtle set of variations of building form, color and articulation. The new construction limits materials to predominantly stucco, also the main building material from the Cox showroom, with a minor glass curtain wall with a metal roof addition at the side of the showroom that facilitates high visibility of the east showroom façade. The proposed colors for the addition adjacent to the showroom allow focus on the historic Cox Cadillac showroom. Proportion and scale of building elements and architectural articulation responds to the historic Cox Cadillac showroom.

- 3. If the proposal does not conform to the criteria set forth in subdivisions 1 and 2:**
 - a. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or**
 - b. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by consideration of equity.**

Not Applicable.

Section 17.94.080D (Special Conditional Use Permit Criteria for more than one driveway)

According to Section 17.94.080D, **one of four** findings must be made in order to permit more than one driveway to serve the project site. It should be noted that there currently exist seven curb cuts serving the site that will be removed as part of the proposed project. Four new ones will be created to serve the project. One of the four findings must be made to grant a Conditional Use Permit to create more than one driveway to serve the project:

1. One or more of the driveways providing ingress to and egress from the required parking spaces would be one-way; **or**
2. The activity occupies a facility which contains two or more separate parking areas between which direct vehicular travel is not possible; **or**
3. The number of parking spaces served is greater than or equal to twice the minimum number of spaces for which a two-lane driveway is required by subsection B of this section, in which case one two-lane driveway may be provided for each multiple of such minimum number; **or**
4. The City Traffic Engineer determines that more than one driveway is necessary to ensure the safe and efficient operation of the activity.

Both the traffic consultant and the City Traffic Engineer have determined that more than one driveway is necessary to ensure the safe and efficient operation of the activity (Finding #4). Thus, overall circulation in and out of the parking structure will be more efficient and likely result in fewer potential conflicts. Therefore, the findings for a conditional use permit to permit more than one driveway are met.

Section 17.148.050 (Major Variance Criteria) for:

- a. reduced rear and side setbacks;**
- b. two loading berths (where three are required); and**
- c. reduced parking;**

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

- a. reduced rear and side setbacks;**

Strict compliance with the rear and side setback requirements, loading requirements, and parking requirements would preclude an effective design solution with a project design that is in character and scale with the neighborhood. Maintaining the required rear setback would require locating additional height to the project closer to the showroom, which would again detract from and overshadow the historic landmark. Maintaining the required side setback would also preclude an effective design solution given the historic significance of the site. Holding the base along Harrison to the property line maintains the strong street edge that the Cox Cadillac sheds maintained.

- b. two loading berths (where three are required); and**

The site sits on one major arterial and two residential streets. The two commercial on-site loading berths are accessed off Harrison Street. Adding a third loading berth off of Vernon Street or Bay Place would encourage truck travel on residential streets and could create circulation conflicts on Vernon Street where site distances traveling down Vernon Street to Bay Place are already limited.

- c. reduced parking;**

The applicant is requesting a parking variance for 46 retail parking spaces. The shortage of 46 spaces will be met through a parking management plan that minimizes shortfalls during peak periods, as outlined in Conditions of Approval #11 and 12.

Findings for the variance for reduced parking include the irregular shape of the lot, the proximity to public transportation, location of neighborhood-serving commercial development within close proximity of established transit routes and nodes, balancing parking demands with promoting economic activities in neighborhood commercial areas, and the promotion of pedestrian activity by the strong pedestrian oriented design, and the project's modifications to the streets and signals to accommodate and ease heavier pedestrian traffic.

General Plan transportation policies and classification of this area also support a parking variance. The Adams Point Neighborhood is one of the densest Oakland neighborhoods and thus typical of its General Plan Urban Residential classification, which characterizes this classification as having excellent access to shopping and services. This project will provide residents of this neighborhood with excellent pedestrian access to grocery shopping. The following transportation policy also supports the parking variance, and parking management plan:

- Transportation Policy T3.7 supports resolution of conflicts between public transit and single occupant vehicles in favor of transportation mode that has the greatest possibility to provide the greatest mobility and access for people, rather than vehicles, giving due consideration to the environmental, public safety, economic development, health, and social equity impacts.

This policy and others support economic vitality, the use of public transit, and a pedestrian oriented development over private vehicle use.

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

a. reduced rear and side setbacks

Strict compliance with the setback regulations would not result in an effective design solution as described above.

b. two loading berths (where three are required); and

Similarly, adding a third loading berth on-site would create operational conflicts and therefore would not fulfill the basic intent of the loading regulations

c. reduced parking

Reuse of the historic landmark building has restricted the size, configuration and layout of the accommodation of additional parking would require a third level parking area and would make the grocery use economically infeasible.

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

a. reduced rear and side setbacks

The setback variance will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area. Granting of the variance will ensure that the design of the project is compatible with the architectural character of the area. In addition, the site is surrounded by roadways on three sides, minimizing the impact of the development on abutting properties.

b. two loading berths (where three are required); and

Similarly, the granting of the variance for the third loading residential dock will improve the livability of the area by limiting truck loading on Harrison Street, thereby reducing truck travel on Vernon Street, a residential street.

c. reduced parking

The reduced parking variance would not adversely affect the character, livability, or appropriate development of abutting properties. The Parking Management Plan will provide alternate means of meeting the parking demand. The proposal will enhance desired pedestrian activity in the area and provide a highly desired and needed grocery store to a densely populated area. The site location has excellent access to multiple bus routes, a transbay route from Oakland to San Francisco, and is within walking distance from the 19th Street BART station. This location, surrounded by excellent transit service, a high density neighborhood, and with the enhanced pedestrian amenities provided by the project, will encourage pedestrian and transit access to the site.

