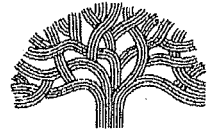


CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

October 8, 2018

Randy Miller / RAD Build
PO Box 70975
Oakland, CA 94612

RE: Case File No. PLN16-117-R01, 1433 Webster Street (APN:008-0624-035-00; -036-00)

Dear Applicant:

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	Revision to the previously approved project for a 29-story mixed use building. The revised proposed would include a 15-story building containing 168 dwelling units over ground floor retail. The project includes 7 units available as very low income to achieve a 20% density bonus for the project including a concession request for open space and a development waiver for height within the CBD Height Area 2 to exceed the 85-foot height limit for a portion of the property fronting on 15 th Street.
Planning Permits Required:	Regular Design review for new construction
General Plan:	Central Business District
Zoning:	CBD-C; CBD-P
Environmental Determination:	A CEQA Analysis was prepared for this project which concluded that the proposed project satisfies each of the following CEQA Guideline provisions: Section 15332, In-fill development projects; Section 15183 - Projects consistent with a community plan, general plan, or zoning; Section 15183.3 -- Streamlining for Qualified infill projects; and/or Sections 15168 & 15180 -- Projects consistent with a Redevelopment program EIR; Each of which provides a separate and independent basis for CEQA compliance.
Historic Status:	ASI: 15 th & Webster
City Council District:	3

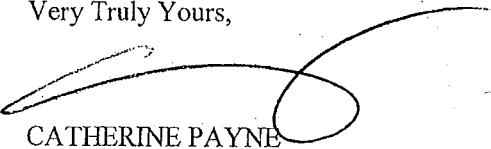
Attachment C

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on 10/15/18**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Peterson Vollmann, Planner IV**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **\$1622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

A signed Notice of Determination/Exemption (NOD/NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOD/NOE and the Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Bureau of Planning, to the attention of **Peterson Vollmann, Planner IV**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, **Peterson Vollmann, Planner IV** at (510) 238-6167 or pvollmann@oaklandca.gov, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



CATHERINE PAYNE
Acting Development Planning Manager

Attachments:

- A. Findings
- B. Conditions of Approval, including Standard Conditions of Approvals

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under Section 17.136.050 (Regular Design Review) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in bold type; reasons your proposal satisfies them are shown in normal type.

17.136.050(A) - RESIDENTIAL DESIGN REVIEW CRITERIA:

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

The proposed project will construct a mixed-use building with 168 residential units and ground floor retail. The podium base of the building is consistent with the height and scale of other lower scale commercial and mixed use buildings in the neighborhood, and was designed to relate to the massing of the historic YWCA building across 15th Street from the project site. The base of the building will contain a terra cotta panel exterior to pick up on the masonry veneer of other buildings in the area. The tower mass is broken down by the use of a recess band above the building base before the tower extends upward.

- 2. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The proposed design will enhance the desirable neighborhood characteristics by developing an existing underutilized downtown site into a dense mixed use project that will help create a 24-hour neighborhood. The proposal also includes a well-designed tower that will enhance the Oakland skyline.

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

The project site is flat and void of any existing landscaping.

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

The project site is flat.

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

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

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

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

Policy N3.1 – Facilitating Housing Construction – Facilitating the construction of housing units should be considered a high priority for the City of Oakland.

Policy N3.2 – Encourage In-fill Development – In order to facilitate the construction of needed housing units, in-fill development that is consistent with the General Plan should take place throughout the City of Oakland.

The proposed Project meets the referenced policies and objectives and the general intent of the Central Business District land use designation by constructing a new high-density, mixed-use building containing 179 dwelling units and 60,000 square feet of office within close walking distance to the 12th Street and 19th Street BART stations.

CEQA COMPLIANCE FINDINGS (1433 Webster Street)

- I. **Introduction:** These findings are made pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.; “CEQA”) and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.; “CEQA Guidelines”) by the Zoning Manager in connection with the environmental analysis of the effects of implementation of the 1433 Webster Street project, as more fully described elsewhere in this Staff Report and City Of Oakland (“City”)-prepared CEQA Analysis document entitled “1433 Webster Street Mixed Use Project CEQA Analysis” dated February 2018 (“CEQA Analysis”) (the “Project”). The City is the lead agency for purposes of compliance with the requirements of CEQA. These CEQA findings are attached and incorporated by reference into each and every decision associated with approval of the Project and are based on substantial evidence in the entire administrative record, and reflect the independent judgment and analysis of the City.

II. Applicability/Adoption of Previous CEQA Documents

- A. **Adoption of General Plan Land Use and Transportation Element (LUTE) and Certification of 1998 LUTE EIR:** The City finds and determines that (a) the Oakland City Council on March 24, 1998 adopted Resolution No. 74129 C.M.S. which adopted the General Plan Land Use and Transportation Element, made appropriate CEQA findings, including certification of the 1998 LUTE Environmental Impact Report (“EIR”); and (b) the LUTE satisfies the description of “Community Plan” set out in Public Resources Code section 21083.3(e) and in CEQA Guidelines section 15183, as well the description of “Planning Level Document” set out in Public Resources Code section 21094.5 and in CEQA Guidelines section 15183.3. The City Council, in adopting the LUTE following a public hearing, approved applicable mitigation measures which are largely the same as those identified in the other Program EIRs prepared after the 1998 LUTE EIR, either as mitigation measures or as a part of newer Standard Conditions of Approval (“SCAs”) which constitute uniformly applied development policies or standards (together with other City development regulations) and determined that the mitigation measures set out in the 1998 LUTE EIR, would substantially mitigate the impacts of the LUTE and future projects thereunder. While approved after certification of the 1998 LUTE EIR, growth and potential effects of the development of the Project would have been considered in the cumulative growth projections factored into the LUTE EIR analysis.

- B. Adoption of Oakland Housing Element Update (2007-2014 and 2015-2025) and Certification of Oakland Housing Element Update EIR and Addendum:** The City finds and determines that (a) the Oakland City Council on December 21, 2010, adopted Resolution No. 83194 C.M.S. which adopted the 2007-2014 Housing Element, made appropriate CEQA findings, including certification of the 2010 Environmental Impact Report (EIR); and (b) the Oakland City Council on November 20, 2014, adopted Resolution No. 85315 C.M.S. which adopted the 2015-2023 Housing Element, made appropriate CEQA findings, including certification of the 2014 Addendum to the 2010 EIR; and (c) the 2010 Housing Element Update EIR satisfies the designation of a "Program EIR" under CEQA Guidelines section 15183 as well as the description of "Planning Level Document" set out in Public Resources Code section 21094.5 and in CEQA Guidelines section 15183.3. The City Council, in adopting the Oakland Housing Element Updates following a public hearing, approved applicable mitigation measures and standard conditions of approval and determined that the uniformly applicable development policies or standards, together with the mitigation measures set out in the 2010 Housing Element Update EIR would substantially mitigate the impacts of the Housing Element Update and future projects thereunder.
- C. Adoption of the Central District Urban Renewal Plan and Amendments thereto and Certification of the Central District Urban Renewal Plan Amendments EIR (or "Redevelopment Plan Amendments EIR"):** The City finds and determines that (a) the Oakland City Council on June 12, 1969 adopted Resolution No. 7987 C.M.S. which adopted the Central District Urban Renewal Plan for the Project Area; and (b) the Oakland City Council on March 20, 2012, adopted Resolution No. 83767 C.M.S. which adopted amendments to the Urban Renewal Plan and made appropriate CEQA findings including certification of the Central District Urban Renewal Plan Amendments EIR; and (c) the Redevelopment Plan Amendments EIR satisfies the designation of a "Program EIR" under CEQA guidelines Section 15180, as such subsequent activities are subject to requirements under CEQA Section 15168. The City Council, in adopting the Central District Urban Renewal Plan Amendments following a public hearing, approved applicable mitigation measures and standard conditions of approval and determined that the uniformly applicable development policies or standards, together with the mitigation measures set out in the Redevelopment Plan Amendments EIR would substantially mitigate the impacts of the Central District Urban Renewal Plan Amendments and future projects thereunder.

III. CEQA Analysis Document: The CEQA Analysis and all of its findings, determinations and information is hereby incorporated by reference as if fully set forth herein. The CEQA Analysis concluded that the Project satisfies each of the following CEQA provisions, qualifying the Project for three separate CEQA statutory exemptions and a CEQA categorical exemption as summarized below and provides substantial evidence to support the following findings.

The City hereby finds that, as set forth below and in the checklist attached as part of the CEQA Analysis, the Project is exempt from any additional CEQA Analysis under the "Community Plan Exemption" of Public Resources Code section 21083.3 (CEQA Guidelines §15183) and/or the "Qualified Infill Exemption" under Public Resources section 21094.5 (CEQA Guidelines §15183.3) and/or the "Redevelopment Projects" under Public Resources Code section 21090 (CEQA Guidelines §15180) and/or the "Infill Exemption" under Public Resources section 21084 (CEQA Guidelines

§15332), thus no additional environmental analysis beyond the CEQA Analysis is necessary. The specific statutory exemptions and the categorical exemption are discussed below in more detail.

A. Community Plan Exemption; Public Resources Code Section 21083.3 (CEQA Guidelines §15183): The City finds and determines that, for the reasons set out below and in the CEQA Analysis, the Community Plan Exemption applies to the Project. Therefore, no further environmental analysis is required because all of the Project's effects on the environment were adequately analyzed and mitigation measures provided in the 2010 Oakland Housing Element Update EIR and 2014 Addendum for the evaluation of the housing components of the Project, and the 1998 LUTE EIR for the overall project (collectively called "Previous CEQA Documents"); there are no significant effects on the environment which are peculiar to the Project or to the parcel upon which it is located not addressed and mitigated in the Previous CEQA Documents; and there is no new information showing that any of the effects shall be more significant than described in the Previous CEQA Documents.

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

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

The City finds that, pursuant to CEQA Guidelines section 15183.3, the CEQA Analysis contains a written analysis consistent with Appendix M to the CEQA Guidelines examining whether the Project will cause any effects that require additional review under CEQA. The contents of the analysis documents that the Project is located in an urban area satisfying the requirements of CEQA Guidelines section 15183.3 and satisfies the applicable performance standards set forth in Appendix M to the CEQA Guidelines. It also explains how the effects of the Project were analyzed in the Previous CEQA Documents; and indicates that the Project incorporates all applicable mitigation measures and SCAs from the Previous CEQA Documents. The analysis also determines that the Project will cause no new specific effects not analyzed in the Previous CEQA Documents; determines that there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the Previous CEQA Documents, determines that the Project will not cause new specific effects or more significant effects, and documents how uniformly applicable development policies or standards (including, without limitation, the SCAs) will mitigate environmental effects of

the Project. Based upon the CEQA Analysis and other substantial evidence in the record, the City finds and determines that no further environmental analysis of the effects of the Project is required.

C. Infill Exemption: Public Resources Code Section 21084 (CEQA Guidelines §15332): The City finds and determines that, for the reasons set forth below and in the CEQA Analysis, an Infill Exemption applies to the Project and no further environmental analysis is required since the Project (A) is consistent with the General Plan and Zoning Regulations, (B) is a site less than 5 acres within City limits and surrounded by urban uses, (C) has no value as habitat for endangered, rare or threatened species, (D) would not, as evidenced by technical studies, reports and analysis prepared for the CEQA Analysis, result in any significant effects related to traffic, noise, air quality or water quality, and (E) would be adequately served by all required utilities and public services. The City's finding that the Project is categorically exempt from environmental review does not preclude a determination that statutory exemptions also apply. Based upon the CEQA Analysis and other substantial evidence in the record, the City finds and determines that the Project would not have a significant impact on the environment and is exempt from environmental review.

D. Program EIRs and Redevelopment Projects (CEQA Guidelines §15168 and § 15180): The City finds and determines that for the reasons set forth below and in the CEQA Analysis, that the 2011 Redevelopment Plan Amendments EIR applies to the Project and no further environmental analysis is required since all the Project's effects on the environment were adequately analyzed and mitigation measures provided in the 2011 Redevelopment Plan Amendments EIR; the Project will cause no new specific effects not addressed in the 2011 Redevelopment Plan Amendments EIR that are specific to the Project or the Project Site; and there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the 2011 Redevelopment Plan Amendments EIR .

IV. Severability: The City finds that all four CEQA provisions discussed and determined to be applicable in Section III above are separately and independently applicable to the consideration of the Project and should any of the four be determined not to be so applicable, such determinations shall have no effect on the validity of these findings and the approval of the Project on any of the other grounds.

V. Incorporation by Reference of Statement of Overriding Considerations: Each of the Previous CEQA Documents identified significant and unavoidable impacts.¹ The 1998 LUTE EIR identified six areas of environmental effects of the LUTE that presented significant and unavoidable impacts; the 2010 Oakland Housing Element Update EIR and 2014 Addendum identified two areas of environmental effects of the Housing Element Update that presented significant and unavoidable impacts; and the Redevelopment Plan Amendments EIR identified three areas of environmental effects of the Redevelopment Plan Amendments that presented significant and unavoidable impacts. Because the Project may contribute to some significant and unavoidable impacts identified in the Previous CEQA Documents identified above, but a Subsequent and/or Supplemental EIR is not required in accordance with CEQA Guidelines sections 15162, 15163, 15164, 15168, 15180, 15183 and 15183.3, a Statement of Overriding Considerations is not legally required. Nevertheless, in the interest of being conservative, the Statements of Overriding Consideration for the 1998 LUTE EIR, adopted by the City

¹ If these or any other findings inaccurately identify or fail to list a significant and unavoidable impact identified in the analysis, findings and conclusions of the 1988 LUTE EIR, the 2010 Housing Element and 2014 Addendum EIR, the Redevelopment Plan Amendments EIR or their administrative records as a whole, the identification of that impact and any mitigation measure or SCA required to be implemented as part of the Project is not affected.

