

CITY OF OAKLAND



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Planning and Building Department
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Memo of Clarification

To: City Planning Commission

RE: 4276 Macarthur Boulevard, Convenience Market with Alcoholic beverage Sales (bottle sales of beer & wine).

On September 5, 2018, the Planning Commission will consider approval findings for a Major Conditional Use Permit, Major Variance, and Regular Design Review for the proposed expansion of an existing service station at 4276 Macarthur Boulevard and to replace repair bays with a convenience market that will sell beer and wine in bottles for off-site consumption. The sales of alcohol and the operation of the convenience market require a Major Conditional Use Permit. The proposal also requires a Variance for alcoholic beverage Sales within 1,000 feet of another such activity and a civic activity (a church). Regular Design review approval is required for modifications to the existing buildings and fueling canopies.

The proposal was first brought to the Planning Commission at the June 6, 2018 Planning Commission meeting. Staff recommended denial of the project, but the Planning Commission reversed staff's recommendation and approved the project by a vote of 6-0-0.

This decision required the subsequent return of the item before the Planning Commission with findings for approval, conditions of approval, and the appropriate environmental determination. Staff has prepared these items, and presents them to the Planning Commission for a decision. The item is appealable to the City Council within 10 days of approval.

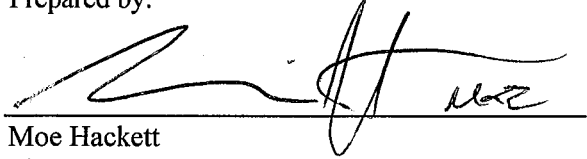
Attachments A, B, and C are required findings, conditions of approval, and environmental determination, respectively.

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RECOMMENDATIONS:

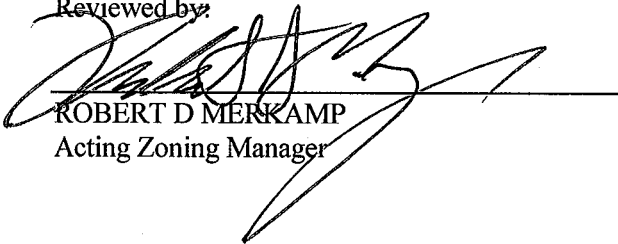
1. Uphold staff's CEQA environmental determination
2. Approve the Finding for Approval

Prepared by:



Moe Hackett
Planner II

Reviewed by:



ROBERT D MERKAMP
Acting Zoning Manager

Approved for forwarding to the
City Planning Commission:



EDWARD MANASSE,
Interim Deputy Director
Department of Planning and Building

LEGAL NOTICE: The decision of the City Planning Commission is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision is announced, unless an earlier date applies

ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. Environmental Determination
- D. Body of the June 6, 2018 Staff Report
- E. Revised Plans



Attachment A: Findings for Approval

The Planning Commission finds that this proposal meets the required findings under **General Use Permit Criteria (OMC Sec. 17.134.050)**; **Use Permit Criteria for Convenience Markets and Establishments Selling Alcoholic Beverages (OMC Sec. 17.103.030(A))**; **Findings for Public Convenience or Necessity (OMC Sec. 17.103.030(B)(3 & 4))**; **Use Permit Criteria For CN Neighborhood Commercial Zones (OMC Sec. 17.33.030)**; **Variance Procedure / Findings Required (OMC Sec. 17.148.050(A))**; and, **Regular Design Review Criteria for Nonresidential Facilities and Signs (OMC Sec. 17.136.050(B))** of the **Oakland Planning Code (Title 17)**. Required findings are shown in bold type; explanations as to why findings can be made by the Planning Commission are shown in normal type.

GENERAL USE PERMIT CRITERIA (OMC SEC. 17.134.050):

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

The Planning Commission finds that the proposal meets this criterion. The project involves remodeling and expanding an existing convenience market on a site that includes a gas station and removing an existing auto repair facility. The sale of beer and wine in the convenience market is also included in this project.

The sale of beer and wine will not impact the neighborhood because no hard liquor sales or on-site consumption are proposed. As conditioned, the activity will not create loitering, trash, graffiti or other nuisances. Further, the beer and wine sales will not have a harmful effect on neighborhood character because the nearest bars and liquor stores are over one thousand feet from the site. The adjacent alcohol outlet is a restaurant, which tend to not have negative impacts to a neighborhood. A school no longer operates at a church that is located nearly one thousand feet away. Neither ABC licenses nor crime cluster around the site within the census tract or police beat. The intent of the ordinance is to prevent a proliferation of alcohol outlets that include hard liquor sales and on-site consumption adjacent to other outlets and civic uses; this intent is met by the proposal.

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

The Planning Commission finds that the proposal meets this criterion. The site currently successfully serves as a gas station with a small convenience market. The proposed expansion will enhance the functioning of these facilities.

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

The Planning Commission finds that the proposal meets this criterion. The project will remove the automotive repair functions, which is not a desired activity in a shopping district. The sale of beer and wine will attract more customers to nearby businesses in the Laurel Commercial District.

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050

Design Review findings are met by this proposal, as described in a following section of this attachment.

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.

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

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

Industry and Commerce Goals

- Ensure that the Oakland community has access to a wide variety of goods and services, meeting daily and long term needs.

Policy I/C3.2 Enhancing Business Districts.

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts.

POLICY I/C3.4 STRENGTHENED VITALITY

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

USE PERMIT CRITERIA FOR CONVENIENCE MARKETS AND ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES (OMC SEC. 17.103.030(A))

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

The Planning Commission finds that the proposal meets this criterion. The nearest bars and liquor stores are situated over one thousand feet from the site. The adjacent alcohol outlet is a restaurant, which tend to not have lesser impacts than bars or liquor stores.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;

The Planning Commission finds that the proposal meets this criterion. Reports of crimes and calls for service do not cluster around the site within the police beat and the project will not create a proliferation of alcohol outlets that include hard liquor sales or on-site consumption.

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

The proposal will neither create additional curb cuts on Macarthur Boulevard nor obstructions on the adjacent sidewalk.

4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;

The project includes a significant upgrading of the visual quality of the site's building, landscaping, signs, and canopy.

5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression;

The proposal includes a significant upgrade to the exterior of the building and new landscaping.

6. That adequate litter receptacles will be provided where appropriate;

As conditioned, the site will provide ample number of litter receptacles.

7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m. The same criteria shall apply to all conditional use permits required by Subsection B. of this Section for sale of alcoholic beverages at full-service restaurants;

The Planning Commission finds that the proposal meets this criterion. The application of Specific Conditions regarding noise, littering, graffiti, and other impacts assures that the intent of this criterion is met.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant—Guidelines for Development and Evaluation" (OCPD 100-18).

This finding is inapplicable; the proposal does not involve a Fast-Food Restaurant.

FINDINGS FOR PUBLIC CONVENIENCE OR NECESSITY (OMC SEC. 17.103.030(B)(3 &4))

3a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and

The Planning Commission finds that the proposal meets this criterion. The project involves upgrades to enhance an existing establishment, including discontinuance of auto repair. The intersection once contained three gas stations and a liquor store, and now only the subject gas station remains. Gas stations have increasingly relied upon their convenience market sales to remain viable.

b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and

The design does not interfere with the vibrant pedestrian oriented environment that is located further south on Macarthur Boulevard. The site's existing footprint will not be altered, and will not interfere with the current movement of people along the pedestrian street. Police records demonstrate that crime does not cluster near the site. Conditions of approval assure that negative impacts will not proliferate at the site.

c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.

The Planning Commission finds that the proposal meets this criterion because the sale of beer and wine are customarily sold in a convenience market.

4a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full Service Restaurant Commercial Activities), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

This finding is not met as the site is within one thousand feet of a church, and a Variance is, therefore, required. Findings required to approve the Variance are made in a following section of this attachment.

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats Citywide during the preceding one (1) calendar year.

This finding is not met, and a Variance is, therefore, required. Findings required to approve the Variance are described in a following section of this attachment.

USE PERMIT CRITERIA FOR CN NEIGHBORHOOD COMMERCIAL ZONES (OMC SEC. 17.33.030)

1. That the proposal will not detract from the character desired for the area;

The Planning Commission finds that the proposal meets this criterion. The project involves upgrades to enhance an existing establishment, including discontinuance of auto repair. The intersection once contained three gas stations and a liquor store, and now only the subject gas station remains. The nearest bars and liquor stores are situated over one thousand feet from the site. The adjacent alcohol outlet is a restaurant, which tend to have lesser impacts than a bar or liquor store. A school no longer operates at a church that is located nearly one thousand feet away. ABC licenses do not cluster around the site within the census tract. Reported crimes and calls for service do not cluster around the site within the police beat. The upgraded convenience market will bring customers to surrounding businesses.

2. That the proposal will not impair a generally continuous wall of building facades;

The proposal will not alter the existing street building / wall facades.

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

The proposal will not affect retail store frontage.