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

a. reduced rear and side setbacks

The granting of the proposed variances will not constitute a granting of special privilege nor will the granting of the variance be inconsistent with the purpose of the zoning regulations. The setback variance allows the project to a design that is compatible in scale with the historic Cox Cadillac showroom.

b. two loading berths (where three are required); and

The granting of a variance of the loading berths will ensure that the proposed project does not have an adverse impact on the surrounding neighborhood. Supplying a third on-site loading berth would create undue truck traffic on a residential street, which is contrary to the purpose of the zoning regulation.

c. reduced parking

The granting of a variance for reduced parking will not constitute a granting of special privilege or be inconsistent with the zoning regulations because the Parking Management Plan will address the shortfall two (demand) to 46 (Zoning Code) spaces.

Environmental Findings. In approving the Addendum for the Modified Project, the City Planning commission must make the following findings based on this staff report and the administrative record as a whole.

1. That the FEIR was previously certified by the City of Oakland as the Lead Agency, on December 5, 2001.
2. That the Certified Final EIR and Addendum #2 was independently reviewed and analyzed by the Planning Commission and reflects the independent judgment of the Planning Commission; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make of the Addendum, the

Final EIR and the administrative record as a whole); that the Planning Commission recognizes that the Addendum contains certain additions, clarifications, modifications or other revisions (as the result of modifications to the approved project); but no supplement or subsequent EIR is required; that the Planning Commission relies upon the Addendum and its findings and conclusions as its source of environmental information.

3. The Certified Final EIR and Addendum was presented to the Planning Commission, which reviewed and considered the information contained therein prior to acting on any of the development approvals for the Modified Project.

Based on the analysis and discussion contained in this staff report and the administrative record as a whole, staff believes that the above listed findings can be made.

Mitigation Monitoring: The monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the attached Mitigation Monitoring Program. Adoption of the program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Oakland, the applicant or other identified public agencies of responsibility.

CONDITIONS OF APPROVAL

Modifications to the Conditions of Approval to reflect modifications made by the Planning Commission at their March 16, 2005 meeting are indicated in underlined type for additions and ~~cross-out type~~ for deletions.

STANDARD CONDITIONS:

1. Mitigation Measures

All mitigation measures identified in the EIR Addendum are included in the Mitigation Monitoring Program (MMRP) which is 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 following Conditions of Approval. Thus, to the extent there is an

inconsistency between the MMRP and the following conditions, the conditions shall govern. The applicant shall be responsible for compliance with all 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 Department.

2. Approved Use.

a. Ongoing

This project shall be constructed and operated in accordance with the authorized use as described in this staff report and in the plans prepared by Lowney Architecture dated 3-3-05 and historic plans prepared by Muller & Caulfield dated Rev. 2/21/05 including details that are included for the Addendum/Amendment #2 design proposal, and as amended by the following conditions. Any changes or modifications to these drawings, including colors and materials shall be reviewed and approved by the Planning Director. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

3. Effective Date, Expiration, and Extensions

a. Ongoing

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on March 16, 2007 unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the zoning administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

4. Scope of This Approval: Major and Minor Changes

a. Ongoing

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

5. Modification of Conditions or Revocation

a. Ongoing

The City planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved facility or use is violating any of the Conditions of Approval, any applicable codes, requirements, regulations or guidelines, or operates as or causes a public nuisance.

4. Recording of Conditions of Approval

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

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

7. Reproduction of Conditions on Building Plans

a. *Prior to issuance of building permit*

These conditions of approval, including the MMRP, shall be reproduced on page one of any plans submitted for a building permit for this project, except the MMRP measure which has been refined/clarified by a condition need not be reproduced.

8. Indemnification

a. *Ongoing*

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

9. Litter Control

a. *Prior to issuance of building permit*

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

- Distribution of proposed locations of litter receptacles on site and in the public right of way.
- A management schedule for keeping the premises and surrounding area free from litter originating from the operation of the commercial activities; and
- Daily sweeping and trash collection of the premises, sidewalk and gutter area within the commercial parking area.

10. Electrical Facilities

a. *Prior to installation*

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

SPECIFIC PROJECT CONDITIONS

11. On-site parking management-

a.. *Commercial - First two months of grocery store operation*

During peak periods, the applicant shall provide a traffic monitor/attendant capable of directing traffic in coordination with the Oakland Police Department Traffic Division.

b. *Commercial – Prior to issuance of building permit*

The garage design shall include automated signage to indicate a surface parking lot full situation.

12. Employee parking management plan

a. *Prior to issuance of first occupancy permit and ongoing*

Pursuant to the recommended mitigation measure B.4 in the Addendum, the applicant shall establish and implement a parking management plan (subject to review and approval by the City) including shared parking and measures that minimizes automobile

trips to the site through measures designed to promote alternative transportation modes and minimizes parking demand through employee scheduling. The program may include, but is not limited to development of a rideshare program, preferential carpool parking spaces, bicycle trip-end facilities, provisions of transit information and subsidization of transit passes for employees. The plan shall include at least the following transportation demand Management measures:

- The employer shall provide public transit subsidies/or a parking waiver benefit for those employees that utilize transportation means other than automobiles, as an incentive to reduce parking demand.
- Informing employees that there is only primarily metered, time-limited parking on-street for several blocks around the project location, and indicate that they are therefore discouraged from on street parking.
- Monitor the lower level parking area throughout the week and restrict general use access when parking demand for the lower level parking exceeds the parking supply.

The plan shall be evaluated after the first six months of full operation by an independent, qualified traffic engineer, approved by the City and hired at the applicant's expense. As a result of this evaluation, the Planning Director, at his or her sole discretion, shall have the authority to institute other parking management measures, such as valet service during peak periods, to accommodate parking demand or the leasing of spaces in an off-site facility to accommodate the employee parking.