Council on March 24, 1998, via Resolution No. 74129 C.M.S.; for the 2010 Oakland Housing Element Update EIR and 2014 Addendum adopted by the Oakland City Council on December 21, 2010, via Resolution No. 83194 C.M.S and on November 20, 2014, via Resolution No. 85315 C.M.S., respectively; and for the Redevelopment Plan Amendments EIR, adopted by the City Council on March 20, 2012, via Resolution No. 83767 C.M.S, are all hereby incorporated by reference as if fully set forth herein.

ATTACHMENT B: CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

**Part 1: Standard Conditions of Approval –
General Administrative Conditions**

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, and the approved plans **received on August 31, 2018**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

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

3. Compliance with Other Requirements

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

4. Minor and Major Changes

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

for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

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

6. Signed Copy of the Approval/Conditions

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

7. Blight/Nuisances

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

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said

Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

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

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

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

11. Public Improvements

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

12. Compliance Matrix

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

13. Construction Management Plan

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

14. Standard Conditions of Approval / Monitoring and Reporting Program (SCA/MRP)

- a. All Standard Conditions of approval identified in the **1433 Webster CEQA Analysis** are included in the Standard Condition of Approval Monitoring and Reporting Program (SCA/MRP) which is included in these Conditions of Approval and are incorporated herein by reference, as Attachment C, as Conditions of Approval of the project. The Standard Conditions of Approval identified in the **1433 Webster Street CEQA Analysis** are also included in the SCAMRP, and are, therefore, incorporated into these Conditions by reference but are not repeated in these Conditions. To the extent that there is any inconsistency between the SCAMRP and these Conditions, the more restrictive Conditions shall govern. In the event a Standard Condition of Approval or mitigation measure recommended in the **1433 Webster Street CEQA Analysis** has been inadvertently omitted from the SCAMRP, that Standard Condition of Approval or mitigation measure is adopted and incorporated from the **1433 Webster Street CEQA Analysis** into the SCAMRP by reference, and adopted as a Condition of Approval. The project applicant and property owner shall be responsible for compliance with the requirements of any submitted and approved technical reports, all applicable mitigation measures adopted, and with all Conditions of Approval set forth herein at his/her sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or Condition of Approval, and subject to the review and approval by the City of Oakland. The SCAMRP identifies the timeframe and responsible party for implementation and monitoring for each Standard Condition of Approval and mitigation measure. Unless otherwise specified, monitoring of compliance with the Standard Conditions of Approval and mitigation measures will be the responsibility of the Bureau of Planning, with overall authority concerning compliance residing with the Environmental Review Officer. Adoption of the SCAMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in section 21081.6 of CEQA.
- b. Prior to the issuance of the first construction-related permit, the project applicant shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

Standard Conditions of Approval – Other Standard Conditions

15. Employee Rights

Requirement: The project applicant and business owners in the project shall comply with all state and federal laws regarding employees' right to organize and bargain collectively with employers and shall comply with the City of Oakland Minimum Wage Ordinance (chapter 5.92 of the Oakland Municipal Code).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

Project Specific Conditions of Approval

16. Design Modifications

Requirement: The applicant shall include the following design modifications for review and approval by the Bureau of Planning:

- a) As part of the change to the previously approved design, the large vertical recess for balconies along the 15th Street façade was removed. As a result, the transition of materials from the terracotta base to the glass tower façade that extended down to the ground floor has varied significantly from the design that was approved by the Planning Commission. Since this material transition is no longer successfully broken up by the recess, the proposed terracotta base shall be wrapped to include the entirety of the base levels of the 15th Street façade similar to that of the Webster Street façade. The exterior terracotta system shall also wrap the side elevations off the street to a sufficient distance to transition away from the public view before any transition to a different façade material.
- b) The horizontal band that wraps the building above the terracotta base shall include vertical mullions to visually connect the base with the upper mullion system on the tower to be more consistent with the original design approved by the Planning Commission.

When Required: Prior to issuance of a building permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

17. Exterior Finishes/ Final Design Details

Requirement: The final building permit plan set shall contain detailed information on all proposed exterior finishes and elevations for approval by the Director of Planning. If requested sample materials shall be submitted to the Bureau of Planning.

When Required: Prior to issuance of a Building Permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Planning

18. Affordable Residential Rental Units - Agreement and Monitoring

Requirement #1: Pursuant to Section 17.107 of the Oakland Planning Code, the proposed project shall provide a minimum of 7 target dwelling units available at very low income (as 5% of the units) for receiving a density bonus, concession and/or waiver of development standards.

When Required: Ongoing

Requirement #2: The approved residential affordable units that are part of this approval shall remain and continue to be affordable for 55 years or for the life of the Development Project, whichever is greater, in compliance with California Health and Safety Code Sections 50053 and 50052.5 and their implementing regulations.

When Required: Ongoing

Requirement #3: The applicant shall submit an agreement for review and approval by the City Attorney, the Housing Development Division and any other relevant City departments. The agreement must also ensure the continued affordability of the target dwelling units for a period of not less than fifty-five (55) years pursuant to the Oakland Planning Code Section 17.107, and restrict the occupancy of those units only to residents who satisfy the affordability requirement as approved for this project. Only households meeting the eligibility standards for the target dwelling units shall be eligible to occupy the target dwelling units. However, if the developer chooses to do affordable rental units and rent the units despite an approved condominium map, they need to keep the affordable rental units rental for 55 years, and cannot convert to ownership, even if the other market rate units in the development are able to convert to ownership. The applicant shall record the above agreement with the Alameda County Recorder, and shall provide a copy of recorded agreement to the City.

When Required: Prior to issuance of a construction related permit

Requirement #4: Rental target dwelling units shall be managed / operated by the developer or developer's agent or the developer's successor. The developer of rental target dwelling units shall submit for review and approval by the City Attorney and the Housing Development Division and any other relevant City departments, an annual report identifying which units are target dwelling units, the monthly rent, vacancy information, monthly income for tenants of each target rental dwelling unit throughout the prior year, and other information required by the City. Said agreement shall maintain the tenants' privacy. The applicant shall pay to the Housing Development Division an annual monitoring fee pursuant to the Master Fee Schedule for City monitoring of target dwelling units (currently \$140 per affordable unit per year).

When Required: Ongoing (annually)

Requirement #5: The floor area, number of bedrooms, and amenities (such as fixtures, appliances, and utilities) of the affordable units shall be comparable to those of the market rate units. Further, the proportion of unit types (i.e. three-bedroom and four-bedroom, etc.) of the affordable units shall be roughly the same as the market rate units.

When Required: Ongoing

19. Public Art for Private Development

Requirement: The project is subject to the City's Public Art Requirements for Private Development, adopted by Ordinance No. 13275 C.M.S. ("Ordinance"). The public art contribution requirements are equivalent to one-half percent (0.5%) of the "residential" building development costs, and one percent (1.0%) of the "non-residential" building development costs.

The contribution requirement can be met through: 1) the installation of freely accessible art at the site; 2) the installation of freely accessible art within one-quarter mile of the site; or 3) satisfaction of alternative compliance methods described in the Ordinance, including, but not limited to, payment of an in-lieu fee contribution. The applicant shall provide proof of full payment of the in-lieu contribution and/or provide plans, for review and approval by the Planning Director, showing the installation or improvements required by the Ordinance prior to the issuance of a building permit.

Proof of installation of artwork, or other alternative requirement, is required prior to the City's issuance of a final certificate of occupancy for each phase of a project unless a separate, legal binding instrument is executed ensuring compliance within a timely manner subject to City approval.

When Required: Payment of in-lieu fees and/or plans showing fulfillment of public art requirement – Prior to Issuance of Building permit

Installation of art/cultural space – Prior to Issuance of a Certificate of Occupancy.

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

Applicant Statement

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

Name of Project Applicant

Signature of Project Applicant

Date

ATTACHMENT A: CITY OF OAKLAND – STANDARD CONDITIONS OF APPROVAL

The City of Oakland's Uniformly Applied Development Standards adopted as Standard Conditions of Approval (Standard Conditions of Approval, or SCAs) were originally adopted by the City in 2008 (Ordinance No. 12899 C.M.S.) pursuant to Public Resources Code section 21083.3) and have been incrementally updated over time. The SCAs incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, Green Building Ordinance, historic/Landmark status, California Building Code, and Uniform Fire Code, among others), which have been found to substantially mitigate environmental effects.

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

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

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

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

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

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

Note that the SCAs included in this document are referred to using an abbreviation for the environmental topic area and are numbered sequentially for each topic area—i.e., SCA AIR-1, SCA AIR-2, etc. The SCA title and the SCA number that corresponds to the City's master SCA list are also provided—i.e., SCA AIR-1: Construction-Related Air Pollution (Dust and Equipment Emissions) (#19).

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
Aesthetics, Shadow and Wind			
SCA AES-1: Graffiti Control. (#16)	Ongoing	N/A	Bureau of Building
<p>a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:</p> <ul style="list-style-type: none"> i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces. ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces. iii. Use of paint with anti-graffiti coating. iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED). v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement. <p>b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include:</p> <ul style="list-style-type: none"> i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system. ii. Covering with new paint to match the color of the surrounding surface. iii. Replacing with new surfacing (with City permits if required). 			
SCA AES-2: Landscape Plan. (#17)	Prior to approval of construction-related permit	Bureau of Planning	N/A
<p>a. <i>Landscape Plan Required</i></p> <p>The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code.</p>			
<p>b. <i>Landscape Installation</i></p> <p>The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.</p>	Prior to building permit final	Bureau of Planning	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p><i>c. Landscape Maintenance</i></p> <p>All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.</p>	Ongoing	N/A	Bureau of Building
<p>SCA AES-3: Lighting. (#18)</p> <p>Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.</p>	Prior to building permit final	N/A	Bureau of Building
Air Quality			
<p>SCA AIR-1: Construction-Related Air Pollution (Dust and Equipment Emissions). (#19)</p> <p>The project applicant shall implement all of the following applicable air pollution control measures during construction of the project:</p> <ul style="list-style-type: none"> a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible. b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer). c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used. e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.). f. Limit vehicle speeds on unpaved roads to 15 miles per hour. g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 	During construction	N/A	Bureau of Planning

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.</p> <p>h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").</p> <p>i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.</p> <p>k. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.</p> <p>l. All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.</p> <p>m. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</p> <p>n. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).</p> <p>o. Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.</p> <p>p. Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.</p> <p>q. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.</p>			

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>r. Activities such as excavation, grading, and other ground-disturbing construction activities shall be phased to minimize the amount of disturbed surface area at any one time.</p> <p>s. All trucks and equipment, including tires, shall be washed off prior to leaving the site.</p> <p>t. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.</p> <p>u. All equipment to be used on the construction site and subject to the requirements of Title 13, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") must meet emissions and performance requirements one year in advance of any fleet deadlines. Upon request by the City, the project applicant shall provide written documentation that fleet requirements have been met.</p> <p>v. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).</p> <p>w. All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM.</p> <p>x. Off-road heavy diesel engines shall meet the California Air Resources Board's most recent certification standard.</p> <p>y. Post a publicly-visible large on-site sign that includes the contact name and phone number for the project complaint manager responsible for responding to dust complaints and the telephone numbers of the City's Code Enforcement unit and the Bay Area Air Quality Management District. When contacted, the project complaint manager shall respond and take corrective action within 48 hours.</p>			
<p>Note: Screening analysis demonstrated that the Project would be below the applicable threshold. No further action is required under this SCA.</p> <p>SCA AIR-2: Exposure to Air Pollution (Toxic Air Contaminants). (#20)</p> <p><i>a. Health Risk Reduction Measures</i> The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. The project applicant shall choose <u>one</u> of the following methods:</p> <p>i. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office</p>	Prior to Approval of Construction-Related Permit	Bureau of Planning	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>of Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of project residents/occupants/users to air pollutants. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes that the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City.</p> <p style="text-align: center;">- or -</p> <p>ii. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:</p> <ul style="list-style-type: none"> • Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for residents and other sensitive populations in the project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-13 or higher. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required. • Where appropriate, install passive electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph). • Phasing of residential developments when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible. • The project shall be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these sources as feasible. If near a distribution center, residents shall be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods. • Sensitive receptors shall be located on the upper floors of buildings, if feasible. • Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (<i>Pinus nigra</i> var. <i>maritima</i>), Cypress (<i>X Cupressocyparis leylandii</i>), Hybrid poplar (<i>Populus deltoids X trichocarpa</i>), and Redwood (<i>Sequoia sempervirens</i>). 			