4. That the proposal will not interfere with the movement of people along an important pedestrian street; and

The proposal will not interfere with the movement of people, and will not alter the existing condition and site layout.

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

The City Council has not adopted a district plan for this area.

VARIANCE PROCEDURE / FINDINGS REQUIRED (OMC SEC. 17.148.050(A))

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

The Planning Commission finds that the proposal meets this criterion. The project involves upgrades to enhance an existing establishment, including discontinuance of auto repair. The intersection once contained three gas stations and a liquor store, and now only the subject gas station remains. Gas stations rely upon their convenience market sales to remain viable. The business would not sell hard liquor or include on-site consumption. The nearest bars and liquor stores are situated over one thousand feet from the site. A school no longer operates at the church that is located nearly one thousand feet away. ABC licenses do not cluster around the site within the census tract. Lastly, reported crimes and calls for service do not cluster around the site within the police beat. The intent of the ordinance is to prevent a proliferation of alcohol outlets, including hard liquor sales and on-site consumption; this intent is met by the proposal.

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

The Planning Commission finds that the proposal meets this criterion. Similarly zoned convenience markets sell beer and wine in Oakland.

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

As conditioned, the proposal will not have impacts on the abutting properties in terms of loitering, graffiti, trash, noise, and other nuisances.

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

The Planning Commission finds that the proposal meets this criterion. Similarly zoned convenience markets sell beer and wine in Oakland.

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

This finding is inapplicable; the elements of the proposal requiring the Variance do not require design review.

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

The proposal conforms to the General Plan, as described in a previous section of this Attachment.

REGULAR DESIGN REVIEW CRITERIA FOR NONRESIDENTIAL FACILITIES AND SIGNS
(OMC SEC. 17.136.050(B))

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

The design does not interfere with the vibrant pedestrian oriented environment that is located further south along Macarthur Boulevard. The site's existing footprint will not be altered and the proposed building exterior is consistent with other attractive urban gas stations with associated convenience markets in terms of design, materials, landscaping, and signage.

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

For the reasons stated above, the design achieves a building that is in harmony with the surrounding area. The design is typical of well designed gas stations and convenience store facilities. The site plan minimizes curb cuts and is consistent with commercial buildings in the neighborhood.

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

The proposal conforms to the General Plan, as described in a previous section of this Attachment.

Attachment B: Conditions of Approval

Standard Conditions of Approval

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, (**attached June 6, 2018 Staff Report**) and the approved plans (**date to be determined**), 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 calendar 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. Such changes may include minor exterior design modifications, landscaping modifications, alterations signage, reductions to approved hours of operation and scope of conditioned uses.
- 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. Regulatory Permits and Authorizations from Other Agencies

Requirement: The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

13. Trash and Blight Removal

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Graffiti Control

Requirement:

- 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:

- 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.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
- 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).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

15. **Landscape Plan**

a. ***Landscape Plan Required***

- **Requirement:** 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. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf>, respectively), and with any applicable streetscape plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. ***Landscape Installation***

Requirement: 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.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. ***Landscape Maintenance***

Requirement: 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.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. **Lighting**

Requirement: 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.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

1. **Dust Controls – Construction Related**

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- 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) Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e) All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f) All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g) 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.

2. **Criteria Air Pollutant Controls - Construction Related**

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a) 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 two 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.
- b) 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 two 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”).

- c) 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. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- d) Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- e) Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- f) All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

3. Asbestos in Structures

Requirement: 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.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

4. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: 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.

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 the proposed 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.

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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

5. Human Remains – Discovery During Construction

Requirement: 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

6. Construction-Related Permit(s)

Requirement: 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.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

7. Hazardous Materials Related to Construction

Requirement: 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:

- 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
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

8. **Hazardous Building Materials and Site Contamination**

a. ***Hazardous Building Materials Assessment***

Requirement: The project applicant shall submit a comprehensive assessment report to the Bureau of Building, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACMs), lead-based paint, polychlorinated biphenyls (PCBs), and any other building materials or stored materials classified as hazardous materials by State or federal law. If lead-based paint, ACMs, PCBs, or any other building materials or stored materials classified as hazardous materials are present, the project applicant shall submit specifications prepared and signed by a qualified environmental professional, for the stabilization and/or removal of the identified hazardous materials in accordance with all applicable laws and regulations. The project applicant shall implement the approved recommendations and submit to the City evidence of approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of demolition, grading, or building permits

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. ***Environmental Site Assessment Required***

Requirement: 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 approval for any proposed remedial action and required clearances by the applicable local, state, or federal regulatory agency.

When Required: Prior to approval of construction-related permit.

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

c. ***Health and Safety Plan Required***

Requirement: 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.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

d. ***Best Management Practices (BMPs) Required for Contaminated Sites***

Requirement: 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:

- 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

9. **Site Design Measures to Reduce Stormwater Runoff**

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

10. **Construction Days/Hours**

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- 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.

- 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.
- c. No construction is allowed on Sunday or federal holidays.

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.

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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

11. Construction Noise

Requirement: 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:

- 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

12. Operational Noise

Requirement: 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.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Construction Activity in the Public Right-of-Way

e. *Obstruction Permit Required*

Requirement: 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, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

f. *Traffic Control Plan Required*

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, 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 accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

g. *Repair of City Streets*

Requirement: 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.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

14. Construction and Demolition Waste Reduction and Recycling

Requirement: 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.greenhalosystems.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.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

15. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Green Building Requirements – Small Projects

a. *Compliance with Green Building Requirements During Plan-Check*

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) for projects using the.

- i. The following information shall be submitted to the City for review and approval with application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the green building checklist approved during the review of a 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 (b) below.
 - Other documentation to prove compliance.
- ii. The set of plans in subsection (a) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - All applicable green building measures identified on the checklist approved during the review of a Planning and Zoning permit, or submittal of a Request for Revision Plan-check application that shows the previously approved points that will be eliminated or substituted.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. *Compliance with Green Building Requirements During Construction*

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Green Building Ordinance during construction.

The following information shall be submitted to the City for review and approval:

- i. Completed copy of the green building checklists approved during review of the Planning and Zoning permit and during the review of the Building permit.
- ii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Water Efficient Landscape Ordinance (WELO)

Requirement: The project applicant shall comply with California's Water Efficient Landscape Ordinance (WELO) in order to reduce landscape water usage. For any landscape project with an aggregate (total noncontiguous) landscape area equal to 2,500 sq. ft. or less. The project applicant may implement either the Prescriptive Measures or the Performance Measures, of, and in accordance with the California's Model Water Efficient Landscape Ordinance. For any landscape project with an aggregate (total noncontiguous) landscape area over 2,500 sq. ft., the project applicant shall implement the Performance Measures in accordance with the WELO.

Prescriptive Measures: Prior to construction, the project applicant shall submit documentation showing compliance with Appendix D of California's Model Water Efficient Landscape Ordinance (see website below starting on page 23):

<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%2023%20extract%20-%20Official%20CCR%20pages.pdf>

Performance Measures: Prior to construction, the project applicant shall prepare and submit a Landscape Documentation Package for review and approval, which includes the following

- a. Project Information:
 - i. Date,
 - ii. Applicant and property owner name,
 - iii. Project address,
 - iv. Total landscape area,
 - v. Project type (new, rehabilitated, cemetery, or home owner installed),
 - vi. Water supply type and water purveyor,
 - vii. Checklist of documents in the package, and
 - viii. Applicant signature and date with the statement: "I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package."
- b. Water Efficient Landscape Worksheet
 - i. Hydrozone Information Table
 - ii. Water Budget Calculations with Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use
- c. Soil Management Report
- d. Landscape Design Plan
- e. Irrigation Design Plan, and
- f. Grading Plan

Upon installation of the landscaping and irrigation systems, the Project applicant shall submit a Certificate of Completion and landscape and irrigation maintenance schedule for review and approval by the City. The Certificate of Compliance shall also be submitted to the local water purveyor and property owner or his or her designee.

For the specific requirements within the Water Efficient Landscape Worksheet, Soil Management Report, Landscape Design Plan, Irrigation Design Plan and Grading Plan, see the link below.

<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%202023%20extract%20-%20Official%20CCR%20pages.pdf>

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

18. 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

19. Alcoholic Beverage Sales

a. **Additional Permits Required**

Prior to commencement of activity

A type 20 license shall be obtained from the ABC. This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

b. **Location and manner of alcoholic beverage consumption**

Alcoholic beverage sale is on-sale, for on-site consumption only.

c. **Hours of Alcoholic Beverage Sale**

Hours of alcoholic beverage sales are limited to the following:

Monday through Sunday: 6:00 A.M. to 11:59 P.M.