13. Bicycle Parking

a. Prior to issuance of building permit

The Building Permit drawings shall show location of 18 short-term spaces and 3 long-term, minimum, spaces for the retail portion of the project, for review and approval by the Planning Director. Applicant shall pay for the cost and installation of any bicycle racks in the public right of way intended to serve the project.

b. At six months of full operation of the grocery store

The demand for bicycle spaces shall be monitored after six months of full operation of the grocery store, and additional bicycle parking facilities shall be added, as deemed feasible by the Planning Director.

14. Construction Management Plan

a. Prior to issuance of a building permit.

Prior to the start of construction or demolition, the Project sponsor shall develop a construction management plan (which ensures, to the maximum feasible extent, that impacts to pedestrians, bicyclists, motorists, and neighbors are minimized) for review and approval by the City Traffic Engineering Division. The plan shall, at a minimum, include the following (Please also see Conditions of Approval #20 and #21):

- Provisions for either on-site or nearby parking for construction workers;
- Off-site parking of construction vehicles;
- Traffic control plan identifying traffic re-routing, detours and main truck routes and noticing of such;
- A temporary construction fence around the property to prevent vandalism, and school children and other non-authorized persons from accessing the site;
- Defined construction staging areas on and surrounding the site, including any projected street or sidewalk closures;
- Main ingress and egress routes for construction equipment, vehicles and materials, particularly during demolition;

- A pre-construction meeting, at least 30 days before the start of construction, specifically with Westlake Middle School to notify the school in advance of construction activities and timeframes;
- Provision of a pedestrian management plan, including the dedication of safe pedestrian pathways along the site;
- Provision of adequate notification procedures for any road closures, including the following minimum requirements: 1. Posting of street signs at least 72 hours in advance of the closure and 2. Notification of adjacent residents and businesses or other facilities within 300 feet of the site through a mailed notice (72 hours minimum prior to closure) or dropped notice (48 hours prior to closure);
- Construction noise measures as set forth in Condition of Approval #21;
- The following requirements and standards apply if Saturday construction or construction not within the standard weekday time frame is requested by the applicant:
 - Saturday hours may be permitted on a routine basis once the building is closed in, including doors and windows, subject to the prior approval of the Building Official and the Planning Director. Construction activity shall be limited to interior work, only, and hours shall be limited to 9:00 am to 5:0 pm.
 - In the event of an extraordinary construction activity, such as the need for a continuous concrete pour, Saturday construction hours may be allowed for exterior work, subject to approval by the Building and Planning Departments and the condition set forth below.
 - No construction is permitted on Sunday.
 - Prior to allowing construction during Saturdays or outside of standard weekday time frames, the applicant shall:
 - Notify the Building and planning Department regarding dates, duration and why this work is required. The applicant shall also notify adjacent property owners and residents about the proposed construction activity, along with information about an on-site complaint manager and telephone numbers for reaching the complaint manager during the weekend and off-hours.
 - Establish a deposit account with the Building Department to fund a special, on-call inspector who shall be available during those construction hours being requested.

15. Hazardous and Toxic Substances

a. Prior to issuance of building permits for construction or demolition

Prior to the issuance of permits for new construction, all applicable documentation, plans, and approvals from the Regional Water Quality Control Board, the Alameda County Public Health Department, the City of Oakland Fire Department, and other appropriate regulatory agencies regarding remediation of the contaminated soil and groundwater identified on the site shall be submitted to the Planning and Zoning Division. The documentation shall demonstrate that each agency with jurisdiction is satisfied that all applicable standards and regulations have been met for the construction and site work to be undertaken pursuant to the permit.

b. Prior to issuance of demolition permit

Written documentation that all asbestos containing materials (ACMs) have been removed from the site prior to the start of any demolition activities shall be submitted to the Planning and Zoning Division. The removal of ACMs shall be conducted by a licensed asbestos abatement firm in accordance with the BAAQMD's Regulation 11, Rule 2.

16. Lighting Plan

a. Prior to issuance of building permit

The applicant shall submit a lighting plan for review and approval by the Director of City Planning, with referral to other departments or divisions as appropriate. The plan shall include the design and location of all lighting fixtures or standards. The plan shall utilize lighting fixtures that prevent unnecessary glare and prevent light and glare on adjacent properties. The plan shall not include dramatic lighting beyond what is required for the safety and security of residents and pedestrians and to attractively light pedestrian amenities. Generally, lights shall be cast down, not up to protect dark sky facilities such as the Chabot Observatory. Lighting fixtures shall be compatible with the final approved architecture and historic Cox Cadillac Landmark showroom.

17. Landscaping Plan

a. Prior to issuance of building permit

The applicant shall prepare a final detailed landscaping plan for the project and shall submit such plans to the Planning Director for review and approval prior to the issuance of building permits. Landscaping shall be used to screen any and all utility meters from view from any public right-of-way.

b. Prior to issuance of Certificate of Occupancy and ongoing

All landscaping identified on the detailed on-site landscaping plan shall be installed prior to the issuance of a Certificate of Occupancy, unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code. All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in good growing compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

18. Cultural Resources

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

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

b. Prior to issuance of building permit

Design Development of unresolved architectural details, either due to testing requirements and/or further required design development/field investigations relating to the exterior and interior of the Cox Cadillac Showroom building shall be reviewed and approved by the Development Director, in conference with the Historic Architect.

c. Continuous – throughout the Construction Phase

Interim reports shall be submitted to the Development Director, in conference with the Historic Architect, for review and approval, prior to moving forward with related further

- design development, construction, etc. at the following milestones: testing of exterior stucco to determine if removal of paint is required or if replacement of the stucco is required; review and approval of an on-site sample wherever a new construction/finish is required to match the existing; review and approval of shop drawings for replacements of any existing features, architectural elements, including but not limited to, the roof crests, window assemblies, the roof reconstruction including reuse of the roof tiles, review and approval of the floor salvaging, reuse and installation plans, review and approval of the final finish floor for the remaining area of the showroom floor, and architectural solution for the roof and north wall.
- d. All of the final recommendations with respect to further design development, testing shall comply with the Secretary of Interior's Standards for Rehabilitation.