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<ul style="list-style-type: none"> Sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible. Existing and new diesel generators shall meet CARB's Tier 4 emission standards, if feasible. Emissions from diesel trucks shall be reduced through implementing the following measures, if feasible: Installing electrical hook-ups for diesel trucks at loading docks. Requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards. Requiring truck-intensive projects to use advanced exhaust technology (e.g., hybrid) or alternative fuels. Prohibiting trucks from idling for more than two minutes. Establishing truck routes to avoid sensitive receptors in the project. A truck route program, along with truck calming, parking, and delivery restrictions, shall be implemented. 			
<p><i>b. Maintenance of Health Risk Reduction Measures:</i></p> <p>The project applicant shall maintain, repair, and/or replace installed health risk reduction measures, including but not limited to the HVAC system (if applicable), on an ongoing and as-needed basis. Prior to occupancy, the project applicant shall prepare and then distribute to the building manager/operator an operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.</p>	Ongoing	N/A	Bureau of Building
<p>SCA AIR-3: Stationary Sources of Air Pollution (Toxic Air Contaminants). (#21) The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to on-site stationary sources of toxic air contaminants. The project applicant shall choose <u>one</u> of the following methods:</p> <p>a. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk associated with proposed stationary sources of pollution in the project. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on</p>	Prior to approval of construction-related permit	Bureau of Planning	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>other documentation submitted to the City.</p> <p>-OR-</p> <p>b. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:</p> <ul style="list-style-type: none"> i. Installation of non-diesel fueled generators, if feasible, or; ii. Installation of diesel generators with an EPA-certified Tier 4 engine or engines that are retrofitted with a CARB Level 3 Verified Diesel Emissions Control Strategy, if feasible. 			
<p>SCA AIR-4: Asbestos in Structures (#23). The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.</p>	Prior to approval of construction-related permit	Applicable regulatory agency with jurisdiction	Applicable regulatory agency with jurisdiction
Biological Resources			
<p>SCA BIO-1: Tree Removal During Bird Breeding Season. (#26) To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the California Department of Fish and Wildlife, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as</p>	Prior to removal of trees	Bureau of Building.	Bureau of Building.

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
appropriate, depending on the bird species and the level of disturbance anticipated near the nest.			
<p>SCA BIO-2: Tree Permit. (#27)</p> <p><i>a. Tree Permit Required</i></p> <p>Pursuant to the City’s Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.</p>	Prior to approval of construction-related permit	Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building	Bureau of Building
<p><i>b. Tree Protection During Construction</i></p> <p>Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:</p> <ol style="list-style-type: none"> i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project’s consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree. ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project’s consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree. iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project’s consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project’s consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, 	During construction	Public Works Department, Tree Division	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.</p> <p>iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.</p> <p>v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.</p> <p>vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.</p>			
<p><i>c. Tree Replacement Plantings</i></p> <p>Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:</p> <p>i. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.</p> <p>ii. Replacement tree species shall consist of <i>Sequoia sempervirens</i> (Coast Redwood), <i>Quercus agrifolia</i> (Coast Live Oak), <i>Arbutus menziesii</i> (Madrone), <i>Aesculus californica</i> (California Buckeye), <i>Umbellularia californica</i> (California Bay Laurel), or other tree species acceptable to the Tree Division.</p> <p>iii. Replacement trees shall be at least twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.</p> <p>iv. Minimum planting areas must be available on site as follows:</p> <ul style="list-style-type: none"> • For <i>Sequoia sempervirens</i>, three hundred fifteen (315) square feet per tree; • For other species listed, seven hundred (700) square 	Prior to building permit final	Public Works Department, Tree Division	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>feet per tree.</p> <p>v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.</p> <p>vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.</p>			
Cultural Resources			
<p>SCA CULT-1: Archaeological and Paleontological Resources – Discovery During Construction. (#29)</p> <p>Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.</p> <p>In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by</p>	<p>During construction</p>	<p>N/A</p>	<p>Bureau of Building</p>

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>the Project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.</p> <p>In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.</p>			
<p>SCA CULT-2: Human Remains – Discovery during Construction. (#31)</p> <p>Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.</p>	During Construction	N/A	Bureau of Building
Geology and Soils			
<p>SCA GEO-1: Construction-Related Permit(s). (#33) The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.</p>	Prior to approval of construction-related permit	Bureau of Building	Bureau of Building
<p>SCA GEO-2: Soils Report. (#34) The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature,</p>	Prior to approval of construction-related permit	Bureau of Building	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.			
Hazards and Hazardous Materials			
<p>SCA HAZ-1: Hazardous Materials Related to Construction. (#39) The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:</p> <ul style="list-style-type: none"> a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction; b. Avoid overtopping construction equipment fuel gas tanks; c. During routine maintenance of construction equipment, properly contain and remove grease and oils; d. Properly dispose of discarded containers of fuels and other chemicals; e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and <p>If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.</p>	During construction	N/A	Bureau of Building
<p>SCA HAZ-2: Site Contamination. (#40) a. <i>Environmental Site Assessment Required</i> The project applicant shall submit a Phase I Environmental Site Assessment report, and Phase II Environmental Site Assessment report if warranted by the Phase I report, for the project site for review and approval by the City. The report(s) shall be prepared by a qualified environmental assessment professional and include recommendations for remedial action, as appropriate, for hazardous materials. The project applicant shall implement the approved recommendations and submit to the City evidence of</p>	Prior to Approval of Construction-Related Permit	Oakland Fire Department	Oakland Fire Department

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.			
<p><i>b. Health and Safety Plan Required</i></p> <p>The project applicant shall submit a Health and Safety Plan for the review and approval by the City in order to protect project construction workers from risks associated with hazardous materials. The project applicant shall implement the approved Plan.</p>	Prior to Approval of Construction-Related Permit	Bureau of Building	Bureau of Building
<p><i>c. Best Management Practices (BMPs) Required for Contaminated Sites</i></p> <p>The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential soil and groundwater hazards. These shall include the following:</p> <ul style="list-style-type: none"> i. Soil generated by construction activities shall be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state, and federal requirements. ii. Groundwater pumped from the subsurface shall be contained on-site in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building. 	During construction	N/A	Bureau of Building
Hydrology and Water Quality			
<p>SCA HYD-1: Erosion and Sedimentation Control Plan for Construction. (#45)</p> <p><i>a. Erosion and Sedimentation Control Plan Required</i></p> <p>The project applicant shall submit an Erosion and Sedimentation Control Plan to the City for review and approval. The Erosion and Sedimentation Control Plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading and/or construction operations. The Plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary.</p>	Prior to Approval of Construction-Related Permit	Bureau of Building	N/A

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the City. The Plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.</p>			
<p><i>b. Erosion and Sedimentation Control During Construction</i> Requirement: The project applicant shall implement the approved Erosion and Sedimentation Control Plan. No grading shall occur during the wet weather season (September 15 through April 15) unless specifically authorized in writing by the Bureau of Building.</p>	During Construction	N/A	Bureau of Building
<p>SCA HYD-2: NPDES C.3 Stormwater Requirements for Regulated Projects. (#50) <i>a. Post-Construction Stormwater Management Plan Required</i> The project applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The project applicant shall submit a Post-Construction Stormwater Management Plan to the City for review and approval with the project drawings submitted for site improvements, and shall implement the approved Plan during construction. The Post-Construction Stormwater Management Plan shall include and identify the following:</p> <ul style="list-style-type: none"> i. Location and size of new and replaced impervious surface; ii. Directional surface flow of stormwater runoff; iii. Location of proposed on-site storm drain lines; iv. Site design measures to reduce the amount of impervious surface area; v. Source control measures to limit stormwater pollution; vi. Stormwater treatment measures to remove pollutants from stormwater runoff, including the method used to hydraulically size the treatment measures; and vii. Hydromodification management measures, if required by Provision C.3, so that post-project stormwater runoff flow and duration match pre-project runoff. 	Prior to Approval of Construction-Related Permit	Bureau of Planning; Bureau of Building	Bureau of Building
<p><i>b. Maintenance Agreement Required</i> The project applicant shall enter into a maintenance agreement with the City, based on the Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement, in accordance with Provision C.3, which provides, in part, for the following:</p> <ul style="list-style-type: none"> i. The project applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures 	Prior to Building Permit Final	Bureau of Building	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/Inspection
<p>being incorporated into the project until the responsibility is legally transferred to another entity; and</p> <p>ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary.</p> <p>The maintenance agreement shall be recorded at the County Recorder's Office at the applicant's expense.</p>			
Noise			
<p>SCA NOI-1: Construction Days/Hours. (#58)</p> <p>The project applicant shall comply with the following restrictions concerning construction days and hours:</p> <p>a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.</p> <p>b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.</p> <p>c. No construction is allowed on Sunday or federal holidays.</p> <p>Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.</p> <p>Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.</p>	During Construction	N/A	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>SCA NOI-2: Construction Noise. (#59)</p> <p>The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:</p> <ul style="list-style-type: none"> a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible. b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures. c. Applicant shall use temporary power poles instead of generators where feasible. d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction. e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented. 	During Construction	N/A	Bureau of Building
<p>SCA NOI-3: Extreme Construction Noise. (#60)</p> <ul style="list-style-type: none"> a. Construction Noise Management Plan Required <p>Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:</p> <ul style="list-style-type: none"> i. Erect temporary plywood noise barriers around the 	Prior to Approval	Bureau of Building	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>construction site, particularly along on sites adjacent to residential buildings;</p> <p>ii. Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;</p> <p>iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;</p> <p>iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and</p> <p>v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.</p> <p>Based on the potential noise impacts from construction equipment to nearby sensitive receptors, the following draft site-specific noise attenuation measures are additionally recommended for inclusion in the Construction Noise Management Plan:</p> <ul style="list-style-type: none"> • Temporary noise barriers will be placed between the proposed construction activities and nearby receptors. The noise barriers may be constructed from plywood and installed on top of a portable concrete K-Rail system to be able to move and/or adjust the wall location during construction activities. A sound blanket system hung on scaffolding, or other noise reduction materials that result in an equivalent or greater noise reduction than plywood, may also be used. Due to the proximity of the commercial and apartment buildings located at the northern and southern borders of project site, respectively, the use of Sound Transmission Class (STC) rated materials, or other materials that could similarly provide high levels of noise reduction above what plywood or sound blankets alone could provide, should be incorporated into the design of the noise barriers installed at these borders. An STC rating roughly equals the decibel reduction in noise volume that a wall, window, or door can provide. Therefore, using STC-rated materials could substantially increase the level of noise reduction provided by the barrier. The composition, location, height, and width of the barriers during different phases of construction will be determined by a qualified acoustical consultant and incorporated into the Construction Noise Management Plan for the project. • Best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) will be used for project equipment and trucks 			

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/Inspection
<p>during construction wherever feasible. For example, exhaust mufflers on pneumatic tools can lower noise levels by up to about 10 dBA and external jackets can lower noise levels by up to about 5 dBA.</p> <ul style="list-style-type: none"> Noise control blankets will be utilized on the building structure as the building is erected to reduce noise emission from the site. The use of noise control blankets will particularly be targeted to cover the levels of the building that have line of sight with the windows of adjacent receptors; Construction equipment will be positioned as far away from noise-sensitive receptors as possible. The project site is surrounded by hard surfaces, and therefore, for every doubling of the distance between a given receptor and construction equipment, noise will be reduced by approximately 6 dBA. <p>b. Public Notification Required</p> <p>The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.</p>			
<p>SCA NOI-4: Construction Noise Complaints. (#62)</p> <p>The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:</p> <ol style="list-style-type: none"> Designation of an on-site construction complaint and enforcement manager for the project; A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit; Protocols for receiving, responding to, and tracking received complaints; and Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request. 	Prior to Approval of Construction-Related Permit	Bureau of Building	Bureau of Building
<p>SCA NOI-5: Vibration Impacts on Adjacent Historic Structures or Vibration-Sensitive Activities. (#66)</p> <p>The project applicant shall submit a Vibration Analysis prepared by</p>	Prior to and during Construction	Bureau of Building	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>an acoustical and/or structural engineer or other appropriate qualified professional for City review and approval that establishes pre-construction baseline conditions and threshold levels of vibration that could damage the structure and/or substantially interfere with activities located at:</p> <ul style="list-style-type: none"> • Mrs. A.E. White Building, 339 15th Street (Oakland City Landmark, contributing element to Harrison & Fifteenth Historic District, listed on NRHP). • Oakland YWCA, 1515 Webster Street (Oakland City Landmark, listed on NRHP). • 363/369/375 15th Street • 1430/1432 Franklin Street <p>The Vibration Analysis shall identify design means and methods of construction that shall be utilized in order to not exceed the thresholds. Design considerations may include operating heavy-construction equipment as far away from vibration-sensitive sites as possible and not performing demolition, earth-moving, and other ground-impacting operations simultaneously. The applicant shall implement the recommendations during construction.</p>			
<p>SCA NOI-6: Exposure to Community Noise. (#63)</p> <p>The project applicant shall submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that contains noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the Oakland General Plan. The applicant shall implement the approved Plan during construction. To the maximum extent practicable, interior noise levels shall not exceed the following:</p> <ol style="list-style-type: none"> a. 45 dBA: Residential activities, civic activities, hotels. b. 50 dBA: Administrative offices; group assembly activities. c. 55 dBA: Commercial activities. d. 65 dBA: Industrial activities. 	Prior to Approval of Construction-Related Permit	Bureau of Planning	Bureau of Building
<p>SCA NOI-7: Operational Noise. (#64)</p> <p>Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.</p>	Ongoing	N/A	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
Transportation /Traffic			
<p>SCA TRANS-1: Construction Activity In the Public Right-of-Way. (#68)</p> <p><i>a. Obstruction Permit Required</i></p> <p>The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets and sidewalks.</p>	Prior to Approval of Construction Related Permit	Bureau of Building	Bureau of Building
<p><i>b. Traffic Control Plan Required</i></p> <p>In the event of obstructions to vehicle or bicycle travel lanes, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian detours, including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The project applicant shall implement the approved Plan during construction.</p>	Prior to Approval of Construction Related Permit	Public Works Department, Transportation Services Division	Bureau of Building
<p><i>c. Repair City Streets</i></p> <p>The project applicant shall repair any damage to the public right-of way, including streets and sidewalks caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.</p>	Prior to Building Permit Final	N/A	Bureau of Building
<p>SCA TRANS-2: Bicycle Parking. (#69)</p> <p>The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.</p>	Prior to approval of construction-related permit	Bureau of Planning	Bureau of Building
<p>SCA TRANS-2: Transportation and Parking Demand. (#71)</p> <p><i>a. Transportation and Parking Demand Management (TDM) Plan Required</i></p> <p>The project applicant shall submit a Transportation and Parking Demand Management (TDM) Plan for review and approval by the City.</p> <p>i. The goals of the TDM Plan shall be the following:</p> <ul style="list-style-type: none"> Reduce vehicle traffic and parking demand generated by the project to the maximum extent practicable, consistent with the potential traffic and parking impacts 	Prior to Approval of Construction-Related Permit	Bureau of Planning	N/A