20. Operation

Ongoing

a. **Staffing**

The establishment shall staff a minimum of two persons at all time and provide security staff as needed.

b. **Staff training program**

The operator shall require new employees to complete a staff training program that includes training in the conditions of approval and ABC statutes and regulations.

c. Staff to monitor site

Staff of the business shall regularly monitor the convenience market, gas station, and public right-of-way to discourage all nuisances including but not limited to discouraging loitering, littering, noise, graffiti, public drinking / intoxication / urination / violence, and noise.

d. Future operators

Any future operator of the bar at these premises are subject to the requirements of this approval.

21. Coordination/Outreach

a. ABAT Registration

The operator shall register with the Police Department's Alcoholic Beverage Action Team and adhere to their regulations.

b. Deemed Approved Alcoholic Beverage Sale Regulations

The applicant and proprietor voluntarily agree to conform to the Oakland Planning Code Deemed Approved Alcoholic Beverage Sale Regulations (OMC Sec. 17.156).

c. Crime Prevention Through Environmental Review (CPTED)

The applicant shall request a CPTED review from the Oakland Police Department's Alcoholic Beverage Action Team (ABAT) and shall implement all recommendations to the extent practicable.

d. Neighborhood outreach

The business operator shall be accessible to neighbors wishing to register complaints against the business and shall work to eliminate any related nuisances reported or noted.

22. Environmental Effects

a. Nuisances

Crime, litter, or disorderliness conduct associated with alcohol sales at the establishment shall result in a revocation of the Major Conditional Use Permit or a review to revoke.

b. Performance standards

Ongoing

The establishment shall adhere to performance standards for noise, odor, and all environmental effects of the bar activity as regulated under OMC Chapter 17.120.

c. Loitering

The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiters who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.

d. Graffiti

Graffiti shall be removed from the premises within 72 hours (3 days) of application.

e. Trash and Litter

The licensees/property owners shall clear the gutter and sidewalks along Macathur Boulevard and High Street plus twenty feet beyond the property lines along this street of litter twice daily or as needed to control litter. In addition to the requirements of B&P Code Section 25612.5 (sweep or mechanically clean weekly), the licensee shall clean the sidewalk with steam or equivalent measures once per month. The business shall utilize a recycling program.

f. Noise

The City Noise Ordinance (OMC Sec. 8.18.010) and Performance Standards (OMC Sec. 17.20.050) shall be observed for noise emanating from the subject property-line to the adjacent properties on High Street and Macarthur.

23. Design

a. Signage

Within 30 days of the date of decision and ongoing

At least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to bar. The "No Open Container" signs are available from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

b. Signage to discourage other nuisances

Ongoing

The establishment shall display signage discouraging loitering, open consumption of alcohol both on and off the premises, amplified music, devices, and prohibiting loud talking from generating nuisances outdoors both fronting the building and within the neighborhood.

c. Contact phone numbers

Ongoing

The establishment shall display signage inside the convenience market offering contact numbers for both the establishment and the City (Code Compliance at (510)238-3381 and OPD non-emergency at (510)777-3333 for the purpose of reporting nuisances.

d. Advertising signage

No product advertising signage (such as neon beer signs) or banners (such as advertisements) may be displayed.

24. Compliance hearings

After 6 months of commencement of sale of alcoholic beverages

The applicant shall return to the Planning Bureau to report their progress. Should any complaints regarding sale of alcoholic beverages be identified, staff may refer the item back to the Planning Commission under a Director's Report. In that case, the applicant shall submit for a Compliance Review, and pay all appropriate fees consistent with the current Master Fee Schedule at that time (currently \$1,310.00). The Compliance Review will be agendized for an upcoming Planning Commission meeting. The Compliance Review shall provide an opportunity for the Commission and the public to provide comment on the operation and determine whether there is a violation of any term, **Conditions** or project description relating to the Approvals or if there is violation of any provision of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance or there exists adverse impacts caused. As a result of the hearing, the Commission may direct staff to initiate enforcement proceedings pursuant to Condition of Approval 5C and/or 13a, and/or may impose additional conditions related to the operation.

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

Attachment C: Environmental Determination

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301 and 15303 of the State CEQA Guidelines exempt projects that consist of "existing facilities" and "the construction of new small structures" as well as changes of use where only minor modifications are made. The proposal to establish a convenience market associated with a gas station meets the requirements of this exemption.

Case File Number PLN17282

June 6, 2018

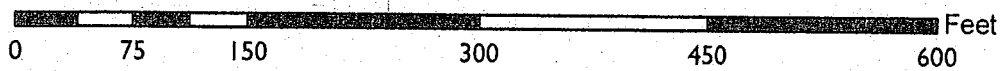
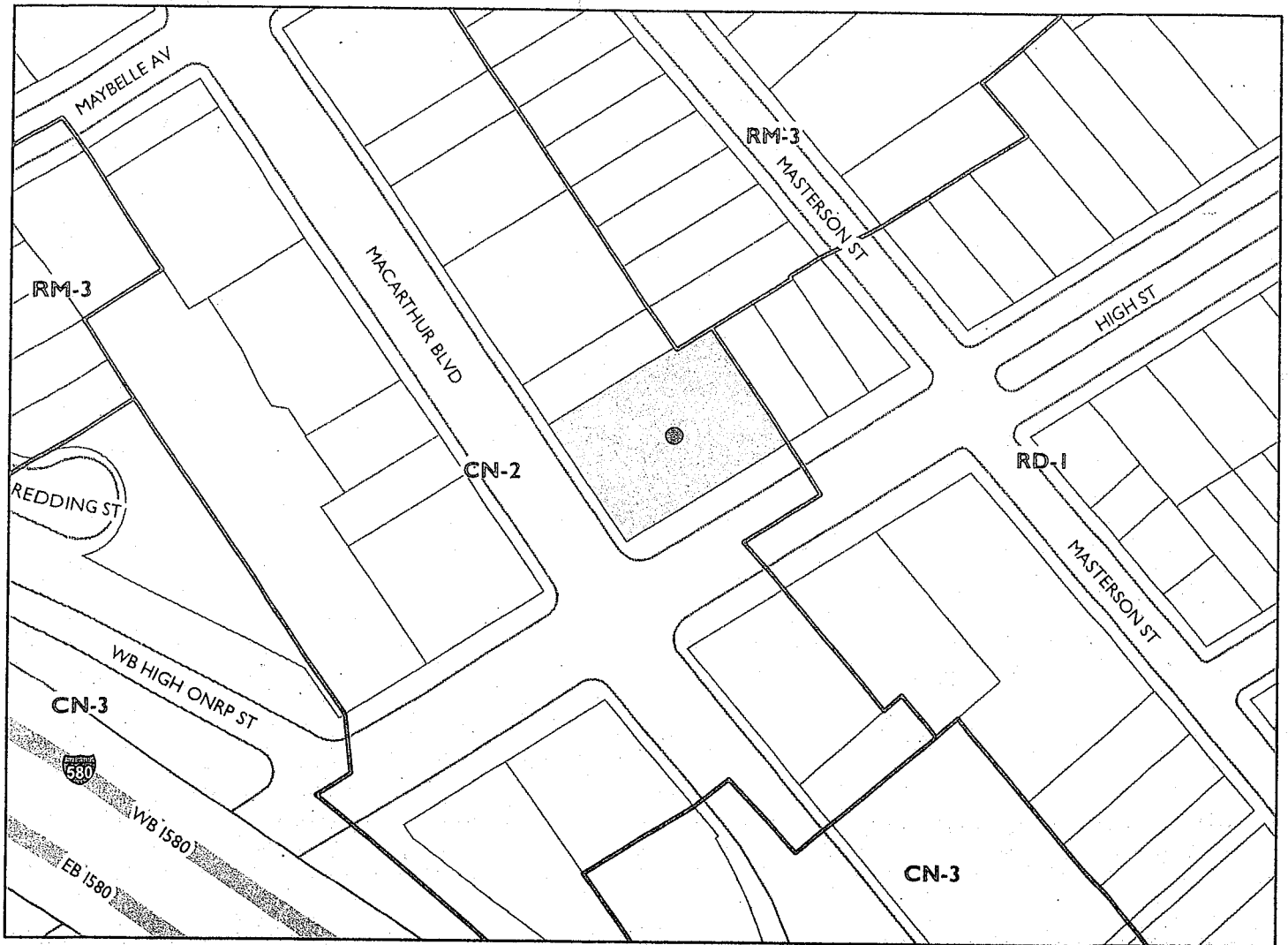
Location:	4276 Macarthur Boulevard (APN: 030-1981-150-01) (See map on reverse)
Proposal:	Major Conditional Use Permit, Major Variance, and Regular Design Review to allow for Convenience Market with Alcoholic Beverage Sales within 1,000 feet of a Civic Activity (Saint Laurence O'Tool Saint Cyril church) and another existing Alcoholic Beverage Sales (Degree's Plato Limited Service Café and Tap Room). The project also involves complete remodel of an existing automotive service station.
Applicant:	Jason Overman /on behalf of Rajan Goswamy
Owner:	Rajan Goswamy DBA Macarthur 76
Planning Permits Required:	Major Conditional Use Permit to allow for the establishment of a new 2,185 square-foot convenience market (as part of an existing service station with automotive repair), and for the sale of alcoholic beverage within the new combination convenience market and gas station. Regular Design Review for expansion and demolition of existing building.
General Plan:	Neighborhood Center Mixed Use
Zoning:	CN-2, Neighborhood Center Mixed Use -Zone 2
Environmental Determination:	Exempt, Section 15270 of the State CEQA Guidelines: Projects that are Disapproved
Historic Status:	None
Service Delivery District:	4
City Council District:	4
Status:	Pending decision by Planning Commission
Staff Recommendation:	Deny the Major Variance, Major Conditional Use Permit, and Regular Design Review based on the staff report.
Finality of Decision:	Decision Appealable to City Council
For Further Information:	Contact case planner Moe Hackett at 510-238-3973 or mhackett@oaklandnet.com

SUMMARY

On July 25, 2017 the applicant applied for a zoning application to establish a convenience market in an existing commercial building at 4276 MacArthur Boulevard at the corner of High Street and MacArthur Boulevard. The proposal would also include the bottle sales of alcoholic beverages (beer and wine) for offsite consumption. The project involves an expansion of the store space to allow for an approximately 2,185 square foot convenience store.