19. Waste Diversion and Recycling

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

In order to avoid an adverse effect on achievement of the City's waste diversion goal the proposed project shall implement the following measures:

- Prior to issuance of building permits, the project sponsor shall submit a "Waste Reduction and Recycling Plan" and a plan to divert 50 percent of the construction waste generated by the project from landfill disposal for review and approval by the Public Works Agency; and
- Prior to issuance of building permits, the project sponsor shall submit a plan to divert 50 percent of the solid waste generated by operation of the project for review and approval by the Public Works Agency;
- For more information and assistance contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7073.

20. Construction dust mitigation measures

a. *Throughout construction period*

- Water all active construction areas at least twice daily.
- Watering or covering of stockpiles of debris, soil, sand or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Sweep daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction sites.
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

During demolition, the following practices should be required:

- Dust-proof chutes should be used for loading construction debris onto trucks.
- Watering should be used to control dust generation during demolition of structures and break-up of pavement.
- Cover all trucks hauling demolition debris from the site.

21. Construction Noise Conditions

a. *Throughout construction period*

- The applicant shall post signs at the construction site that include permitted construction days and hours, a day and evening contact number for the job site and a day and evening contact number for the City in the event of problems or complaints.

- The applicant shall designate an on-site complaint and enforcement manager to respond to and track complaints.
- The applicant shall hold a pre-construction meeting with the job inspectors and the general contractor/on-site project manager, to confirm that noise mitigation measures and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.)
- The applicant shall limit construction to 7:00 am to 7:00 pm, Monday through Friday. Saturday construction hours and any other construction activity outside of the standard work hours of 7:00 am to 7:00 pm Monday through Friday shall be regulated as set forth in Condition of Approval #14.
- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

b. Prior to pile driving or other extreme noise generating activity

In the event that piling driving or other extreme noise generating activity is necessary at the project site, the following conditions shall be implemented prior to the commencement of any such activities :

- Pile driving or other extreme noise generating activity (90 dBA or above) shall be limited to 8:00 am to 4:00 pm, Monday through Friday, with no pile driving or other extreme noise generating activity permitted between 12:30 and 1:30 pm., or other mid-day hour as established and noticed. No pile driving or other extreme noise generating activity is permitted on Sundays and holidays. Pile driving on Saturdays will be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of residents and businesses preferences for whether Saturday activity is acceptable if the overall duration of the pile driving is shortened.
- A site-specific set of noise attenuation measures, as directed by a qualified acoustical consultant, to decrease the noise impacts to the greatest extent feasible (e.g., shrouds, noise insulation blankets, etc.) is required and shall be submitted to the Director of Planning and Zoning for review and approval. The definition of “feasible” will be based upon the definition as set forth in the California Environmental Quality Act (CEQA) Guidelines Section 15364 (“*Feasible*” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors). This feasibility analysis must also include an examination and analysis of the trade-offs of using certain mitigation measures.

c. Throughout demolition and construction period

All stationary noise sources, to the greatest extent practical, should be located as far away as possible from sensitive receptors, (i.e., residential uses)

22. Project Noise Requirement

a. *Prior to receiving first occupancy permit*

The applicant shall implement acoustical techniques in compliance with Title 24 to ensure that noise levels in interior habitable spaces remain at or below 45 CNEL with all doors and windows closed.

23. Public Improvements

a. *Prior to issuance of building permit for the structure*

The applicant shall submit public improvement plans that meet City specifications for modifications, repairs, and improvements to curbs, gutters, street trees, and sidewalks made necessary by the project.

b. *Prior to receiving first occupancy permit*

The applicant shall pay for and install all modifications, repairs, and improvements to curbs, gutters, street trees, and sidewalks made necessary by the project.

25. Final Design Review

a. *Prior to receiving building permit*

The final project design, including, without limitation, all exterior design details, window types, proposed signs, and the final selection of exterior materials, colors and textures shall be submitted to and approved by the Director of City Planning, or his or her designee. Specifically, this submittal shall include a description of the final design plan for the ground-floor elevations including specifications regarding materials, specifications for any planters and awnings used at the ground floor level and any other pedestrian level design details. The final design plan must also show window details, including a required four inch recess for street-facing, exterior façade windows.

26. Tree Removal Permit

a. *Prior to receiving building permit*

The applicant must secure a tree removal permit, and abide by the conditions of that permit, prior to removal of any trees on the project site. The applicant would make every effort to relocate the affected date palm tree to a location within the project site.

28. Signage

a. *Prior to issuance of a building permit*

The applicant shall submit a sign program (subject to Chapter 17.104 - General Limitations on Signs and Ordinance 12563 – New sign Regulations effective December 17, 2002) for review and evaluation Window signs shall be limited to Oakland’s Small Project Design Guidelines Section 1.7 _ Maximum window sign area is 20% of any single window, and 10% of the aggregate ground floor window area, but no more than twelve square feet per window. Any sign lighting shall be directed away or shielded from view of residential units.

29. Visual Access

a. *Ongoing*

The applicant shall keep the retail windows clear of visual obstructions including, but not limited to signage beyond that described in Condition #28, any advertising displays, chip/product racks, refrigerated equipment, cardboard, trash, wire mesh/security bars, reflective coatings, or other materials. The property shall maintain good sight lines in and out of the store to allow police to monitor activity inside and to allow store staff to monitor and discourage inappropriate

activity in front of the store. Note that this is more restrictive than the state regulations related to signage.

30. Historical Plaques

a. Prior to issuance of Occupancy Permit

A minimum of two historical plaques, such as early photos of the Cox Cadillac showroom, shall be placed in the elevator lobby. The applicant shall also place in a prominent location a plaque commemorating the original use of the building as the winding-spool room for the Consolidated Piedmont Cable Railroad. This plaque is to be erected jointly by Cal-Nevada and the SF Cable Car Museum.