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>of the project.</p> <ul style="list-style-type: none"> • Achieve the following project vehicle trip reductions (VTR): <ul style="list-style-type: none"> ○ Projects generating 50-99 net new a.m. or p.m. peak hour vehicle trips: 10 percent VTR ○ Projects generating 100 or more net new a.m. or p.m. peak hour vehicle trips: 20 percent VTR • Increase pedestrian, bicycle, transit, and carpool/vanpool modes of travel. All four modes of travel shall be considered, as appropriate. • Enhance the City's transportation system, consistent with City policies and programs. <p>ii. TDM strategies to consider include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Inclusion of additional long-term and short-term bicycle parking that meets the design standards set forth in chapter five of the Bicycle Master Plan and the Bicycle Parking Ordinance (chapter 17.117 of the Oakland Planning Code), and shower and locker facilities in commercial developments that exceed the requirement. • Construction of and/or access to bikeways per the Bicycle Master Plan; construction of priority bikeways, on-site signage and bike lane striping. • Installation of safety elements per the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient and safe crossing at arterials, in addition to safety elements required to address safety impacts of the project. • Installation of amenities such as lighting, street trees, and trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan. • Construction and development of transit stops/shelters, pedestrian access, way finding signage, and lighting around transit stops per transit agency plans or negotiated improvements. • Direct on-site sales of transit passes purchased and sold at a bulk group rate (through programs such as AC Transit Easy Pass or a similar program through another transit agency). • Provision of a transit subsidy to employees or residents, determined by the project applicant and subject to review by the City, if employees or residents use transit or commute by other alternative modes. • Provision of an ongoing contribution to transit service to the area between the project and nearest mass transit 			

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>station prioritized as follows: 1) Contribution to AC Transit bus service; 2) Contribution to an existing area shuttle service; and 3) Establishment of new shuttle service. The amount of contribution (for any of the above scenarios) would be based upon the cost of establishing new shuttle service (Scenario 3).</p> <ul style="list-style-type: none"> • Guaranteed ride home program for employees, either through 511.org or through separate program. • Pre-tax commuter benefits (commuter checks) for employees. • Free designated parking spaces for on-site car-sharing program (such as City Car Share, Zip Car, etc.) and/or car-share membership for employees or tenants. • On-site carpooling and/or vanpool program that includes preferential (discounted or free) parking for carpools and vanpools. • Distribution of information concerning alternative transportation options. • Parking spaces sold/leased separately for residential units. Charge employees for parking, or provide a cash incentive or transit pass alternative to a free parking space in commercial properties. • Parking management strategies including attendant/valet parking and shared parking spaces. • Requiring tenants to provide opportunities and the ability to work off-site. • Allow employees or residents to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite (e.g., working four, ten-hour days; allowing employees to work from home two days per week). • Provide or require tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours. <p>The TDM Plan shall indicate the estimated VTR for each strategy, based on published research or guidelines where feasible. For TDM Plans containing ongoing operational VTR strategies, the Plan shall include an ongoing monitoring and enforcement program to ensure the Plan is implemented on an ongoing basis during project operation. If an annual compliance report is required, as explained below, the TDM Plan shall also specify the topics to be addressed in the annual report.</p>			

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p><i>b. TDM Implementation — Physical Improvements</i></p> <p>For VTR strategies involving physical improvements, the project applicant shall obtain the necessary permits/approvals from the City and install the improvements prior to the completion of the project.</p>	Prior to Building Permit Final	Bureau of Building	Bureau of Building
<p><i>c. TDM Implementation — Operational Strategies</i></p> <p>For projects that generate 100 or more net new a.m. or p.m. peak hour vehicle trips and contain ongoing operational VTR strategies, the project applicant shall submit an annual compliance report for the first five years following completion of the project (or completion of each phase for phased projects) for review and approval by the City. The annual report shall document the status and effectiveness of the TDM program, including the actual VTR achieved by the project during operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the project applicant, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the project applicant has failed to implement the TDM Plan, the project will be considered in violation of the Conditions of Approval and the City may initiate enforcement action as provided for in these Conditions of Approval. The project shall not be considered in violation of this Condition if the TDM Plan is implemented but the VTR goal is not achieved.</p>	Ongoing	Bureau of Planning	Bureau of Planning
Utilities and Service Systems			
<p>SCA UTIL-1: Construction and Demolition Waste Reduction and Recycling. (#74)</p> <p>The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalo.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.</p>	Prior to Approval of Construction-Related Permit	Public Works Department, Environmental Services Division	Public Works Department, Environmental Services Division
<p>SCA UTIL-2: Underground Utilities. (#75)</p> <p>The project applicant shall place underground all new utilities</p>	During Construction	N/A	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>servicing the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.</p>			
<p>SCA UTIL-3: Recycling Collection and Storage Space. (#76)</p> <p>The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two cubic feet of storage and collection space per residential unit is required, with a minimum of ten cubic feet. For nonresidential projects, at least two cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten cubic feet.</p>	Prior to Approval of Construction-Related Permit	Bureau of Planning	Bureau of Building
<p>SCA UTIL-4: Green Building Requirements. (#77)</p> <p><i>a. Compliance with Green Building Requirements During Plan-Check</i></p> <p>The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).</p> <p>i. The following information shall be submitted to the City for review and approval with the application for a building permit:</p> <ul style="list-style-type: none"> • Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards. • Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit. • Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit. • Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below. • Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance. • Signed statement by the Green Building Certifier that the 	Prior to Approval of Construction-Related Permit	Bureau of Building	N/A

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p>project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.</p> <ul style="list-style-type: none"> Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance. <p>ii. The set of plans in subsection (i) shall demonstrate compliance with the following:</p> <ul style="list-style-type: none"> CALGreen mandatory measures. All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit. A minimum of 23 points (3 Community; 6 IAQ/Health; 6 Resources; 8 Water) as defined by the Green Building Ordinance for Residential New Construction. Certification requirement for non-residential construction is LEED Gold All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted. The required green building point minimums in the appropriate credit categories. 			
<p><i>b. Compliance with Green Building Requirements During Construction</i></p> <p>The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.</p> <p>The following information shall be submitted to the City for review and approval:</p> <ol style="list-style-type: none"> Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance. 	During Construction	N/A	Bureau of Building

Standard Conditions of Approval	Implementation/Monitoring		
	When Required	Initial Approval	Monitoring/ Inspection
<p><i>C. Compliance with Green Building Requirements After Construction</i></p> <p>Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation to Build It Green and attain the minimum required certification/point level. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Bureau of Planning the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.</p>	After Project Completion as Specified	Bureau of Planning	Bureau of Building
<p>SCA UTIL-5: Sanitary Sewer System. (#79)</p> <p>The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City's Master Fee Schedule for funding improvements to the sanitary sewer system.</p>	Prior to Approval of Construction-Related Permit	Public Works Department, Department of Engineering and Construction	N/A
<p>SCA UTIL-6: Storm Drain System. (#80)</p> <p>The project storm drainage system shall be designed in accordance with the City of Oakland's Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.</p>	Prior to Approval of Construction-Related Permit	Bureau of Building	Bureau of Building



**CITY OF OAKLAND
 APPEAL FORM
 FOR DECISION TO PLANNING COMMISSION, CITY
 COUNCIL OR HEARING OFFICER**

PROJECT INFORMATION

Case No. of Appealed Project: PLN 16-117-201
 Project Address of Appealed Project: 1433 Webster Street
 Assigned Case Planner/City Staff: Peterson Vollmann

APPELLANT INFORMATION:

Printed Name: Mark Brustman Phone Number: 510 832 1958
 Mailing Address: 2122 Lakeshore Ave #111 Alternate Contact Number: _____
 City/Zip Code Oakland, CA 94606 Representing: _____
 Email: oakland-line@comcast.net

An appeal is hereby submitted on:

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

YOU MUST INDICATE ALL THAT APPLY:

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

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

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

(Continued on reverse)

(Continued)

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

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

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

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

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

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

See attached

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

(Continued on reverse)

(Continued)

*Signature of Appellant or Representative of
Appealing Organization*

Date

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

APPEAL FEE: \$ _____

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

.....
Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:

APPEAL TO OAKLAND PLANNING COMMISSION
from Administrative Decision for Approval dated 10/8/2018
Case File No. PLN16-117-R01, 1433 Webster Street (APN:008-0624-035-00; -036-00)

This appeal by an Oakland citizen is directed against the Oakland Planning Board staff decision dated October 8, 2018, approving the project proposal for 1433 Webster Street.

1. Project is Not Eligible for a Staff Decision

Though the project is described in the staff decision as a "revision to a previously approved project," it is not a minor change to the previous project and as such it must be "processed in the same manner as the original application and shall be subject to the same procedural requirements" (Planning Code § 17.140.110). That means it must be submitted for approval of the Planning Commission and cannot be decided by the Planning Department staff. As such, an appeal and the unaffordable and undemocratic \$_____ appeal fee (which is paid under protest!) should not even be necessary at this stage.

2. New Information Calls for Separate EIR or At the Very Least an Explanation of the Information's Relevance or Irrelevance

The planner in charge of the project was made aware in May 2018 of new information concerning the existence of an equinox observatory in the Oakland skyline – intentionally created as a feature of the Central Building at 1400 Broadway to be appreciated from the east shore of Lake Merritt – which the 1433 Webster project would adversely impact if it were permitted to go higher than 10 stories. This new information was spelled out in detail in a timely submission filed during the public comment period for this project. Awareness of this new information should have triggered a requirement for the project proposal to include an EIR of its own, separate from the General Plan LUTE EIR and the Program EIR for the Central District Urban Renewal Plan and Amendments. At the very least, the "written checklist prepared pursuant to" CEQA § 15183.3 by the "lead agency" should:

"explain whether substantial new information shows that the adverse environmental effects of the infill project are more significant than described in the prior EIR. For the purpose of this section, 'more significant' means an effect will be substantially more severe than described in the prior EIR. More significant effects include those that result

from changes in circumstances or changes in the development assumptions underlying the prior EIR's analysis. (CEQA § 15183.3 (d) (1) (D)).

Instead of explaining why the new information did or did not show more significant adverse environmental impacts, the staff decision-maker entirely disregarded the new information, treating it as insubstantial, and not even bothering to refute it in the decision. It will be up to the Planning Commission at this stage to determine whether an this new information is substantial or not.

3. Project was Always Obligated to Complete a Separate EIR

In fact, any building that would block views of the most significant buildings and central intersection of downtown from Lake Merritt should have required a separate EIR from the beginning. The planner in charge wrongly claims the project is consistent with the Oakland General Plan LUTE Draft EIR of 1997 and could claim an exemption from further CEQA analysis. On the contrary, the project is inconsistent with certain primary objectives of the General Plan LUTE and requirements of its EIR. For example, the Draft EIR for the General Plan LUTE, as a mitigation for Impact F.1 in section III.F (Visual and Aesthetic Conditions), relies on "existing policies in the OSCAR Element [to] provide general mitigation of visual impacts," for example, the Policies:

OS-10.1: Protect the character of existing scenic views in Oakland, paying particular attention to: ... (b) views of downtown and Lake Merritt ...

and:

OS-10.2: Encourage site planning for new development which minimizes adverse visual impacts and takes advantage of opportunities for new vistas and scenic enhancement.

The LUTE Draft EIR recommends, as Mitigation Measure F.2c, that the City "define view corridors and, based upon these views, designate appropriate height limits and other requirements." In this context, it specifically calls for consideration of "views of Lake Merritt, the Estuary, and architecturally or historically significant buildings." No explanation has been given to show that this mitigation measure is infeasible.