A Major Conditional use Permit (CUP) is required in order to establish a Convenience Market and for Alcoholic Beverage Sales. The purpose of the CUP is to address crime, noise, and other effects of such a business related to neighbors, and overall appropriateness of the activity at that location. A Major Variance is also required to allow less than the required 400-foot separation from a church (Saint Laurence O'Tool church - a Civic Activity which is identified as a sensitive receptor), and the existence of Degree;s Plato (a limited service café with onsite beer and wine sales and

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN17282
Applicant: Jason Overman o/b/o/ Rajan Goswamy
Address: 4276 Macarthur Boulevard
Zone: CN-2

consumption as well as bottle sales for off-site consumption). Regular Design Review is also required to modify the existing building.

Issues under consideration include proximity of the Convenience Market to residential properties; vehicular access and on-site movement; a strong potential for late-night noise, public drinking and drunkenness, loitering, panhandling, and litter from patrons of the business. Potential benefits of the market include provision of convenience items at this location; however, this type of market can often have noise and traffic issues, and sometimes cause security issues. Another convenience market (7-Eleven) is located approximately 1,600 feet away at 4720 MacArthur Boulevard.

BACKGROUND

The site has functioned as a full service gas station (auto fueling and repair services) for 60 plus years and has been operating under the current ownership for the last 16 years. The existing convenience market has operated in good standing within the surrounding neighborhood and community.

PROJECT DESCRIPTION

The applicant proposes to expand an existing 1,622 square-foot full service gas station with limited retail facilities to approximately 2,185 square feet, and replace the automotive service bays and their associated automotive repair activities with a convenience market with beer and wine sales that would be operated in conjunction with the existing gas station. The proposal includes improvements to the façade, and the retention of the existing gas pumps, and awnings. The project also proposes modifications to the parking areas and a new access path to the public right of way (on High Street). The applicant requests 24 hour operation, with no indoor operations between the hours of 2 a.m. and 5a.m., and no alcohol sales between the hours of 6:00PM and midnight. The project would maintain the existing vehicle maneuvering configuration which is needed for fuel truck deliveries, and retain the fence which separates the site from the adjacent residential activities at 3627 High Street.

PROPERTY DESCRIPTION

The site is a corner parcel of .33 acres that fronts on MacArthur Boulevard and has a street side frontage on High Street. It is abutted by commercial activities on MacArthur Boulevard and residential activities toward its rear side on High Street. The site is currently in operation as a gas station and has so for the past 60 plus years. The lot is fully developed and paved with an existing 1,622 square-foot single story commercial structure and gas pumps with awnings.

GENERAL PLAN ANALYSIS

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

For the reasons described in this denial letter (see Key Issues and Basis for the Denial, and Attachment B) and in the Basis for Denial section of this report, the proposed Alcoholic Beverage Sales Commercial activity is not a "compatible commercial use." Therefore, the project does not conform to the Land Use and Transportation Element of the General Plan. The project is also inconsistent with the following policy in that an over concentration of alcoholic beverage bottle sales, as well and close proximity of this activity (bottle sales) to a civic activity is present.

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

Policy N1.6 / "Reviewing Potential Nuisance Activities": The City should closely review any proposed new commercial activities that have the potential to create public nuisance or crime problems, and should monitor those that are existing. These may include isolated commercial or industrial establishments located within residential areas, alcoholic beverage sales activities (excluding restaurants), adult entertainment, or other entertainment activities.

Policy N11.3 / "Requiring Strict Compliance with Variance Criteria": As variances are exceptions to the adopted regulations and undermine those regulations when approved in large numbers, they should not be granted lightly and without strict compliance with defined conditions, including evidence that hardship will be caused by unique physical or topographic constraints and the owner will be deprived privileges enjoyed by similar properties, as well as the fact that the variance will not adversely affect the surrounding area nor will it grant special privilege to the property. In those instances where large numbers of variances are being requested, the City should review its policies and regulations and determine whether revisions are necessary.

Policy N11.4 / "Alleviating Public Nuisances": The City should strive to alleviate public nuisances and unsafe and illegal activities. Code Enforcement efforts should be given as high a priority as facilitating the development process. Public nuisance regulations should be designed to allow community members to use City codes to facilitate nuisance abatement in their neighborhood.

ZONING ANALYSIS

The proposed project is located in the CN-2, Neighborhood Center 2 Zone. The intent of the zone is to "enhance the character of established neighborhood commercial centers that have a compact, vibrant pedestrian environment". The site is also directly adjacent to the RD-1 Detached Unit Residential Zone, which is intended "to create, maintain, and enhance residential areas with detached, single unit structures". The establishment of a Convenience Market and Alcoholic Beverage Sales requires a Major Conditional Use Permit, per Section 17.134.050 of OMC in the CN-2 Zone. Due to the proximity to an existing alcoholic beverage sales activity and a community assembly civic activity the proposal also requires a Major Variance (17.148.050) to allow less than the required 400-foot separation. The proposal also requires findings of Convenience Market, and Alcoholic Beverage Sales Commercial Activities (OMC Sec. 17.103.030(A)), including the Findings Public Convenience and Necessity, and additional Conditional Use Permit Findings for the CN-1, CN-2 and CN-3 Neighborhood Commercial Zones (Limitations table 17.33.01:L4). The applicant has not demonstrated that the Findings for Major Variance can be met. In addition, Automobile and Other Light Vehicle Repair and Cleaning (gas stations) are not an allowed activity in the CN-2 Zone, and as such the proposal will both continue and enhance an activity which existing as a non-conforming use. Therefore, the project is not consistent with the CN-2 Zoning.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15270 of the State CEQA Guidelines exempts "Projects that are disapproved." The proposal to establish a Community assembly activity does not meet the required findings under the Oakland Planning Code (O.M.C. Title 17) and, as such, required denial and does not require additional environmental review.

Therefore, the project is exempt from further Environmental Review.

KEY ISSUES and BASIS FOR THE DENIAL

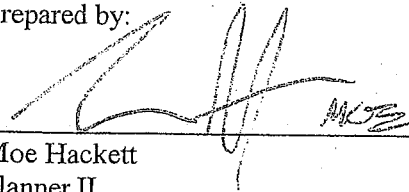
The applicant has not demonstrated the findings for the Major Variance required for approval of this project for the following reasons:

- Staff points to the Land Use and Transportation Element (LUTE) section N11.3 which requires that strict standards for compliance to the Variance findings be upheld. This application requires no special consideration due to unique physical or topographic constraint, and the owner will not be deprived of a privilege enjoyed by similar properties, as other such activities are generally non-conforming uses established prior to the establishment of the 1,000-foot control measure enacted by Municipal Code Ordinance No. 11491 C.M.S (circa 1992).
- While staff could allow for the expansion of just the convenience market with the conditional use findings, staff cannot make the same case for the alcoholic beverage sales finding. The primary concerns are the proximity to the nearby existing beer and wine off-site bottle sales located only 70-feet away from the proposal, and the proximity of the civic activity (St Lawrence O'Tool Church at 3695 High Street) which is approximately 410 feet away.
- Staff is also aware of the potential precedent of allowing an activity based on language not expressed as variance findings, and the presumed allowance of future "like" allowances throughout the city. The granting of a nearby variance of Degrees Plato (70-feet away at 4251 Macarthur Boulevard) was viewed differently in that it involved a community-oriented limited service restaurant which historically have had far fewer of the issues associated with alcoholic sales. Sale of alcoholic beverages for on-site consumption in conjunction with a restaurant is usually non-problematic. This proposal is for bottle sales of beer and wine as a walk-away or drive-away allowance, and represents more undesirable expansion of an automotive fueling station in a non-conforming gas station as compared to a simple convenience market.