32. Stucco Finish

a. Prior to issuance of a building permit

The building specifications and working drawings shall indicate that the exterior stucco texture of the Cox Cadillac showroom shall show.

34. Fire Exits – Cox Cadillac Showroom

a. Prior to issuance of building permit

Any additional/new required fire exits shall be designed so as not to look exactly like other windows, in order to avoid false historicism, to be reviewed and approved by the Planning Director.

35. Mechanical Equipment/Rooftop Utilities

a. Prior to issuance of building permit

All mechanical equipment shall be located so as to not be visible from views above, and screened from the parking areas.

37. Loading Area Restrictions

a. Prior to issuance of building permit

(ii) Commercial loading docks shall be time restricted, with appropriate signs posted so as not to interfere with peak hour traffic along Harrison, as approved by the Public Works Agency.

39. Street Trees

a. Prior to issuance of building permit

The applicant shall provide street trees as indicated on the plans with review and approval of species, size at the time of planting, and placement in the right-of-way, subject to review and approval by the office of Parks and Recreation and Building Services.

40. Meter Shielding

a. Prior to issuance of building permit

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, PGE equipment, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right-of-way.

41. Number of Tables and Chairs

a. Ongoing

The approved Sidewalk Café shall include a maximum number of tables and chairs as shown on

The landscape drawings (L-1) dated 2/4/04 located in the public right-of-way, but not to within less than six and one-half feet of unobstructed improved sidewalk remains available for pedestrian purposes, as specified in Section 17.136 of the Oakland Planning Code.

42. Encroachment Permit

a. Prior to installation of furniture in the right-of-way

The operator of the Sidewalk Café shall obtain an encroachment permit from the City's Building Services Division, and shall comply with all requirements imposed by other affected departments. The encroachment permit shall include language that a waste receptacle be placed outside and all garbage/litter associated with Sidewalk Cafes must be approved within twenty-four hours, and a requirement to obtain liability insurance. The city shall be named as an additional insured and the amount of the insurance shall be determined by the City's Risk Manager.

45. Traffic Signal Improvements

a. Prior to certificate of occupancy

The applicant shall fund a study to determine signal optimization improvements required at Grand/Harrison. This study shall be completed prior to the issuance of a Certificate of occupancy and the study shall be funded and the findings, if approved by the City's Traffic Engineer, shall be implemented to provide optimization. Implementation shall be paid for by the applicant.

46. Reuse of Historic Cox Cadillac Exterior doors along Bay Place

a. Prior to the certificate of occupancy

The applicant shall reuse the historic Cox Cadillac, Bay Place entry doors for this project, if feasible. If they are not reused, they shall be stored at the site.

47. Stabilization/Protection of Historic Resource

The applicant shall insure that should the project construction be delayed or not proceed in a reasonable amount of time (expected construction start time late spring of 2005), that the site will be secured and protected so as to stabilize and prevent any deterioration of the historic Cox Cadillac Showroom building and the site.

48. Review of Modified Project

If the applicant modifies the application (as discussed at this meeting, a grocery store only with appropriate parking) the applicant shall resubmit for review and approval of an alternate to the approved project to all appropriate Boards and Commissions

49. Improvement of Bicycle Access

The developer shall work with the City and neighbors on the improvement of bicycle and pedestrian access to the site.

50. Truck Routing

To the extent feasible, the applicant shall work the leasee, Whole Foods, to direct truck routing to 27th Street.

51. Design

a. Prior to Approval of Building Permit

- Suggest that if the project budget permits, the plans shall be modified to include rooftop trellises/architectural structures supporting vegetation, not only to improve the visual appearance of the parking areas, but also to reduce heat buildup. In addition to the vegetated structures, the applicant shall consider including light-

colored surfaces, available new coatings and integral colorants for asphalt to achieve light-colored surfaces and/or surface pattern.

- Mechanical equipment areas shall be screened on all sides, including the top. Screening of the top may be open (e.g. grid pattern) to allow any required ventilation.
- Applicant shall provide a sample of the Harrison Street cornice. Cornice design shall be crisp and provide clean lines. The Board and Commission reviewed a built-up cement plaster, minimum ½” thick, sample.
- Outdoor seating area plans and catalogue cuts of proposed furniture, including tables and chairs, bike racks, trash containers, etc. shall be submitted.
- Applicant shall modify Harrison Street trellis material to wood.
- The number of control joints along Harrison shall be reviewed and approved by historic preservation staff, in consultation with the LPAB sub-committee, if necessary

All of the above design conditions shall be reviewed and approved by the Development Director prior to sign off of building permits.

52. Alcoholic Beverage Sales Commercial Activities

Prior to Certificate of Occupancy

The applicant shall apply for a Conditional Use Permit as outlined in the Planning Code 17.102.210.

54. Design of stair/elevator tower

Prior to sign-off of the building permit

Staff shall review the design of the new addition for the elevator/stair core prior to final approval and consult with the board sub-committee if necessary.

55. Traffic Improvements

a. Prior to the issuance of a building permit

The applicant shall enter into a formal agreement with the City to implement the following traffic and circulation improvements, at the applicant’s sole expense for design, engineering and construction, as set forth in the Fehr and Peers Traffic Report, dated March 8, 2005.