4. No Existing City Policy on View Corridors Would Preclude Rejection of Proposal

The City has not defined any protected view corridors, but neither has it decided not to define view corridors.

It is true that the Planning Commission at its meeting back on 6/16/2010 resolved to forward a recommendation to the City Council against the establishment of view corridors. But apparently, neither the City Council nor the Planning Commission ever made a decision for or against the establishment of view corridors. By the time of the Planning Commission meeting of 9/27/2017, the Planning Department staff was still looking for guidance on the issue of view corridors with respect to the project in question here, stating that the issue of view corridors (and one view corridor in particular) "never returned to City Council for potential adoption" (Staff Report for 9/27/2017 Planning Commission meeting, re: Case File No. PLN16-117). At its 9/27/2018 meeting, the Commission declined to make any decision on the project, presumably not even about the issue of view corridors, and instead it sent the project back to the staff to complete the CEQA review for a Commission decision at a later meeting. When the project came up again at the 2/21/2018 Planning Commission meeting, the staff report did not mention view corridors and the issue is not brought up in the minutes. There is no record of any decision by the Planning Commission or City Council one way or the other about the protection of view corridors.

Nonetheless, even if it had ever been decided not to establish some view corridors, that would only have had the effect of denying blanket protection to those proposed views. It would not have the negative effect of preventing the protection of those or other views in specific cases, and would not have eliminated the call for Mitigating Measure F.2c under the LUTE Draft EIR.

5. Planning Commissioner's Conflict of Interest regarding 1433 Webster Street Project

The motion for approval of the 1433 Webster Street project at the 2/21/2018 meeting was offered by a Planning Commissioner who is a named partner in the architectural firm seeking approval for a 21-story building proposal at 1510 Webster, directly to the east of 1433 Webster in the direction of Lake Merritt. If 1433 Webster were approved, especially for 29 stories as proposed at the time, the issue of view corridors for 1510 Webster would have become irrelevant. The views would have already been spoiled.

Participation in the decision on 1433 Webster is a clear and serious conflict of interest for a public official with an economic interest in 1510 Webster, according to the eight-step process for identifying conflicts laid out in the California Attorney General's Office's 2010 guidance on Conflicts of Interest. In the decision on 2/21/2018:

- 1) A public official was involved, who
- 2) participated in the making of a governmental decision while
- 3) having one of the qualifying types of economic interest, namely investments in and a position with a certain business entity.
- 4) While the interest is only indirectly involved in the governmental decision in question,
- 5) the governmental decision will have a material financial effect on the public official's directly involved economic interests.
- 6) It is reasonably foreseeable that the economic interest would be materially affected, and
- 7) the effect of the governmental decision on the public official's economic interests is distinguishable from its effect on the general public.
- 8) Moreover, the public official's participation is not legally required.

Consequently, as a public official covered by California Government Code §§ 87105 and 87200 and the Brown Act and Bagley-Keene Open Meeting Act, this Commissioner – knowing that the approval of 1433 Webster would smooth the way to approval for his firm's project 1510 Webster – was legally required under § 87105 to:

- 1) publicly identify the financial interest that gave rise to the conflict of interest or potential conflict of interest
- 2) recuse himself from discussing or voting on the matter, or otherwise acting in violation of Section 87100, and
- 3) leave the room until after the discussion, vote and any other disposition of the matter was concluded, unless the matter had been placed on the portion of the agenda reserved for uncontested matters.
- 4) Notwithstanding paragraph (3), a public official so described may speak on the issue during the time that the general public speaks on the issue.

When the Planning Commission will debate and vote on the project after submission and consideration of a separate EIR, and even when voting on this Appeal when it comes before the Planning Commission, any commissioner with a conflict of interest must recuse himself or herself according to California Government Code § 87105.

6. Project is Precluded from EIR Exemption due to Adverse Impact on Historical Resource

It is wrongly claimed that the 1433 Webster Street project is exempt from the obligation to submit an EIR based on CEQA §§ 15332, 15183, 15183.3, 15168 and 15180. The project is not exempt for the following reasons, according to each cited section:

- § 15332: According to subsection (a), Class 32 in-fill development projects have to be "consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations." The project is inconsistent with several policies established under the Oakland General Plan, listed under Item 8 below.
- § 15183: The project is not consistent with the Central District Urban Renewal Plan. The Draft EIR for the CDURP cites Oakland General Plan OSCAR Element Policies OS-10.1 and OS-10.2 (cited above in Item 3) as well as OS-10.3 ("enhance underutilized visual resources, including ... architecturally significant buildings or landmarks") as part of the Regulatory Setting (CDURP Draft EIR 4.1.2). It also cites Policy D2.1 ("downtown development should ... enhance important views in and of the downtown" and "respect the character [and] history of the downtown"). In its section on impacts and mitigation measures the CDURP Draft EIR says a project will have a "significant impact on the environment" if it would "have a substantial adverse effect on a public scenic vista," "substantially degrade the existing visual character or quality of the site and its surroundings," or "cast shadow on an historic resource, as defined by CEQA Section 15064.5(a), such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its inclusion on or eligibility for listing in the National Register of Historic Places, California Register of Historical Resources, local register of historical resources, or a historical resource survey form (DPR Form 523) with a rating of 1-5." Under *Impacts* in the CDURP Draft EIR section 4.1.3, Impact AES-1 promises that "although new structures may be added to the skyline in specific views, views across Lake Merritt and from other nearby parks and public open space would be maintained and would remain substantially similar to existing conditions." Impact AES-2 assumes that "construction of new development projects ... may likely require project-specific environmental review as necessary and appropriate," and promises that "future development would align with and incorporate the General Plan policies and SCA described in the Regulatory Setting above." Moreover, CDURP section 403 says that the CDURP cannot be "interpreted to exclude or

release property in the ... area at any time from the operation of” the Oakland Planning Code, the Oakland Municipal Code and other City ordinances.

- § 15183.3: In its subparagraph (b) (3), this section requires an infill project to “be consistent with the general use designation ... and applicable policies for the project area,” which this project is not (see previous bullet points in this Item 6). Subparagraph (c) allows for streamlined CEQA review, “with some exceptions,” if an effect was addressed as a significant effect in a prior EIR even when that effect was not reduced to a less than significant level in the prior EIR. However, the mere fact that an impact analysis was written up in a prior EIR surely does not mean that that impact itself can be simply ignored thenceforward, overriding all other policies in the General Plan. In any case, even § 15183.3 requires in subparagraph (d) (1) (C) an explanation of new specific effects that were not addressed in the prior EIR. While the prior EIRs did discuss views between Lake Merritt and downtown, they did not address the specific equinox effect that is observable only along one narrow east-west corridor, which the 1433 Webster Street project would ruin. Knowledge of this equinox effect was not available at the time the prior EIR was completed, so it constitutes both a new specific effect, and substantial new information (§ 15183.3 (d) (1) (D)) about “adverse environmental effects of the infill project that are more significant than described in the prior EIR.” If it is determined by the lead agency that the infill project would result in new specific effects or more significant effects, not substantially mitigated by uniformly applicable development policies or standards, then “those effects are subject to CEQA” (§ 15183.3 (d) (2) (C)).
- § 15168: Under this section’s subparagraph (c) (1) and (2), “a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration” if a later activity (i.e. the specific project) would have effects (i.e. ruining of the equinox observatory) that were not examined in the program EIR. Moreover, an agency can only approve the activity, as being within the scope of the project covered by the program EIR (so that a new environmental document would not be required), on the condition that the agency found that “no new effects could occur or no new mitigation measures would be required.” Not only *can* a new effect occur due to the proposed project, it *will* occur: the equinox observatory that was not even conceived of in the program EIR will be destroyed.

- § 15180: Subsection (c) says only that subsequent activities in a redevelopment plan are subject to the review required by § 15168, for which see the previous bullet point.

Any categorical exemption from separate EIR analysis for the project is precluded by CEQA § 15300.2 (c) and (f) and Public Resources Code § 21084 (e) and 21084.1. There is a “reasonable possibility that the activity will have a significant impact on the environment due to unusual circumstances” (§ 15300.2 (c)) and the project will cause a “substantial adverse change in the significance of a historical resource” (§ 15300.2 (f)), namely it will adversely impact an equinox observatory deliberately created by the builders of the Central Building and protected by the low building heights in the Gold Coast neighborhood due east of its southeastern edge. How this solar calendar function came to be part of the Central Building’s intentional design, and in what way the building forms an equinox observatory, will be explained in this appeal below under Items 10 and 11.

Under CEQA § 15064 (a) (1), “if there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.” And under § 15064 (a) (2), “when a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.” Substantial evidence has been submitted for the record to the Planning Department staff over the course of the summer of 2018, demonstrating a significant effect of the 1433 Webster Street project on an intentional, historically and culturally significant equinox observatory in the Oakland skyline. Therefore, the Planning Department must prepare a Draft EIR for the project and, if it comes to that, make a finding under Section 15091 and a statement of overriding considerations under Section 15093, applying “careful judgment based to the extent possible on scientific and factual data” (CEQA § 15064 [b]), and considering “views held by members of the public in all areas affected as expressed in the whole record before the lead agency” (CEQA § 15064 [c]).

7. Project is Not Automatically Entitled to Development Waiver for Inclusion of 5% Very-Low-Income Housing

The 1433 Webster Street project is also claiming a development waiver, based on Planning Code § 17.107.095 A and California Government Code § 65915 (b) (1) (B) (inclusion of 5% very low-income housing), so that it can exceed the 85-foot height limit

in CBD Height Area 2. However, according to Planning Code § 17.107.095 A.2 and California Government Code § 65915 (e) (1), the City is not required to grant such a waiver, since said waiver would “result in an adverse impact on real property listed in the California Register of Historical Resources.” The Central Building is listed as a contributor to the Downtown Oakland Historic District, which is listed in the California Register of Historical Resources. If the Central Building could no longer serve its intended function as an equinox observatory (to be explained below in Items 10 and 11), that would constitute an “adverse impact” on the building. Meanwhile, the Central Building – a beautiful structure that played a key role in Oakland’s history and is designed to provide Oakland with an equinox observatory – is also certainly eligible for inclusion in its own right in the California Register of Historical Resources.

8. Project is Inconsistent with General Plan LUTE and Open Space Elements

The project is not consistent with these Oakland General Plan LUTE Policies (condensed):

- D1.1: *Enhance characteristics that make downtown Oakland unique, including its strong core area, and its proximity to destinations such as Lake Merritt, historic areas and cultural activities.* The project actually cuts off the downtown area from Lake Merritt by blocking the view of 14th and Broadway from the lake.
- D1.2: *A distinct identity for downtown districts like the Gold Coast should be supported and enhanced.* The project obscures the history of the Gold Coast neighborhood by cutting off a path to development of curiosity, which the equinox observatory would inspire, regarding the neighborhood’s nineteenth-century population.
- D1.7: *The Gold Coast should be recognized and conserved as an established neighborhood providing urban density housing in a unique urban setting.* Conserving the Gold Coast neighborhood means also conserving its typical, relatively low building height, especially along the east-west diagonal from the Central Building that includes Tudor Hall, the Lake Merritt Hotel, and 330 and 363 15th Street (see Item 12 for a list of properties in the equinox observatory line). Even the signage fittings on the side of 1330 Broadway stay below 85 feet and therefore avoid obstructing the east-west equinox line. Whether this equinox feature was known behind closed doors among architects and planners in post-WWII period is impossible to say. But certainly the architect of the 1925 Oakland Scottish Rite Temple in the Gold Coast neighborhood was concerned with solar astronomy and geometry

when he designed the Temple to greet the winter solstice sunrise. As for "urban density housing," there is no question that a good amount of urban density results from a collection of 10-story buildings.

- D2.1: *Downtown development should ... harmonize with its surroundings, respect and enhance important views in and of the downtown, [and] respect the character [and] history ... of the downtown, and contribute to an attractive skyline.* The project would take away an equinox observatory in a beautiful Beaux-Arts building, something that could attract local residents and tourists from around the world to view Oakland's skyline sunset every six months at the juncture between summer and winter, and would replace it with a glass box that could be put up anywhere.
- D10.3: *Height and bulk should reflect existing and desired district character, the overall city skyline, and the existence of historic structures or area.* The project would actually conceal historic structures, ruining the equinox observatory and hiding the buildings that comprise it.
- N3.9: *Residential developments should avoid unreasonably blocking sunlight and views for neighboring buildings...* The project would block sunlight and views both for neighboring buildings and for equinox sunset viewers from Lake Merritt.
- N9.3: *The City should strive to maintain a positive and safe public image.* What could be a more positive and safe image for the City than for its residents to gather on a semiannual basis to watch the sunset? What could be more detrimental to the City's image than the realization that it was willing to ruin its own Stonehenge – given to the City by its first generations – in exchange for a few floors of condominiums.
- N9.6: *The City's diversity in cultures and populations should be respected and built upon.* The equinox is a turning point in the course of the year for the entire planet and is marked and celebrated by very many cultures. Oakland's equinox observatory can become a wonderful symbol of the City's diversity.
- N9.8: *Locations that create a sense of history and community within the City should be identified and preserved where feasible.* The 1433 Webster Street project would ruin an absolutely perfect example of such a location: not only would viewing the equinox sunset in Lake Merritt park become a semi-annual event and gathering point for multiple communities to come together, there is a great history behind the equinox observatory that brings the Oakland of the 1870s through 1920s vividly to life (see Item 10).