RECOMMENDATIONS:

1. Uphold staff's CEQA environmental determination
2. Deny the appeal and uphold the Zoning Administrator's denial of the project based on this appeal report

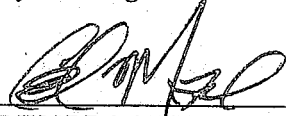
Prepared by:


Moe Hackett
Planner II

Reviewed by:


ROBERT D MERRKAMP
Acting Zoning Manager

Approved for forwarding to the
City Planning Commission:


EDWARD MANASSE,
Interim Deputy Director
Department of Planning and Building

LEGAL NOTICE: The decision of the City Planning Commission is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision is announced, unless an earlier date applies

ATTACHMENTS:

- A. Findings
- B. Project Plans
- C. City of Oakland Interoffice Letter / July 21,1992
- D. Ordinance No. 11491 C.M.S. / July 21,1992
- E. Neighborhood Comments and Input

ATTACHMENT A: FINDINGS

This proposal does not meet all the required findings under the Oakland Planning Code (OPC Title 17) which are required to approve your application. Specifically, findings cannot be met for Regular Design Review (Section 17.136.050(A), Major Variance (Section 17.148.050) and Conditional Use (Section 17.148.050), as set forth below. Note, each reason for denial constitutes a separate and independent basis to deny the application and when viewed collectively provides an overall basis to deny the application. Required findings are shown in bold type; reasons your proposal does not satisfy them are shown in normal type.

REGULAR DESIGN REVIEW CRITERIA FOR NONRESIDENTIAL FACILITIES AND SIGNS
(OMC SEC. 17.136.050(B))

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

Staff finds that the design does not allow for a vibrant pedestrian oriented environment where the building would be located at the edge of the sidewalk along the Macarthur Boulevard frontage to create a continuous street-wall. The need for a continuous street-wall and a pedestrian friendly design is the reasoning for prohibiting gas stations in the CN-2 Neighborhood Commercial zone. This configuration if implemented would, unfortunately, result in the automotive activities being located adjacent to the RD-1 residential zone and uses on high Street

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

For the reasons stated above the design fails to achieve a building which is in harmony with the area which it serves. Although the design fits the utility of its intended use it does not address the need for a continuous street wall, which would complement the recent public investments to the street scape.

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

See the General Plan Analysis section, above.

17.148.050 - (MAJOR) VARIANCE CRITERIA:

- A. Strict compliance with the specified regulations would result in practical difficulty or unnecessary hardship inconsistent with the purpose of the Zoning Regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance:

Staff finds that the proposed Variance for the establishment of Alcoholic Beverage Sales Commercial activities (off-site beer and wine bottle-sales) associated with the proposed existing

non-conforming gas station (Automobile and Other Light Vehicle Gas Station and Servicing) does not demonstrate any practical difficulty or unnecessary hardship due to unique physical or topographic circumstance or condition of design.

The Land Use and Transportation Element (LUTE) Policy N1.6 "Reviewing Potential Nuisance Activities" and Municipal Code Ordinance No. 11491 C.M.S. establish greater controls on Alcoholic Beverage Commercial Activities citywide, with the excepting of on-site consumption in the Central Business District (i.e. downtown and Jack London Square). The basis of these controls (as demonstrated in Ordinance No. 11491) are the adverse impacts associated with an overconcentration of these activities. These impacts include traffic problems, high rates of crime, citizen complaints, evidence of public nuisance, and revocation hearings before the City Planning Commission. The resulting requirement for a 1,000-foot separation between these activities has been in effect since 1992 and has been upheld constantly by the Bureau of Planning and the City Planning Commission.

In conjunction with Section N11.3 which requires that strict standards for compliance to the Variance findings be upheld, a lessening of the criteria is not conceivable. The existing Alcoholic Beverage Sales activity is the Degrees Plato Limited Service Restaurant and Café located 70-feet away at 4251 Macarthur Boulevard (across the street). This establishment was granted a Major Conditional Use Permit for alcohol (beer and wine) and a Major Variance due to separation of civic activity (St Lawrence O'Tool Church), but was not challenged by the burden of overconcentration of another alcoholic beverage sales outlet. The key justification for granting that variance was the unique condition of design that allowed for a beneficial use as a family oriented restaurant environment with onsite consumption versus a nuisance high traffic generating alcohol outlet strictly intended for offsite consumption.

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

Staff has no examples of a service station requesting similar allowance in a similar zone being approved as a major variance after the 1992 Ordinance No. 11491 control provisions were put in place. Any such facility that currently exists would be non-conforming allowances.

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

The Variance to allow for an overconcentration of alcohol off-site bottle sales would potentially create typical nuisance activities, including traffic problems, high rates of crime, citizen complaints, evidence of public nuisance, and a likelihood of a revocation hearings before the City Planning Commission.

17.134.050 GENERAL USE PERMIT FINDINGS:

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

Staff cannot support the Conditional Use Permit due to the inability to meet the Major Variance Findings

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

See above.

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

See above.

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

See above.

- E. For proposals involving a One- or Two-Family Residential Facility: If the Conditional Use Permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height,

- OR -

2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.

See above.

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

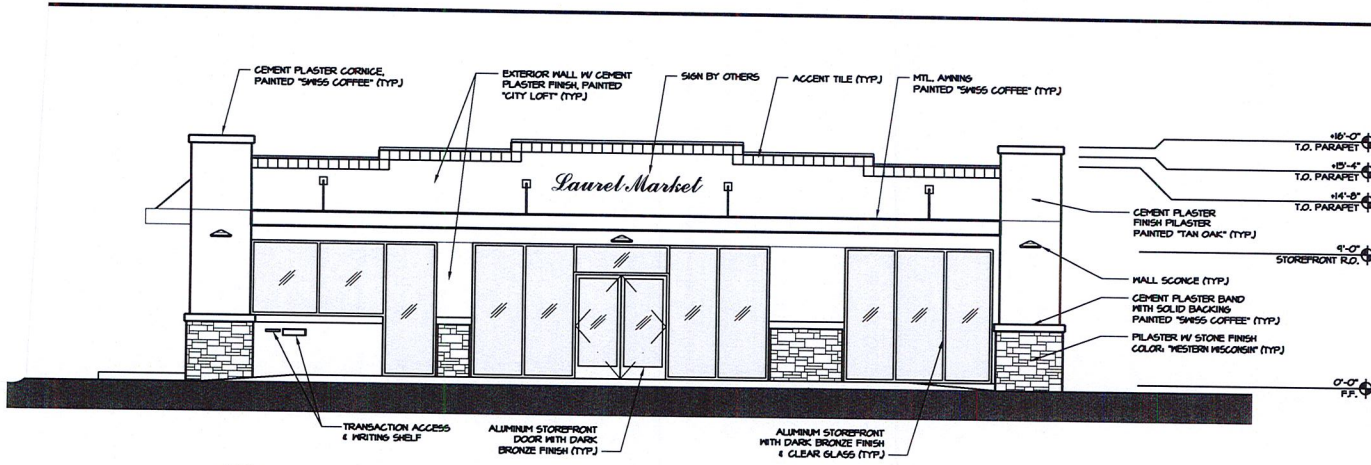
This proposal does not conform to the City of Oakland General Plan in as it would not, enhance the character of the established neighborhood commercial center that has a compact, vibrant, pedestrian environment. The overconcentration of alcoholic beverage for off-sales / off-site bottle sales have been determined to

typically result in nuisance activities which are inconsistent with the provisions of the City of Oakland Comprehensive General Plan.

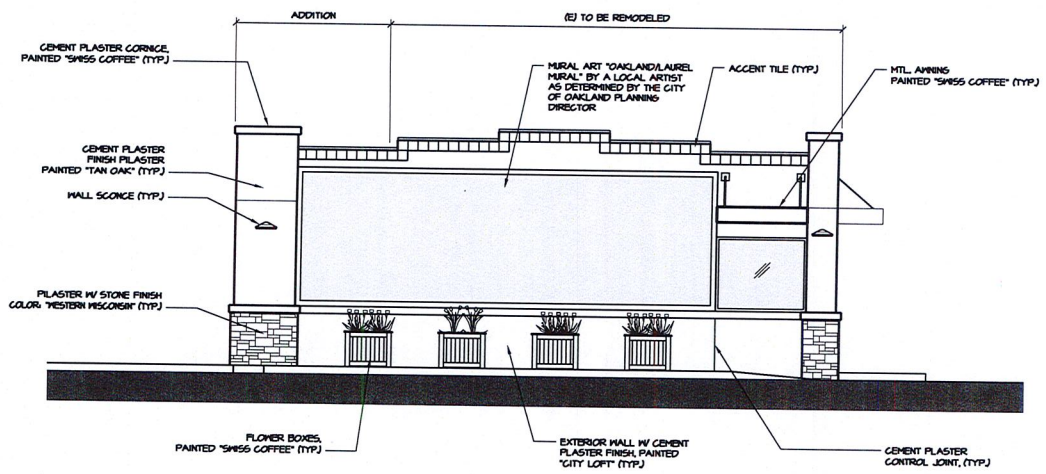
The proposal does not satisfy General Plan Policy N1.6 / "Reviewing Potential Nuisance Activities": which states that the City should closely review any proposed new commercial activities that have the potential to create public nuisance or crime problems including alcoholic beverage sales.