- Reconfigure westbound Bay Place approaching Harrison Street to include one left turn, one through lane and one right turn lane. The existing parking meter that must be moved to accommodate these improvements shall be relocated to a non-street space acceptable to the City.
- Restripe eastbound 27th Street approaching Harrison Street to include two left turn lanes, one through lane and one right-turn lane.
- Extend the southbound Harrison Street left-turn lane by at the Bay Place intersection to provide at least 150 feet of storage.
- Modify the Harrison Street/Bay Place intersection signal to include protected left-turn phasing for all four approaches and optimize the signal operations with the adjacent signals at Grand Avenue and the proposed signal at Vernon Street.
- Design the lower level driveway to intersect Vernon Street and Bay Place such that the resulting intersection could operate as either a signalized or an all-way stop-controlled intersection. Install the traffic hardware and equipment needed at this intersection, including safety lighting and pedestrian and bicycle actuation.

56. Buffers at Northeast Tail of Building

a. Prior to sign off of the building permit

The applicant shall submit larger scaled details, sections, and plans of the design of the parking edge wall at the northeast tail of the building and consider, if deemed necessary by the Planning Director, possible buffers and other methods (e.g. locating employee parking at this location to reduce in and out vehicle movement, time restrictions, etc.) to reduce any parking lot noise and visually screen the parking lot from view of the adjacent property owner.

**MITIGATION MONITORING AND REPORTING PROGRAM –
CASE FILE ER04-001 – Addendum #2**

230 Bay Place

Mitigation measures included in the 2001 FEIR(ER01-0001) would remain applicable to the Modified Project. Following are the Approved Project’s Mitigation Measures which have been revised for Addendum #2.

Summary of Mitigation Measures for the 2005 Modified Project

B. Traffic, Circulation and Parking

B.4: As part of the requirements for the project, the project sponsor shall establish and implement an on-site parking management plan (subject to review and approval by the City) to monitor parking usage, and to make other adjustments, if needed to ensure that the on-site parking spaces are used in a manner that accommodates customer demand to the greatest feasible extent. Specifically, the plan shall monitor the lower level parking area and restrict general use access if parking demand for the lower level parking is observed to exceed supply. , which would allow residents and the users of the project’s commercial spaces to share on-site parking spaces through the designation of “assigned” spaces for residents and “unassigned” spaces for residents and users of the commercial spaces.–The goal of the plan would be to accommodate parking-generated parking demand on-site, or within reasonable walking distance of the project site.–~~The number of parking spaces in the assigned and unassigned (“shared”) pool would be set on the basis of the following factors:~~

~~The type of commercial uses within the project and the resulting parking demand; and~~

~~The patterns of usage of on-site parking spaces (by residents and users of the project’s commercial spaces) throughout the day~~

This parking management plan shall be monitored and evaluated by the City or its qualified designee after the first six months of full operation ~~monitored one year after final occupancy of the project buildings~~ to ensure that the parking demand for the project does not exceed the on-site parking supply. The monitoring study, and further recommendations (as needed) to meet unmet demand, shall be submitted for review and approval by the City, and the project sponsor shall implement the approved modifications to the plan.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, and City of Oakland Public Works Agency, Traffic Engineering Division.

Monitoring Timeframe: Implementation of this measure shall be complete prior to the issuance of an occupancy permit for the project. Monitoring and evaluation after the first six months of full operation. Further recommendations implemented at completion of study.

B.7a: On-street parking within 100 feet on each side of the lower Vernon Street driveway shall be restricted, and landscaping within 50 feet on each side of the driveway shall be located to ensure adequate site distances from vehicles and pedestrians. A driveway sight distance study shall be conducted and evaluated by the City or its qualified designee after construction of the project is complete to determine if the 100-foot distance can be adjusted. The driveway sight distance study and resulting recommendations shall be submitted for review and approval by the City, and the project sponsor shall implement the approved modifications to the on-street parking, as appropriate.

Also, left-turn access exiting the lower level driveway shall be restricted. Left-turn access into the driveway shall be permitted since left-turn volumes are projected to be low, and since Vernon Street provides adequate width to allow northbound vehicles to bypass any potential vehicles queued to turn left into the project. The affect of unnecessary queuing on Vernon Street in a manner that interferes with the through traffic operation on Vernon Street shall be monitored consistent with the monitoring required by Mitigation Measure B.4 (revised below) to ensure that general use access of the lower level is restricted if parking demand for the lower level parking is observed to exceed supply.

~~The Vernon Street approach to its intersection with Bay Place shall be reconstructed to provide a more perpendicular alignment. This reconfiguration would have the dual effect of (1) slowing the speed at which drivers make a left turn from Bay Place to Vernon Street and (2) increasing the available sight distance (and related response/reaction time for drivers) at the project's lower driveway on Vernon Street. Those improvements would allow left turns to be made into and out of the lower Vernon Street driveway. The project sponsor would design and pay for design and construction of this improvement, subject to approval by the City's Traffic Engineer (if this alternative were implemented). Alternatively, access at the lower driveway shall be restricted (through turn prohibition signs) to right turn in / right turn out access only. To improve sight distance at project site driveways on Vernon Street, ten feet of parking space on the uphill side and three feet on the downhill side of each driveway shall be removed, and the curb painted red.~~

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, and City of Oakland Public Works Agency, Traffic Engineering Division.

Monitoring Timeframe: Implementation of this measure shall be completed prior to the issuance of an occupancy permit for the project. Sight distance study to occur after construction.