The project is also inconsistent with the following General Plan Open Space Policies:

- OS-10.1: *Protect the character of existing scenic views in Oakland, paying particular attention to: ... (b) views of downtown and Lake Merritt ...*
- OS-10.2: *Encourage site planning for new development which minimizes adverse visual impacts and takes advantage of opportunities for new vistas and scenic enhancement, and*
- OS-10.3: *Enhance Oakland's underutilized visual resources, including ... architecturally significant buildings or landmarks,*

and it runs contrary to the purpose of these Mitigation Measures of the LUTE Draft EIR:

- F.2c: *Define view corridors and, based upon these views, designate appropriate height limits and other requirements; views of Lake Merritt ... and architecturally or historically significant buildings should be considered, and*
- F.3a: *Develop standard design guidelines for all Neighborhood Commercial areas that ... have a relatively low height limit.*

Any project that is not consistent with General Plan policies must be subjected to a separate environmental review process and adapted to be made consistent with these policies.

9. Super High-Density Housing can be Provided Out of the Equinox Observatory Sight Line

It is not necessary to put a high-rise on every lot in Oakland to meet the demand for housing. With the amount of construction going on in Oakland right now, the City should consider how well the demand may be served by what is already in progress. But regardless of that, some things of beauty and great historical and cultural value ought to be kept sacrosanct despite the rush to build. At any rate, a 10-story building at 1433 Webster Street is still a building with a lot of housing units.

10. Who built the Oakland Equinox Observatory and Why

This equinox feature is an intentional design aspect of the historic Central Bank building. When the building was constructed in 1925-26, the bank's long-time vice-president was a prominent local attorney, favorite son, and founder of the Reliance Athletic Club named Robert M. Fitzgerald, whose father-in-law Thomas Crellin, an oyster fisherman by trade, had been the fourth president of the bank as well as the owner of a popular hotel. Thomas Crellin and the bank's founder and first president Volney Moody, a forty-niner, logger, dry-goods merchant and civic leader, were both members of the Freemasons and both seem to have had a keen interest in geometry and solar astronomy. Throughout their lives in Oakland, these two friends had each

bought and held several properties within the central Oakland grid and in the neighborhood east of 14th and Broadway, which were in line with solstice and equinox sunrises and sunsets. Though Moody and Crellin left no written explanation of what they were doing, their property holdings tell a clear story.

Most of the properties they bought were, at the time of purchase, in a solstice or equinox line from a succession of four vantage points relevant to Volney Moody (see Figure 1). But by the time Moody and Crellin had died, neither of them had actually built anything on the properties they had held for so long. The one exception was a property that Moody had leased to the Ebell Society, a women's literary and social club, for its clubhouse. The Ebell property was no longer in a relevant equinox or solstice line once the point of reference had shifted from the Oakland Masonic Temple to the site of the Central Bank.

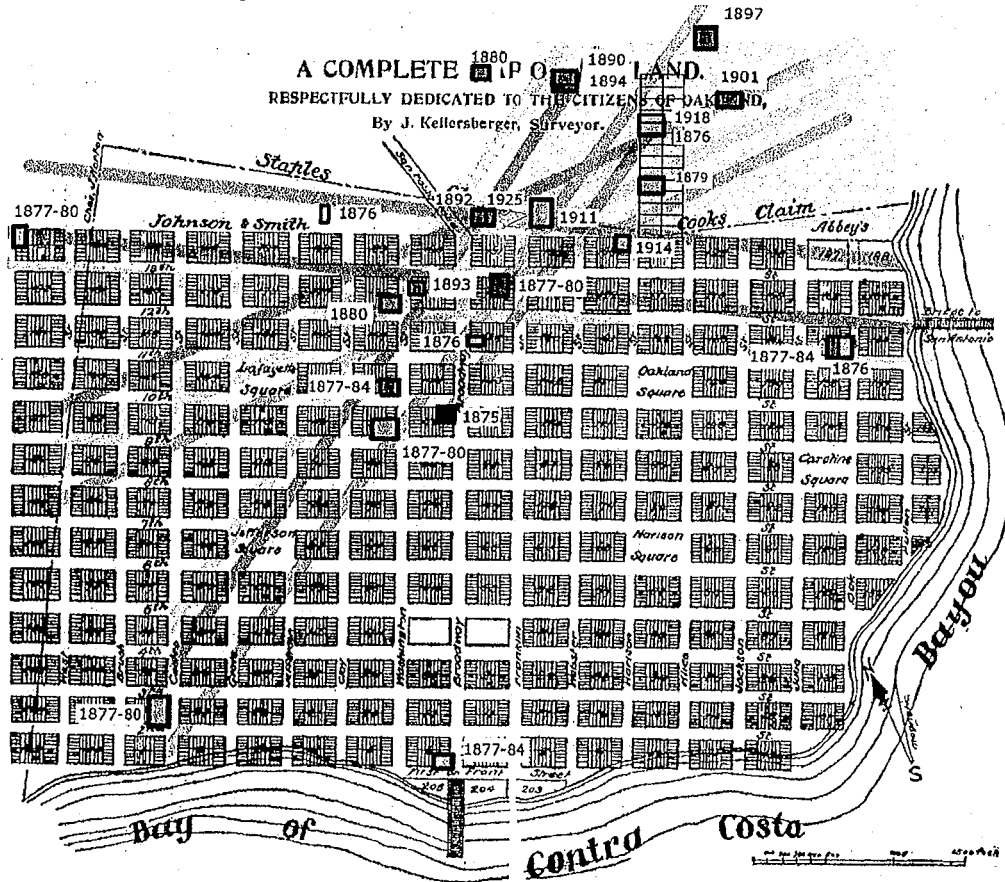
On Thomas Crellin's death in 1908, his daughter Laura Crellin Fitzgerald must have inherited his shares in the bank, because her husband, a leading attorney in the state, suddenly became a bank executive. At the same time, the city of Oakland was undergoing profound changes due to recent past population growth and was planning for more. In this context, the stable and prestigious neighborhood east of 14th and Broadway, where Laura's and Robert's parents as well as many leading citizens had lived for many years, was marked to be rezoned as a commercial district and new streets were to be cut through it.

Partly as a tribute to Thomas Crellin and the solar real estate hobby that he shared in common with Volney Moody, and partly to preserve some semblance of the old neighborhood they loved, Robert and Laura Fitzgerald and the bank's new president Joseph F. Carlston (originally hired by Thomas Crellin as the cashier) set about to make a new bank building that would also be a solar monument viewed from the lake. They started preparations in 1911 by offering the First Presbyterian Church \$300,000 for its land and church building at 14th and Franklin, which they promptly cleared and built in its place a two-story dance hall. After the Elks Hall and Athenian-Nile Club, this former church property was the third lot in the equinox line running east from the bank.

By the end of World War I, the neighborhood's physical transformation was complete and many of the old families had moved out to the north side of the lake. Robert Fitzgerald and Joseph Carlston commissioned a building at 14th and Franklin that would be a dry run for the new Central Bank building to be built in the coming years, with a similar L-shaped structure and a large rectangular room on the roof. Meanwhile, Laura Crellin most likely encouraged some of her wealthy friends at the Ebell Society to purchase properties in solstice and equinox lines and develop them as stately commercial buildings under six stories, either apartments or businesses. The Tudor Hall Apartments, the Lake Merritt Hotel, the Palace Apartments (1560 Alice), the Dille and Thompson buildings (310 14th and 330 15th Street) and the YWCA are examples of beautiful solid buildings built by well-connected male and female socialites or Freemasons who had not owned property in the neighborhood before 1913. A member of the Prince Hall Eastern Star (a

Masonic order of mostly African-American women) bought one of Thomas Crellin's old properties in the Central Bank's equinox line and she built a hotel on it.

Figure 1. All Lots Purchased by Volney Moody and Thomas Crellin from 1876 to 1908 and by Robert and Laura (Crellin) Fitzgerald and J.F. Carlston from 1909 to 1925 in the Kellersberger Map and Gold Coast Area.

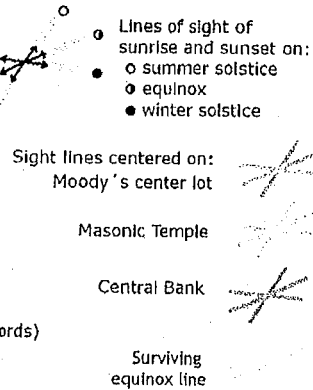


Kellersberger's Grid Map with "Alice Park" Grid

Key

- First National Bank of Oakland (Broadway & 10th)
- Moody's center lot (now Tribune Tower and parking lot)
- Oakland Masonic Temple (12th & Washington)
- Central Bank (14th & Broadway)
- Properties purchased by Volney D. Moody
- Properties purchased by Thomas Crellin
- Properties purchased by John Crellin, Thomas's brother
- Properties purchased by R.M. Fitzgerald and J.F. Carlston
- 1876 Dates of purchase (a date range indicates a gap in the available records)

(Source: Block books and tax assessment records at Oakland Public Library History Room)



Meanwhile across the lake, F.F. Porter, a real estate developer and Athenian Club member with his office on the same block as the Central Bank, was gathering the lots that would underlie the grand, broad building 2122 Lake Shore Avenue, whose lower floors the Central Bank's evening shadow would shade on equinoxes. The building's façade features four suns for the four seasons and, between them, three mustachioed Victorian faces looking out over the lake to the southwest for winter solstice sunsets, due west for equinoxes and northwest for the summer solstice.

Not only was the equinox observatory a project to preserve the neighborhood in some form. It also made a statement against the racism and anti-Semitism of the 1920s. Jewish businessmen like Walter Arnstein (son of Lazard Freres president Eugene Arnstein) and Louis Scheeline (owner of the tailor shop in the Athenian-Nile Club building), among others, bought properties on the equinox line to preserve them from developers. This Jewish and Christian cooperation, typical of the progressive spirit of 19th century Oakland, is symbolized in the building's top floor window arches by what appears to be a modified Star of David, with the upward triangle replaced by a trilobe shamrock or triple-ring symbol of Roman Catholicism. While celebrating two religions that regulate their liturgical calendars by the spring equinox, the symbol also was and remains an eloquent protest against a wave of racism and anti-Semitism that led to a Klan member being elected Alameda County Sheriff in 1926.

But the builders were also prepared to get their hands dirty for what they saw as a very good cause. The need to protect the equinox line led to a 1927 California Supreme Court case (McKean vs. Alliance Land Co.). A one-story building at 1600 Harrison (still there though perhaps not for long), which Volney Moody's heirs built in 1916, had encroached by a foot onto the adjacent lot to the south – bringing it a bit more solidly into the east-west line from the Central Bank. Two people named McKean, either a married couple or perhaps siblings, bought the adjacent southern lot in 1918, thinking it was 39 feet wide when it was now only 38 feet. In the same year, the Central Bank bought the lot on the north side adjacent to the Moody lot, which was now actually 79 feet wide instead of the 78 feet recorded in the block book. (Perhaps related to an intention to cause confusion about the property lines on Harrison, with a view to shifting the 1600 Harrison lot physically south, Moody's other property on Harrison which had been sold to the Ebell Society, a women's literary and social club, magically went from being marked 82 feet wide in the 1910 block book to being marked 84 feet wide in 1911.) The McKean's sued for encroachment, but they ran up against the Athenian-style democracy in Oakland, in which the enfranchised "Athenians" made decisions and supported one another. The McKean's own surveyor, a member of Oakland's prominent Boardman family, concocted a story for them to argue in court, doomed to fail because it had no basis in the evidence, concerning some mixup in the original survey of the land. Robert Fitzgerald, who was a past president of the state bar, and his partner Carl Abbott argued for the defense and easily prevailed at every level, of course, all the way to the California Supreme Court. Thus even in this embarrassing way, the equinox observatory illustrates Oakland history, and the kind of patrician rule that used to hold sway here.

Tragically, the bank itself failed in the Depression, and many people lost money. The bank was much more liberal in its lending policy than other Oakland banks, offering a substantial number of loans on personal security. It had started as the Home Savings Bank and was intended to help people buy and build homes here. Perhaps, too, the extravagant spending on the new bank building (\$2,000,000 not including the property purchases) had eaten too much into reserves. The Central National Bank was the only California bank on the list of 30 largest banks suspended in the United States between 1921 and 1935. It was taken over by the Bank of America in 1933. J.F. Carlston (aged 57), Carl Abbott (66) and Robert Fitzgerald (75) all died within a month of each other in December 1933 and January 1934.

Due to the awkwardness of the encroachment lawsuit, and the scandal of the bank failure after so much money had been spent on the building, the equinox feature of the bank building was never publicized. The evidence for it exists only in the physical traces – design elements in the bank building and in the building at 2122 Lake Shore, the history of property purchases by Crellin and Moody, and then by Fitzgerald and Carlston, and Helen Dille, the encroachment and the defense of it in court, to protect a fairly nondescript building by the standards of the time, the solstice observatory features of the Scottish Rite Temple built the same year. Perhaps future research will turn up private narrative accounts in diaries or letters.