The proposal also does not satisfy General Plan Policy Policy N11.3 / "Requiring Strict Compliance with Variance Criteria": As variances are exceptions to the adopted regulations and undermine those regulations when approved in large numbers, they should not be granted lightly and without strict compliance with defined conditions, including evidence that hardship will be caused by unique physical or topographic constraints and the owner will be deprived privileges enjoyed by similar properties, as well as the fact that the variance will not adversely affect the surrounding area nor will it grant special privilege to the property. In those instances where large numbers of variances are being requested, the City should review its policies and regulations and determine whether revisions are necessary.

As mentioned in earlier Findings, staff believes that the proposed activity creates overconcentration of off-sale / off-site bottle sales, and is subject to nuisance activities and impacts as has been the case in the past.



A SOUTH EAST ELEVATION (HIGH ST. FRONTAGE)
1/8" = 1'-0"

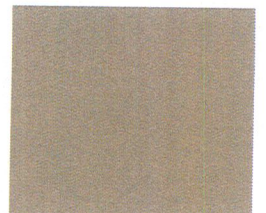


B SOUTH WEST ELEVATION (MAC-ARTHUR BLVD. FRONTAGE)
1/8" = 1'-0"

CEMENT PLASTER (PAINTED),
KELLY MOORE #23
COLOR: "SWISS COFFEE"



CEMENT PLASTER (PAINTED),
KELLY MOORE #5715-3
COLOR: "TAN OAK"



CEMENT PLASTER (PAINTED),
KELLY MOORE #4566-3
COLOR: "CITY LOFT"



ELDORADO STONE, WESTERN
PROFILES, WEATHER EDGE,
COLOR: "WESTERN WISCONSIN"

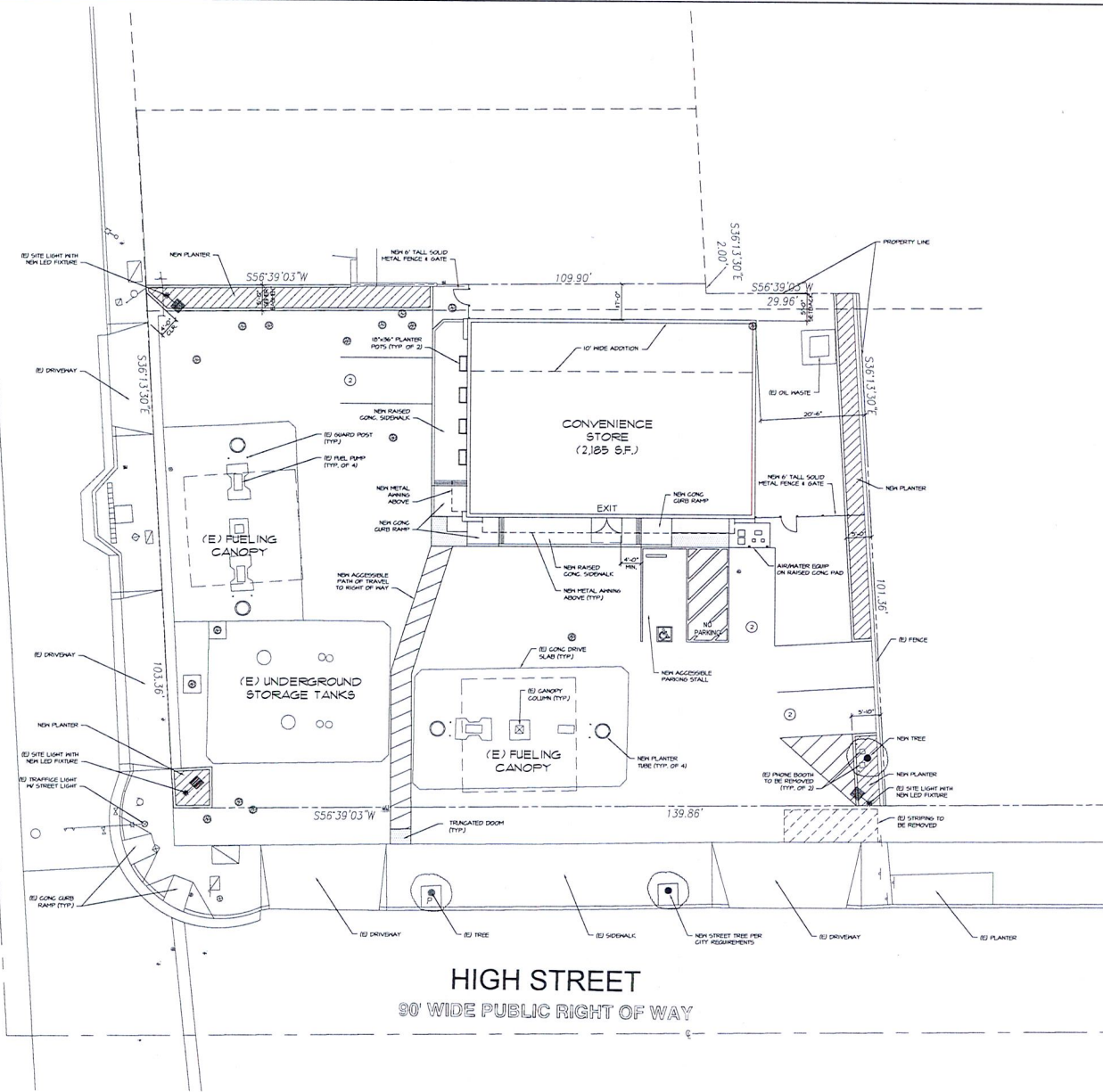


M I Architects, Inc.
ARCHITECTURE, PLANNING, MANAGEMENT & DESIGN
2221 OLYMPIC BLVD., SUITE 100, WALNUT CREEK, CA 94595
Tel: 925-287-1174, Fax: 925-943-1581, Cell: 925-878-4875
Email: mthana@miarchitect.com, www.miarchitect.com

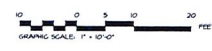
GAS STATION & CONVENIENCE STORE
4276 MACARTHUR BLVD.
OAKLAND, CA 94619

S:_Projects\15-1061-0718 MacArthur Blvd. Data\Drawings\Drawings\15-1061-0718.dwg modified by user at Aug 27, 2018 11:22am

MAC-ARTHUR BLVD.
70' WIDE PUBLIC RIGHT OF WAY



1 SITE PLAN
1" = 10'-0"



DRAWING INDEX

- SD1 SITE PLAN
- 1 OF 1 TOPOGRAPHIC SURVEY
- SD-L SITE LIGHTING PHOTOMETRIC
- LA1 LANDSCAPE PLAN
- A11 EXISTING AND NEW FLOOR PLANS
- A14 EQUIPMENT PLAN & CAMERA LOCATION PLAN
- A21 CONVENIENCE STORE BUILDING ELEVATIONS
- A31 BUILDING SECTION

SITE INFO

APN# 30-181-150-1
 JURISDICTION: CITY OF OAKLAND, CA
 CURRENT ZONING: CA-2 NEIGHBORHOOD COMMERCIAL
 LOT AREA: 14,569 S.F.

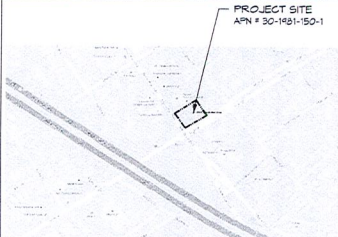
SITE PLAN LEGEND

- NEW CONCRETE PAVING
- 4 FT. WIDE (MIN) ACCESSIBLE ROUTE OF TRAVEL SHALL NOT EXCEED 5% SLOPE IN THE DIRECTION OF TRAVEL AND 2% CROSS SLOPE
- EXISTING TO REMAIN

PROJECT DIRECTORY

ARCHITECT M I ARCHITECTS, INC. 2221 OLYMPIC BLVD. SUITE 100 PALM BEACH, FL 33409 TEL: (561) 281-1174 FAX: (561) 943-1568 CELL: (561) 878-4875 MR. VEDHANA BRAMHAR ARCHITECT	DEVELOPER MR. RAJ GOOKHAY 4276 MACARTHUR BLVD OAKLAND, CA 94618 TEL: (510) 367-6540
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VICINITY MAP



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 MANAGEMENT
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 925-878-4875 Cell
 mich@miarchitect.com
 www.miarchitect.com

**CONVENIENCE STORE
 CONVERSION & ADDITION
 4276 MACARTHUR BLVD
 OAKLAND, CA 94618**

THE INFORMATION CONTAINED HEREIN IS PREPARED BY M I ARCHITECTS, INC. AND IS NOT TO BE USED FOR ANY OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF M I ARCHITECTS, INC. THE USE OF THIS INFORMATION FOR ANY OTHER PURPOSES IS PROHIBITED.