B.7b: Truck loading in the on-site loading spaces shall be prohibited during peak traffic hours (i.e., 7:00 to 9:00 a.m., and 4:00 to 6:00 p.m.) and during the start and end of the school day for the Westlake Middle School. A flagger shall be provided to direct traffic on Harrison Street when delivery trucks are backing into the loading dock. The final

location of the proposed on-street loading space shall be determined by the City's Traffic Engineering Division of the Public Works Agency, based on a formal on-street loading zone request by the project sponsor to the City traffic engineer once the development project is completed, as is standard City procedure. However, the loading zone shall be operated under the following conditions, restrictions and requirements:

- ~~As part of the requirements for the project a loading zone, the project sponsor shall establish a loading management plan (subject to review and approval by the City) to ensure that loading activities and maneuvering on Harrison Street operate, whereby use of the on-site and on-street loading spaces would be coordinated through the property manager to ensure that use of the on-site space is given first priority, and that the on-street space is used efficiently and safely to minimize impedance of traffic flow on Harrison Street during peak traffic hours.~~
- ~~Truck loading in the on-site loading on-street space shall be prohibited during peak traffic hours (i.e., 7:00 to 9:00 a.m., and 4:00 to 6:00 p.m.) and during the start and end of the school day for the Westlake Middle School, and the on-street space shall revert to a regular parking space at night.~~
- ~~In addition, if deemed necessary by the City traffic engineer, Harrison Street shall be restriped along the project frontage to provide an 11-foot wide lane next to the center median (thereby increasing the width of the travel lane next to a parked truck to a minimum of 10 feet).~~

The loading management plan shall be monitored one year after final occupancy of the project buildings to ensure that the loading demand for the project does not substantially affect traffic flow and traffic safety in the project area. The monitoring study, and further recommendations (as needed) to ensure safe and efficient loading activity, shall be submitted for review and approval by the City. The project sponsor shall implement the recommended modifications to the loading management plan, as appropriate. ~~The location of the proposed on-street loading space shall be subject to approval by the City of Oakland's Traffic Engineer.~~

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, and City of Oakland Public Works Agency, Traffic Engineering Division.

Monitoring Timeframe: Implementation of this measure shall be completed prior to the issuance of an occupancy permit for the project. Monitoring of plan one year after final occupancy.

B.9: Prior to construction activity, the project sponsor and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency and other appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project sponsor shall submit-develop a construction management plan for review and approval by the City Traffic Engineering Division. The plan shall include, ~~but is not limited to,~~ 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 areas required for encroachment within the public right-of-way, including sidewalk and lane intrusions and/or closures.

- Provisions for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- Identification of any transit stop relocations.
- Identification of parking eliminations and any relocation of parking for employees and public parking during construction.

Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures

- will occur, including the following minimum requirements:
 1. Posting of street signs at least 72 hours in advance of the closure;
 2. Notification of adjacent residents and businesses or other facilities within 300 feet of the site through a mailed notice (72 hours minimum prior) or dropped notice (48 hours prior) to closure.
- Provisions for accommodation of pedestrian flow, including the dedication of safe pedestrian pathways along the site.
- Location of construction staging areas for materials, equipment, and vehicles.
- Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety; and provision for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant.
- Posting of signs at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City of Oakland in the event of problems.
- Designation of an on-site complaint and enforcement manager to respond to and track complaints.
- Provision of adequate notification procedures for any road closures.
- ~~Identification of routes for the movements of construction vehicles that would minimize the impacts on vehicular traffic circulation in the area;~~
- ~~Staging of the movements of construction materials and equipment so as not to hinder the general flow of traffic in the immediate vicinity of the project site;~~
- ~~Identification of areas required for encroachment within the public right-of-way;~~
- ~~Accommodation of on-site placement of construction equipment and construction vehicles;~~
- ~~Provision of off-street parking for construction workers' vehicles that cannot be accommodated on-site;~~
- ~~Posting of signs at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City of Oakland in the event of problems;~~
- ~~Designation of an on-site complaint and enforcement manager to respond to and track complaints;~~

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, and City of Oakland Public Works Agency, Traffic Engineering Division.

Monitoring Timeframe: Implementation of this measure shall be complete prior to construction activity.

C. Air Quality

C.2: During construction, the project sponsor shall require the construction contractor to implement BAAQMD's basic dust control procedures for sites smaller than four acres, such as the project site, to maintain construction-related impacts at acceptable levels. Elements of the dust abatement program shall include, but not be limited to, the following:

- Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.

- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 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 nontoxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.

- Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur throughout the duration of all construction and grading activities on the site.

C.3: Demolition and disposal of any asbestos-containing building material shall take place in accordance with the procedures specified by Regulation 11, Rule 2 (Asbestos Demolition, Renovation, and Manufacturing) of BAAQMD's regulations.

- 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- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur throughout the duration of all construction and grading activities on the site.

D. Noise

D.1a: To avoid the potential for significant nighttime noise impacts due to construction, the project sponsors (~~Camden USA, Inc. or Shorestein, or their successors, as applicable~~) shall require their construction contractors to limit standard construction activities ~~Standard construction activities shall be limited to between to 7:00 a.m. and 7:00 p.m., Monday through Friday.~~ Without prior authorization of the Building Services Division, no construction activities shall be allowed on weekends until after the building is enclosed, and no extreme noise generating activities shall be allowed on weekends and holidays.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur 30 days prior and throughout the duration of all construction and grading activities on the site.

D.1b: To reduce daytime noise impacts due to construction, the City shall require construction contractors to implement the following measures:

- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
- An on-site complaint and enforcement manager shall be posted to respond to and track complaints.
- A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment

redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).

- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.
- A pre-construction meeting shall be held, at least 30 days before the start of construction, specifically with Westlake Middle School to notify the school in advance of construction activities.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur throughout the duration of all construction and grading activities on the site.

D.1c: For pile-driving and/or other extreme noise generating activities (greater than 90 dba) shall be limited to between 8:00 a.m. and 4:00 p.m., Monday through Friday, with no extreme noise-generating activity permitted between 12:30 and 1:30 p.m. No construction activities shall be allowed on Saturdays, Sundays, or holidays.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur throughout the duration of all construction and grading activities on the site.

D.1d: To further mitigate potential construction noise impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This plan shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation is achieved. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:

- Implement “quiet” pile-driving technology, where feasible, in consideration of geotechnical and structural requirements and conditions;
- Erect temporary plywood noise barriers around the entire construction 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.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur throughout the duration of all construction and grading activities on the site.