In 1944, when the BofA proposed to build a gigantic hotel across the street that would have blocked the winter solstice sun from hitting the bank, the only survivor who had been involved in the construction of the Central Bank was its consulting architect Walter J. Mathews. Who can know whether or not he exerted some influence at age 94, but the hotel was never built. Once Mathews had gone on to his rest, the Smith Department store building went up in the middle of the four Mason-built or -inspired downtown towers: City Hall, the Tribune Tower, the Oakland Bank of Savings tower and the Central Bank. All of them originally cast shadows along the far side of the lake, back and forth over the course of the year, like gnomons of a giant annual sundial. Since the construction boom of the 1970s, the only remnants left of the old sundial are the sunsets into the side of the Central Bank viewed from 2122 Lake Shore Ave on equinoxes and from 1200 Lake Shore on summer solstices.

11. What the Oakland Equinox Observatory Is

For 92 years, the sun has set into the side of the highrise Central Bank building on equinoxes.

At two significant times of year, the sun's apparent latitude in the sky crosses from the northern to the southern hemisphere, and vice versa, marking the seasonal change from warmer to cooler or cooler to warmer weather. On March 19-20 and September 22-23, the number of daytime hours between sunrise and sunset is roughly equal to the number of nighttime hours, so they are called equinoxes. For a mild climate like ours, these days are the most important days

in the seasonal calendar, marking a very noticeable qualitative shift from one half of the year to the other. In various locations around the globe, buildings have been designed and constructed to present certain aesthetic effects involving shadows or sunlight on equinoxes. Such buildings are known as "equinox observatories," and some famous ancient examples are the Egyptian Pyramids, Stonehenge, Chichen Itza and Angkor Wat.

Oakland is one of these locations, though hardly anyone has been aware of it for many years. On equinox evenings, the setting sun is able to descend below the base line of the Oakland skyline into a narrow gap between the historic buildings on the east side of Broadway on either side of 14th Street. When this central intersection is viewed from a vantage point directly east on the far shore of Lake Merritt, the blinding, bright light of the sun gleams out from within the darkened skyline.

Proving the intention of the builders for the bank to function as an equinox observatory is the temple-like structure with long, monastic windows, housing the elevator equipment at the rear top of the building, reminiscent of the Masonic affiliation of Moody and Crellin and Freemasonry's interest in solar geometry and architecture. The temple-like structure on the roof is crowned with a hexagonal turret, closely resembling a hexagonal sundial once owned by the family of California Supreme Court Justice Oscar L. Shafter. One of the bank's presidents had handled the Alice Street estate of one of Shafter's heirs; the sundial is now set up in the Shafter family plot in Mountain View Cemetery. The fact that the whole building is finished on all sides with expensive cladding and intricate designs, rather than being simply painted at the rear, proves that it was intended to be admired from the back, and specifically from the lake. It was built just high enough for its long evening shadow to reach the far shore.

12. City Planning Principles: The Relative Rank of Different Elements in a City Plan

On the level of city planning theory, the need to preserve remarkable natural, historical and cultural monuments in a city has always been given prime importance. Practical concerns for housing, transportation and hygiene are of course critical to city planning. But the location of major monuments that make a city unique has generally been held to outrank other functions that can be located elsewhere.

Werner Hegemann, the internationally renowned city planner of the early 20th century, visited Oakland in 1913 on a nationwide tour to promote careful city planning. Oakland had already demonstrated its concern to grow in a way that would preserve its beauty by commissioning city plans in the previous decade, and Hegemann's visit was celebrated in the newspapers and he gave well-attended speeches on city planning here in Oakland. He also wrote a *Report on a City Plan for the Municipalities of Oakland and Berkeley*, published in 1915, in which he declared that "the location of great historical or natural monuments" should take precedence over any other element in a city plan, even the water and transportation systems that he otherwise treated as

overriding everything else (*Report on a City Plan*, p. 18). Park sites that “contain altogether unusual qualities to be protected at any cost” could even affect the location of a harbor. He insisted that “a site suited for a beautiful park must not be used for things that can be accommodated elsewhere” and “a public park must enjoy a higher rank than an area for private residences.” What applies to an ordinary park applies even more to a grand historic monument like Robert Fitzgerald’s equinox observatory. It is virtually certain that ideas for civic beautification and the establishment of monuments, as presented in the Hegemann report and in his lectures, were on the minds of the builders of the Central Bank.

Hegemann ranked the elements of a city plan in the following order:

- 1) historic monuments
- 2) transportation
- 3) business districts and industries
- 4) parks
- 5) residence districts

explaining that in case of a conflict, “the different elements have to be considered and have to give way according to their rank.” Certainly, we have different priorities now than they had in the 1910s. The city is profoundly changed, mostly for the better. But it remains true that what makes a city truly live is not primarily its housing, but what it offers to feed the mind and soul.

13. What Preserving the Equinox Observatory Would Entail

The equinox line is currently vulnerable to highrises that would block it only along the 15th Street corridor, where the 85-foot height limit is in place, and in the property at 1523 Harrison. These buildings would have to be kept to 10 stories or lower. The Terrace at Harrison project, in preconstruction on the east side of Harrison and comprising the old encroaching Moody property (1600 Harrison) and the adjacent formerly Central Bank-owned property (1610 Harrison), will only be six stories high, very much in line with the neighborhood.

Most of the properties that are implicated in preserving the equinox observatory view are already developed in a permanent way. A pair of buildings in the equinox line are listed in Table III.G-2 of the General Plan LUTE Draft EIR (“Registered Historic Resources Within the Central Business District ‘Change’ Area”):

- the Palace Apartments (1560 Alice Street),
- the Lake Merritt Hotel (1800 Madison Street),

while three other buildings are listed as contributors to the Downtown Oakland Historic District:

- the Central Building (No. 7),
- Complex (Elks Hall) (No. 46),
- Jeffrey's Inner Circle (Athenian-Nile Club) (No. 44),

and to the Harrison and Fifteenth Historic District:

- the Thompson building (330 15th Street) (No. 8).

Other buildings in the equinox view line could be considered on their own as Potentially Designated Historic Landmarks:

- 1430 Franklin Street,
- 363 15th Street,
- 1530 Harrison,
- 1519 Alice Street,
- 1529 Alice Street,
- 1528 Alice Street,
- 1546 Alice Street,
- 1565 Jackson Street,
- 1570 Jackson Street,
- 160 17th Street,
- the Tudor Hall Apartments (150 17th Street), and
- 2122 Lake Shore Avenue.

Others properties would derive importance from being located along the equinox observatory line:

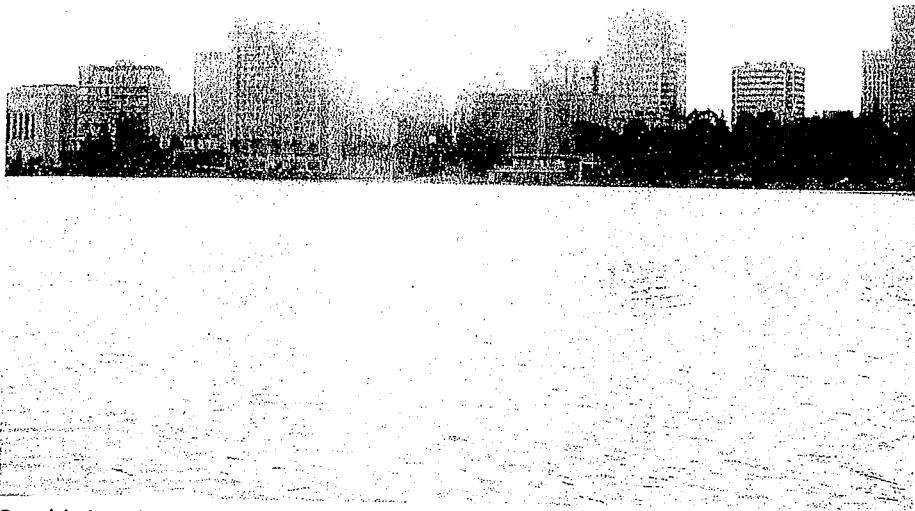
- 1424 Franklin Street (publicly owned),
- 359 15th Street,
- 1433 Webster,
- 1510 Webster,
- 1523 Harrison,
- 1538 Harrison (publicly owned),
- 1 Lakeside Drive.

To the west of the intersection of 14th and Broadway, the City Center, the Ronald V. Dellums Federal Building, 555 City Center, 601 12th Street, Lafayette Square and Block 147 are in the equinox observatory line, but fortuitously none of the highrise buildings to the west prevents the sun from shining through this key central intersection during equinox sunsets. The one building that fills the gap in the skyline, 601 12th Street, is transparent to sunlight in the relevant part. This will have to be confirmed, of course, when the sunset returns to the equinox observatory in the Oakland skyline on March 19-20, 2019.

Equinox Observatory Survives 601 12th Street

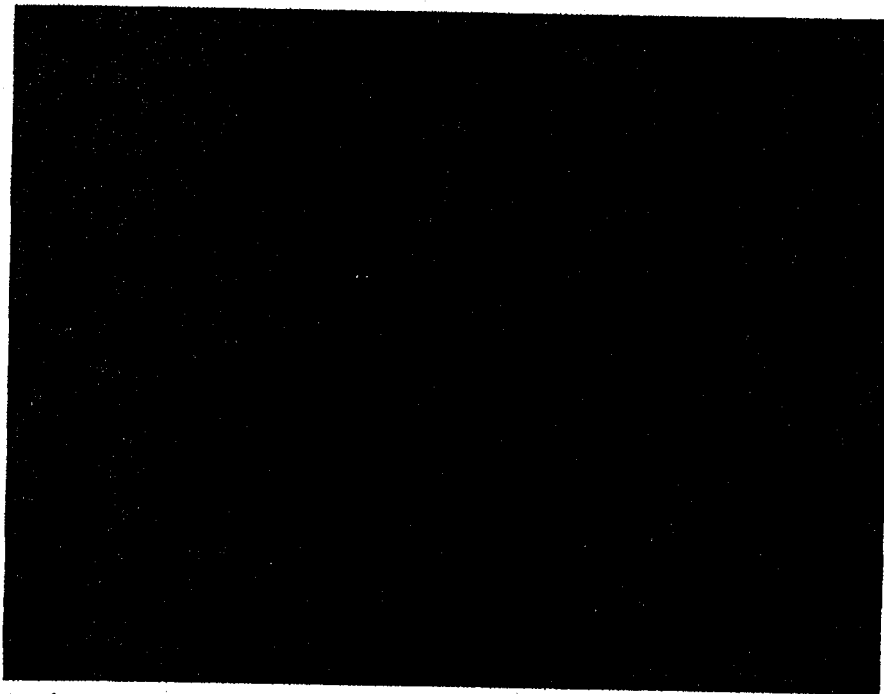
ATTACHMENT 1

Here are some shots taken on September 22 and 23, 2018 at sunset, showing that the sun still shines through the gap between the Central Bank building and the Smith building.



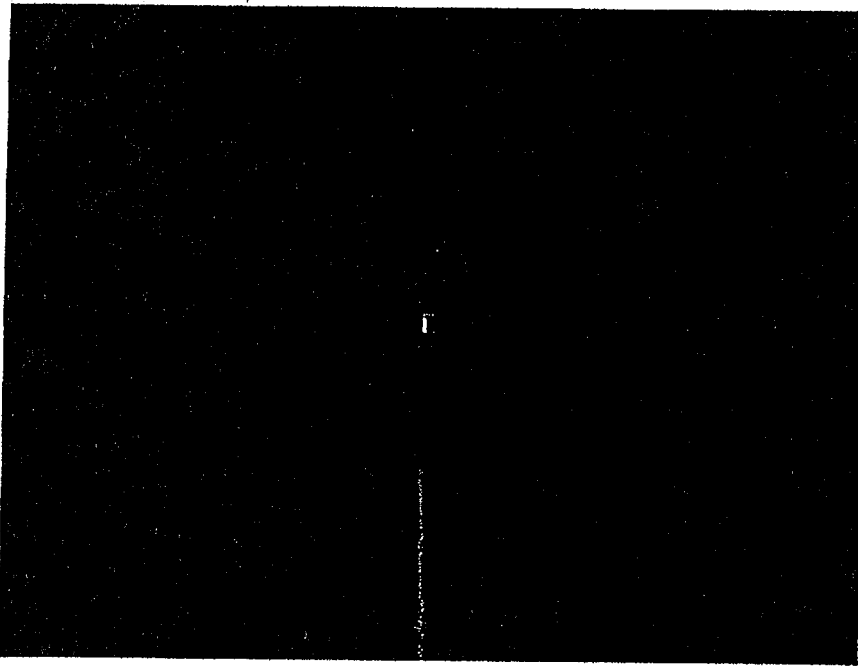
Sun hitting the top of the gap on September 22

(The sun's transit over the equator was a few minutes after this shot was taken, so this is about as far north as the sun would ever be on an equinox sunset).