NO.	DATE	DESCRIPTION

SITE PLAN	
PROJECT #	15-1061-01
DRAWN BY	CHECKED: MHI
SCALE	AS NOTED DATE: 08-05-15

SD1
SHEET 01

MAC-ARTHUR BLVD.
70' WIDE PUBLIC RIGHT OF WAY

LOT 37
APN: 030-1981-151

LOT 50
APN: 030-1981-149

APN: 030-1981-150

HIGH STREET
90' WIDE PUBLIC RIGHT OF WAY

SURVEY NOTES

- 1) PRELIMINARY TITLE REPORT PREPARED BY FIRST AMERICAN TITLE, ORDER NUMBER MCS-227968-SAC1, DRINK IN #4 ORDINANCE 29, 2007 HAS BEEN USED FOR THE PREPARATION OF THIS SURVEY.
- 2) THE POSITION OF IDENTIFIED RECORD EASEMENTS HAVE BEEN PLOTTED USING RECORD DESCRIPTIONS. SURFACE FACILITIES HAVE BEEN PLOTTED USING FIELD INFORMATION. THE ACTUAL LOCATIONS OF UNDERGROUND FACILITIES SHOULD BE VERIFIED PRIOR TO ANY NEW CONSTRUCTIONS.
- 3) THIS IS NOT A BOUNDARY SURVEY. ADDITIONAL FIELD SURVEY AND RESEARCH WILL BE REQUIRED TO ESTABLISH THE ACTUAL BOUNDARY.
- 4) NO MONUMENTS WERE SET AS A PART OF THIS SURVEY. MONUMENTS WHICH WERE FOUND ARE SHOWN HEREON.
- 5) PROPERTY LINE SHOWN IS LOCATED USING RECORD SURVEY RECORDED IN BOOK 32 OF SURVEYS AT PAGE 22 AND MONUMENTS FOUND IN MAC-ARTHUR BLVD, MASTERSON STREET, HIGH STREET AND MAYBELLE AVE. AS SHOWN ON RECORD SURVEY RECORDED IN BOOK 32 OF SURVEYS AT PAGE 22, ALAMEDA COUNTY RECORDS.
- 6) THE TYPES, LOCATION, SIZES AND/OR DEPTHS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THESE DRAWINGS WERE OBTAINED FROM SOURCES OF VARYING RELIABILITY. INTERESTED PARTIES ARE CAUTIONED THAT ONLY ACTUAL EXCAVATION WILL REVEAL THE TYPES, EXTENT, SIZES, LOCATIONS AND DEPTHS OF SUCH UNDERGROUND UTILITIES. STUKAM CONSULTING ENGINEERS, INC. ASSUMES NO RESPONSIBILITY FOR THE COMPLETENESS OR ACCURACY OF ITS DELINEATION OF SUCH UNDERGROUND UTILITIES. NOR FOR THE EXISTENCE OF OTHER BURIED OBJECTS OR UTILITIES WHICH MAY BE ENCOUNTERED BUT WHICH ARE NOT SHOWN ON THESE DRAWINGS. PRESUMPTIVE EASEMENTS MAY EXIST OVER THOSE FACILITIES WHICH ARE NOT WITHIN THE RECORDED EASEMENT.

LEGEND

- MANHOLE
- DRAIN INLET
- WATER LINE
- DRAIN LINE
- SEWER LINE
- GAS LINE
- FIRE HYDRANT
- WATER VALVE
- SEWER CLEAN OUT
- WATER METER
- BACK FLOW PREVENTER
- TRAFFIC SIGNAL
- TRAFFIC SIGNAL WITH LIGHT
- PARKING LIGHT
- PULL BOX
- GAS VALVE
- UTILITY POLE
- GAS METER
- OVER HEAD WIRE
- UTILITY POLE W/CLY
- PUBLIC STREET LIGHT
- SDN
- FENCE
- WALL
- GUARD POST
- TREE
- VAULT
- TRANSFORMER
- RAIN WATER LEADER
- UNDERGROUND TELEPHONE LINE
- UNDERGROUND ELECTRICAL LINE
- U.G. CABLE LINE
- PL
- CONCRETE
- MONITORING WELL
- DETECTOR VALVE
- PLANTER



NO.	DATE	BY	CSJ	DATE	REVISIONS



DEVELOPER:

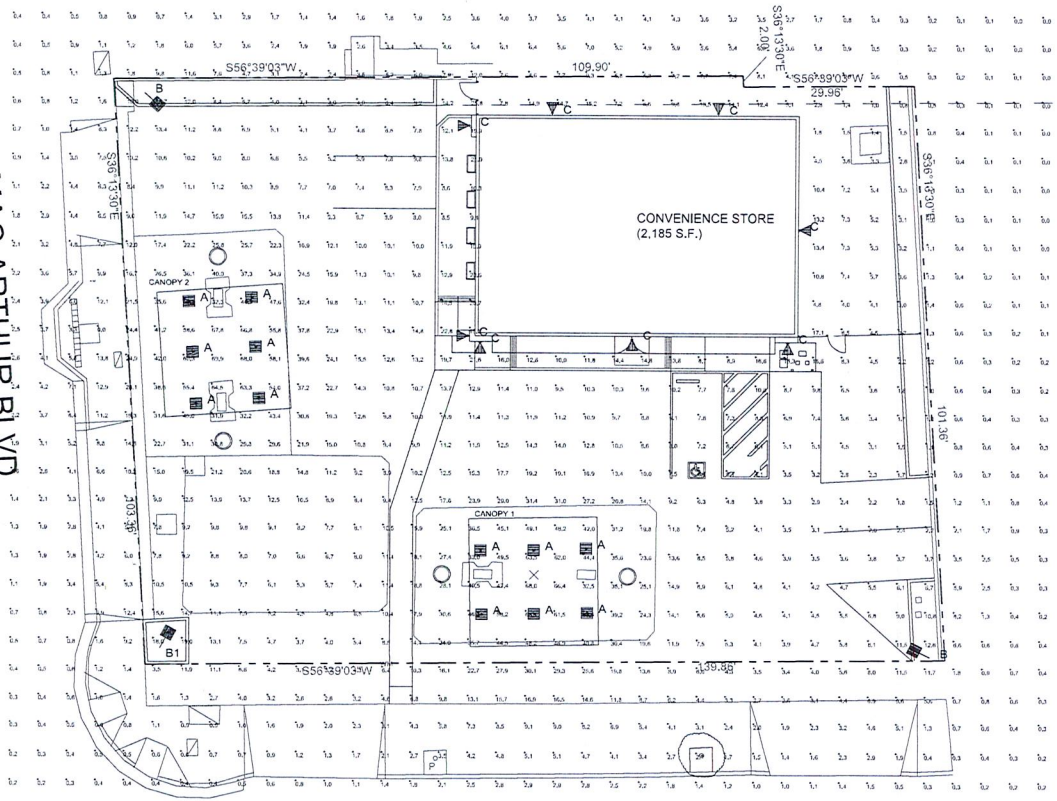
STUKAM CONSULTING ENGINEERS, INC.
8889 CHESTNUT AVE., 2nd Floor
ORANGEVALE, CA 95662
(916) 835 5791
(916) 988-6316 FAX



TOPOGRAPHIC SURVEY
4976 MACARTHUR BLVD.
76 GAS STATION & SERVICE STATION
APN: 030-1981-150
CITY OF OAKLAND ALAMEDA COUNTY CALIFORNIA
JOB NO. 2015-008 (Revised) [CSJ] DATE: 05-04-15

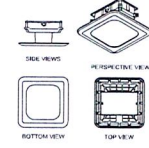
SHEET
1
Of 1 SHEETS
PROJECT #
2015-008

MAC-ARTHUR BLVD.
70' WIDE PUBLIC RIGHT OF WAY

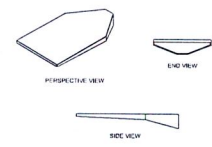


HIGH STREET
90' WIDE PUBLIC RIGHT OF WAY

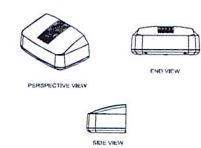
CRUS-SC-LED
LED CANOPY LIGHT - LEGACY



XLCS
LED Area Light



XPWS3
LED Wall Mount Light



Label	CalcType	Units	Avg	Max	Min	AvgMin	MaxMin
ALL CALC POINTS	Illuminance	Fc	9.25	69.9	0.0	N.A.	N.A.
CANOPY 1	Illuminance	Fc	49.07	68.0	32.5	1.51	2.09
CANOPY 2	Illuminance	Fc	54.11	69.9	31.9	1.70	2.19
INSIDE CURB	Illuminance	Fc	12.61	42.0	1.5	8.41	28.00