D.1e: A process with the following components shall be established for responding to and tracking complaints pertaining to pile-driving construction noise:

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

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur throughout the duration of all construction and grading activities on the site.

E. Historic Resources

E.1: Final building permit plans and specifications for the auto showroom shall be reviewed and confirmed to be in conformance with the *Secretary of Interior's Standards for Rehabilitation* by a qualified historic architect identified by the City of Oakland.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, Oakland Cultural Heritage Survey (OCHS) and CEDA, Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur prior to issuance of any building permits for the demolition, reconstruction or restoration of the auto showroom.

E.1a: Retain the integrity of the original building volume, inside as well as out, by retaining and rehabilitating, and/or reconstructing in-kind, the South, East and West exterior walls with their ornamentation and doors and windows, the overall floor structure, and the overall roof structure. The North exterior wall must be designed such that, if the new construction were removed in the future, the historic building would remain an integral, free-standing edifice

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, Oakland Cultural Heritage Survey (OCHS) and CEDA, Building Services Division.

Monitoring Timeframe: Implementation of this measure shall occur prior to issuance of any building permits for the demolition, reconstruction or restoration of the auto showroom.

~~E.2a: Significant features and materials of the structure shall be salvaged and made available for reuse.~~ Based on the recommendation of the Landmarks Preservation Advisory Board, the applicant shall contribute funds to the City in the amount equal to the cost of salvaging the truss system and steel windows and storing it securely for a minimum period of 90 days, in lieu of salvaging and reusing the materials. These funds shall be used to fund historical interpretation materials and programs for the sites. The materials could include a publicly accessible plaque, tour materials, exhibits or sculptures that document the history of the site. The amount of the donation should be equal to what it would cost the project sponsor to salvage, store, and fund a new user for these materials.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, Oakland Cultural Heritage Survey (OCHS) and CEDA, Building Services Division.

Monitoring Timeframe: Implementation of this measure shall begin once the project applicant requests a demolition permit for the three sheds from the Building Services Division.

E.2b: The shed structures shall be documented according to the standards of the Historic American Building Survey (HABS) and made available to the Oakland Public Library, California Historic Society, and other interested historic groups.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, Oakland Cultural Heritage Survey (OCHS).

Monitoring Timeframe: Implementation of this measure shall begin at least 30 days prior to when the project applicant requests a demolition permit for the three sheds from the Building Services Division.

E.2c: A canopy shall be constructed to define the Harrison Street steps, and the design will be sensitive to the history of the site itself. The design will use the existing car stop at the intersection of Oakland Avenue and Perkins Alley as a design reference.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Planning and Zoning Division, Major Projects Division.

Monitoring Timeframe: Implementation of this measure shall be ongoing during the construction period.

G. Hazardous Materials

G.1a: Prior to obtaining necessary building permits or commencing construction activities, the project applicant shall consult the Alameda County Health Department and/or other applicable regulator/agencies regarding the potential residual petroleum-impacted soil and groundwater related to the former USTs, and shall implement the following measures as require.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Engineering Services Division; Alameda County Department of Environmental Health and/or Regional Water Quality Control Board; City of Oakland Emergency Services Agency.

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.

G.1b: An environmental site health and safety plan shall be created to address worker safety hazards that may arise during construction activities.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Engineering Services Division; Alameda County Department of Environmental Health and/or Regional Water Quality Control Board; City of Oakland Emergency Services Agency.

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.

G.1c: The project applicant shall comply with all applicable regulatory agency requirements, including those set forth by Alameda County and the California DTSC regulations regarding the storage and transportation of hydrocarbon-impacted soil and groundwater.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Engineering Services Division; Alameda County Department of Environmental Health and/or Regional Water Quality Control Board.

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.

G.2a: The health and safety plan described above in Measure G.1b shall apply to potential lead-based paint risks present during construction.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Bay Area Air quality Management District (BAAQMD); Alameda County Department of Environmental Health; California Occupational, Safety and Health (CAL-OSHA).

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.

G.2b: A lead-based paint abatement plan containing the following elements shall be implemented:

- Development of an abatement specification approved by an Interim-Certified Project Designer.
- Acquisition of necessary approvals from the City of Oakland or the Alameda County Environmental Health Department for specifications or commencement of abatement activities.
- Preparation of a site health and safety plan, as needed.
- Containment of all work areas to prohibit off-site migration of paint chip debris.
- Removal of all peeling and stratified lead-based paint on building surfaces and on non-building surfaces to the degree necessary to safely and properly complete demolition activities according to recommendations of the survey. The demolition contractor shall be responsible for the proper containment and disposal of intact lead-based paint on all equipment to be cut and/or removed during the demolition.
- Provision of on-site air monitoring during all abatement activities and background monitoring to ensure no contamination of work areas or adjacent properties.
- Cleanup and/or HEPA of vacuum paint chips.
- Collection, segregation, and profiling of waste for disposal determination.
- Providing for appropriate disposal of all waste.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Bay Area Air quality Management District (BAAQMD); Alameda County Department of Environmental Health; California Occupational, Safety and Health (CAL-OSHA).

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.

G.2c: Asbestos abatement shall be conducted prior to demolition or renovation of the existing buildings.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Bay Area Air quality Management District (BAAQMD); Alameda County Department of Environmental Health; California Occupational, Safety and Health (CAL-OSHA).

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.

H.1: The project sponsor shall apply for and obtain a tree removal permit and shall also design and implement a tree protection plan, subject to review and approval of the Office of Parks and Recreation, to, where feasible, replace and preserve protected trees on the project site and immediately adjacent to Harrison Street.

Monitoring Responsibility: City of Oakland, Community and Economic Development Agency (CEDA), Building Services Division, Life Enrichment Agency, Office of Parks and Recreation, Tree Division.

Monitoring Timeframe: Implementation will occur for the duration of all construction and grading activities on site.