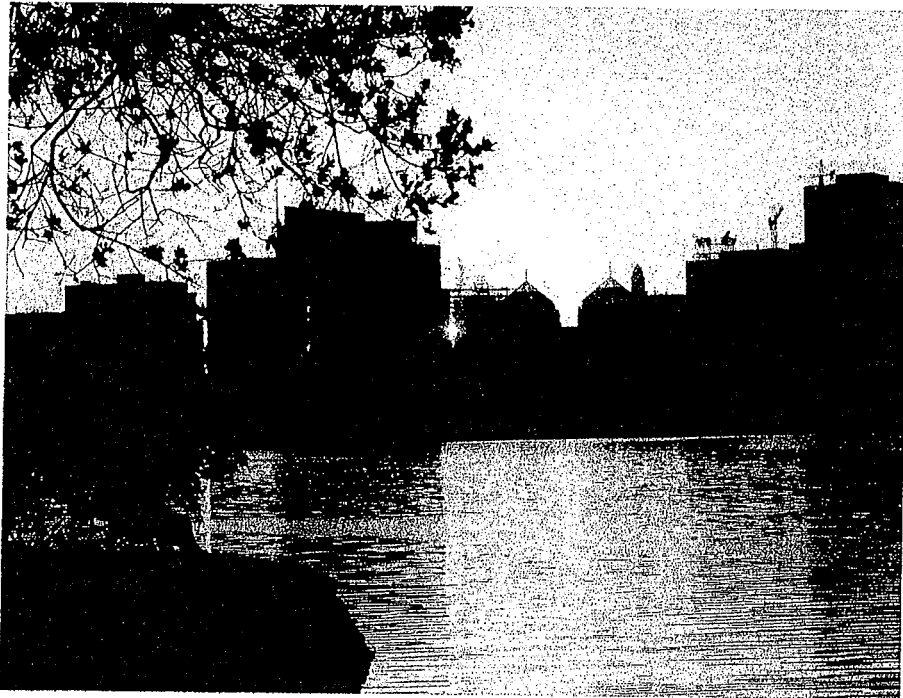


Sun hitting the top of the gap, with 601 12th Street crane in silhouette. Taken with eclipse filter.

Link to a gif of the sunset on 9/22 through an eclipse filter: <https://giphy.com/gifs/oakland-equinox-9GlgZwsilXt9jiBvyZ>



On September 23, 2018, less than 24 hours after the sun crossed the equator, the sun is setting deeper into the gap.

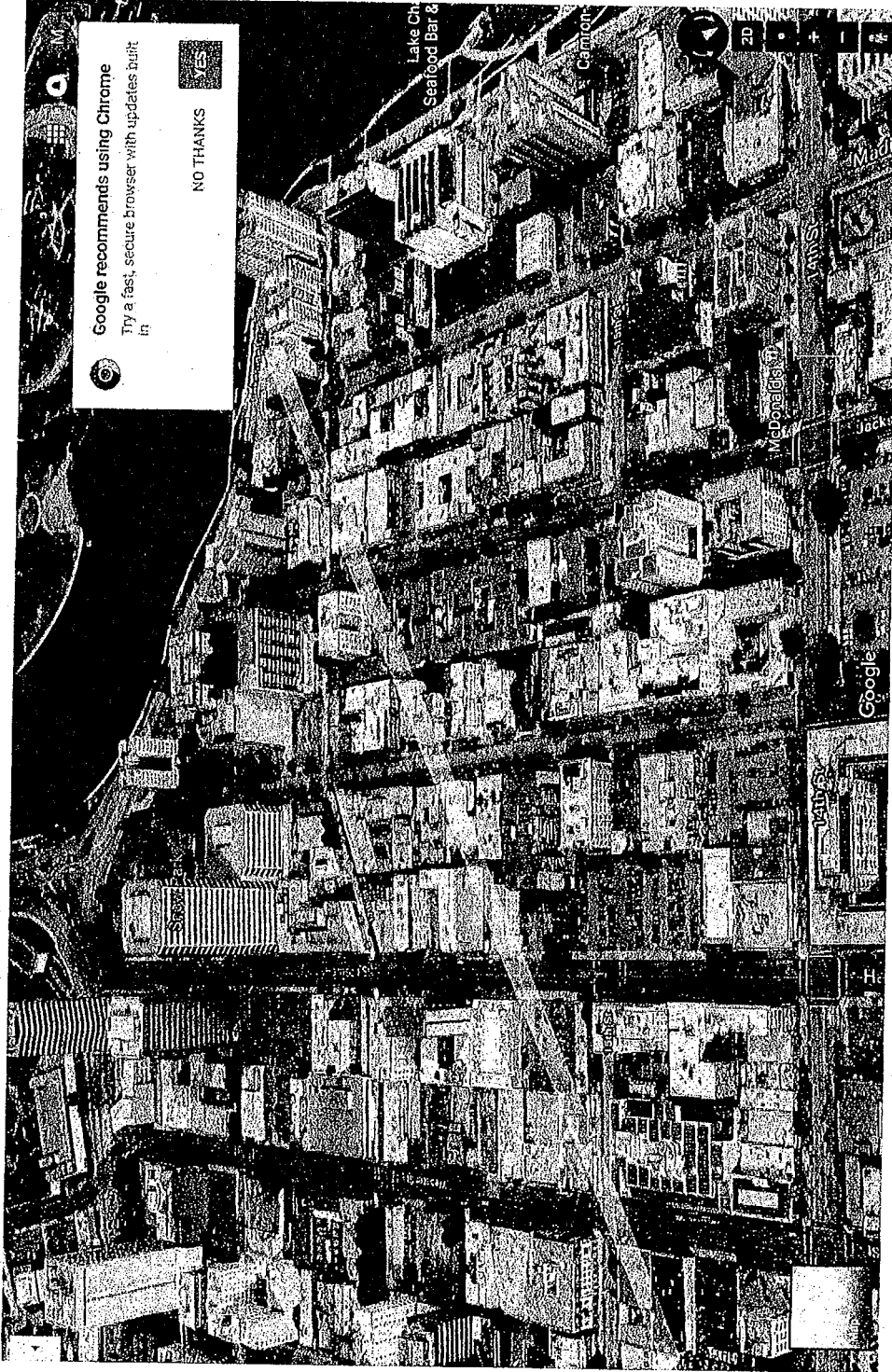


Even quite far to the south along the 2100 block of Lake Shore, where the gap appears closed by 601 12th Street most of the day, the sun still breaks through.

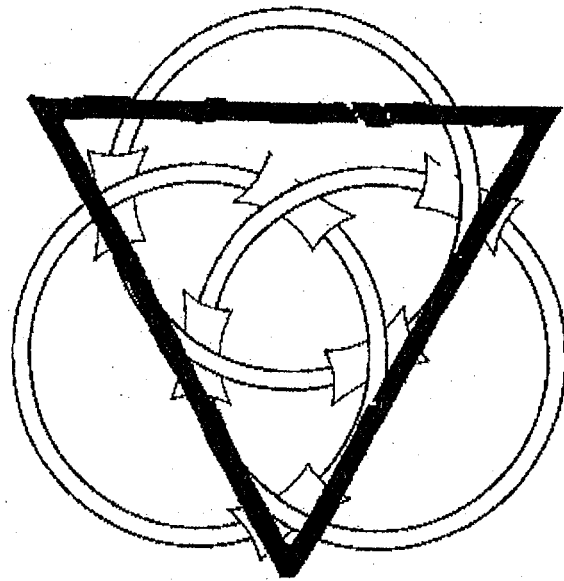
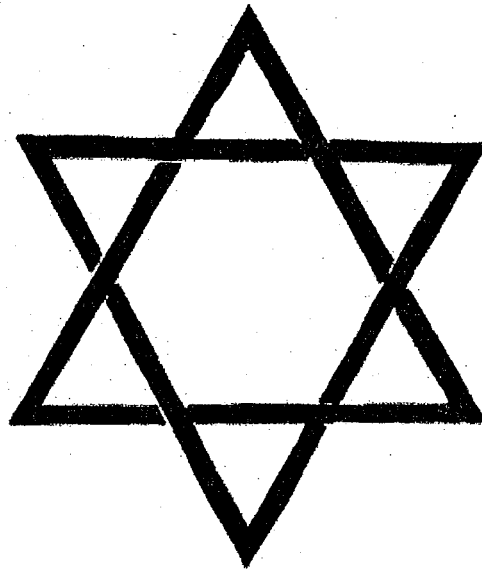
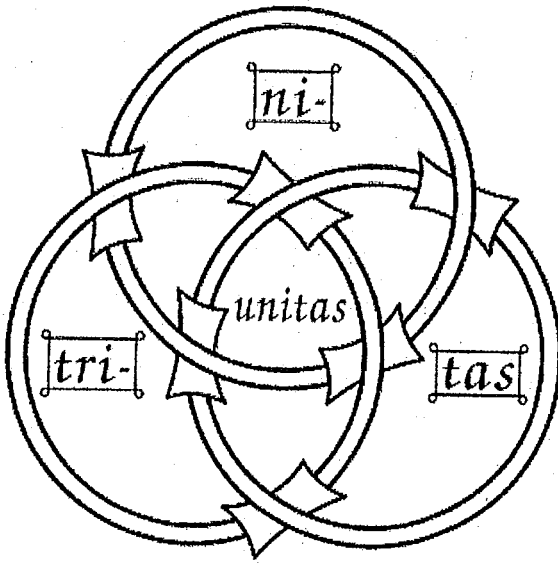
Aerial View showing Equinox Observatory View Lines with Interfering Projects



Equinox Line Running through Gold Coast Neighborhood – Bird's Eye View



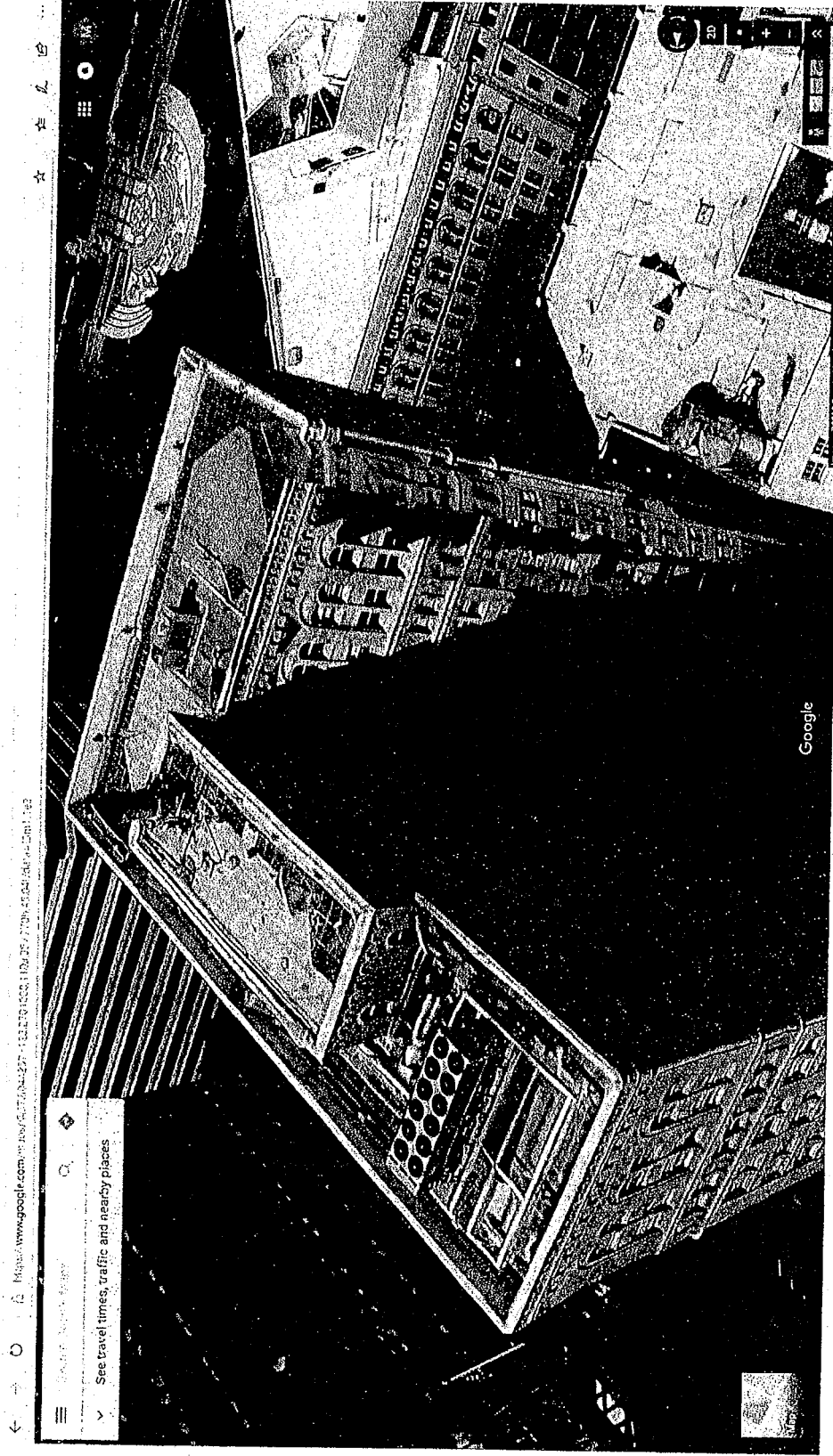
A symbol of Judeo-Christian harmony



Symbols at the top of the Central Bank Building combine elements of the Borromean Rings and the Star of David, symbolizing Catholicism and Judaism – both of them being religions that anchor their liturgical calendars to the spring equinox.

The six-pointed star is also a Masonic symbol.

Central Bank Building's Temple-Like Elevator Machinery Room and Hexagonal Turret



Oakland Scottish Rite Temple at Winter Solstice Sunrise