Symbol	Qty	Label	Arrangement	Description	LLF	Lumens/Lamp	Arr. Lum, Lumens	Arr. Watts
	8	C	SINGLE	XPWS3-FT-LED-48-450-CW-UE MTD @ 9'-2"	1,000	N.A.	6159	72
	1	B1	SINGLE	XLCS-FT-LED-SS-CW-SINGLE MTD @ 15' EXISTING	1,000	N.A.	11383	96.2
	2	B	SINGLE	XPWS3-FT-LED-SS-CW-SINGLE MTD @ 15' EXISTING	1,000	N.A.	11383	96.2
	12	A	SINGLE	CRUSK-UNV-SC-LED-SS-CW-UE MTD @ 15'	1,000	N.A.	13554	114

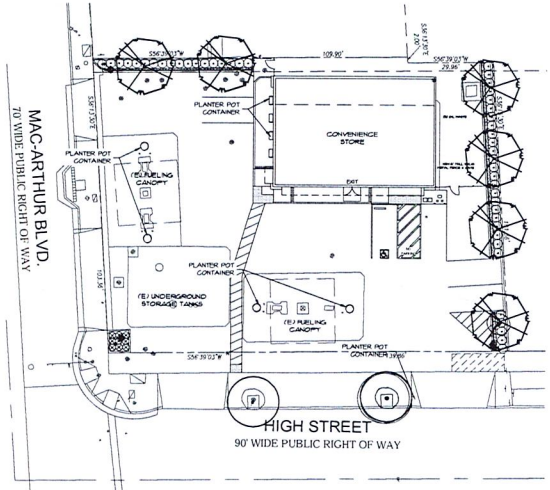
Based on the information provided, all dimensions and luminaire locations shown represent approximate conditions. The engineer and/or architect must determine the feasibility of the layout in each project's field conditions.
This lighting plan represents a preliminary layout calculation based on preliminary data. It is subject to change without notice. The manufacturer's Engineering Safety (ES) department must be consulted for any manufacturer's limitations. Actual performance of any manufacturer's luminaires may vary due to differences in electrical voltage, tolerance in luminaire LED and other variable field conditions. Calculations do not include considerations such as building, canopy, landscaping, or any other architectural elements unless noted.

Total Project Watts
Total Hours = 2073.6

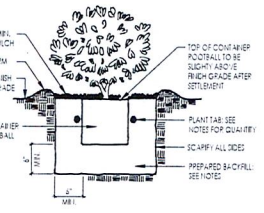
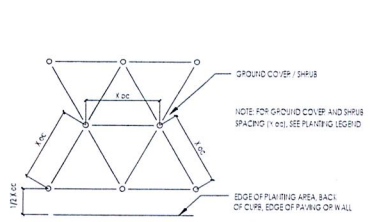
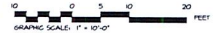
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LIGHTING PROPOSAL LO-132262-1

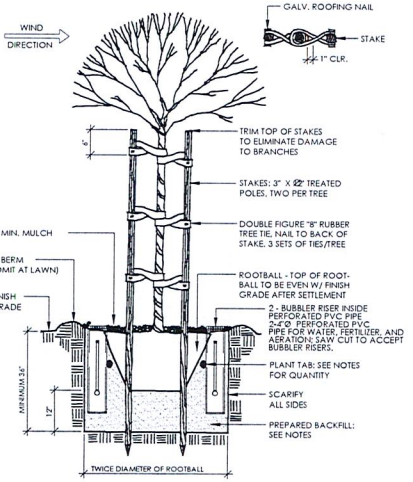
DATE: 02/24/2024
PROJECT: 1224 MACARTHUR BLVD
SHEETS: 10 OF 10
SCALE: 1"=10'



1 LANDSCAPE PLAN
1" = 20'-0"



PLANTING INSTALLATION AND LAYOUT



TREE PLANTING AND STAKING

Ciardella
ARCHITECTS
640 Mendocino Ave., Suite 10
Menlo Park, CA 94025
Tel: 650 326-6100
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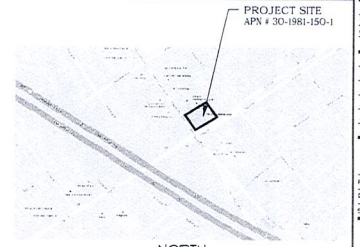
PLANTING LEGEND

Symbol	BOTANICAL NAME	COMMON NAME	H2O
	<i>Arbutus menziesii</i>	Strawberry Tree	L 15 Gallon
	<i>Platanus racemosa</i>	California Sycamore	M 15 Gallon (Final selection to be determined by the city)
	<i>Callisantonium viminalis</i>	Slimt Bottlebrush	L 5 gallon
	<i>Escallonia 'Compacta'</i>	Compact Escallonia	L 5 gallon
	<i>Con. Convolvulus mauritanicus</i>	Ground Morning Glory	L 5 Gallon
	FLR Annual Flowers	Seasonal	M 4" Pots @ 14" oc
	<i>Rhaphis indica</i>	Ballerina	Indian Hawthorne L 5 Gallon
	Annual Flowers	Seasonal	M 4" Pots @ 14" oc
		Existing Street Tree	

PLANTING NOTES

- All trees are to be staked as shown in the staking diagram per city requirement.
- Plant locations are to be adjusted as necessary to screen utilities but not block windows or impede access.
- All ground cover and shrub areas shall be top-dressed with a 3" layer of bark mulch.
- All ground cover planting will be placed no farther than 6" from edge of pavement, edge of header or back of curb. Spacing shall ensure full coverage in one year.
- There shall be no storing of material or equipment, permitting of any burning or operating or parking of equipment under branches of any existing plants to remain. If existing plants to remain are damaged during construction, the plants shall be replaced with the same species on size as those damaged.
- All plant material shall be nursery grown stock. All plant materials shall be tagged at the nursery at least 1 month prior to planting for the Landscape Architect review.
- Review layout of all landscape elements with the Landscape Architect prior to installation. Final modifications may be necessary. Final layout to be reviewed by the Landscape Architect.
- Written dimensions supersede scaled dimension. Measurements are from the wall face, back of curb, edge of walk, building wall, property line or center line as graphically indicated.
- All layout corners are at 90 degrees right angles unless otherwise indicated. All curves shown are segments of circles with noted radii or diameter if noted. Circles can be scaled and be connected by freeform curves.
- HERBICIDE APPLICATION: Herbicide shall not be used until all plant material has been planted a minimum of 20-days. All planting areas shall be kept weed-free by non-herbicide methods during this time period. Herbicide shall not be applied to any areas which are or have been seeded. Contractor must be licensed by the State and County for herbicide application, and must have current registration on file with the County.
- Landscape shall be maintained in a manner to prevent landscaping from growing above 3' in height in the areas indicated in the plans as being located within a safety visibility triangle area.
- CERTIFICATION: Prior to occupying the Landscape Architect shall certify in writing in a manner acceptable to the Building Inspection Division, that the landscaping has been installed in accordance with all aspects of the approved landscape plans.
- A minimum of 8" of non-mechanically compacted soil shall be available for water absorption and root growth in planted areas.
- Incorporate compost or natural fertilizer into the soil to a minimum depth of 6" at a minimum rate of 6 cubic yards per 1000 square feet.
- All Plantings shall be automatically irrigated utilizing state of the art system, components and installation techniques.

VICINITY MAP



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mihon@miaarchitect.com
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OAKLAND, CA 94619

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3		ISSUED FOR PLANNING

LANDSCAPE PLAN
PROJECT # 15-10601
DRAWN BY: [] CHECKED: []
SCALE: AS NOTED DATE: 4-6-16

LA1
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 mihonemichitect.com
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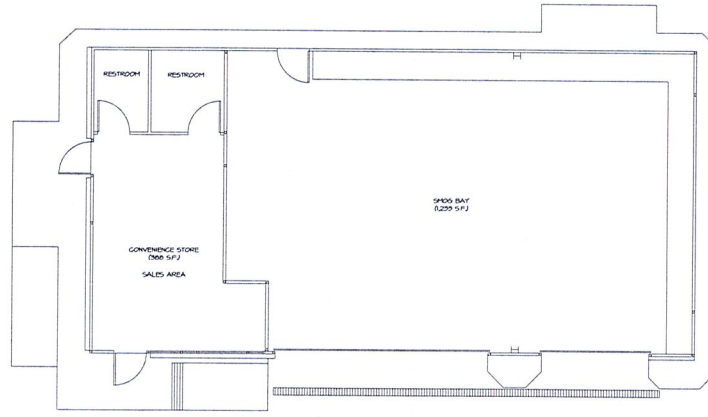


ISSUED FOR CONSTRUCTION
 ISSUED FOR PLAN CHECK
 CH-11-15 ISSUED FOR PLANNING

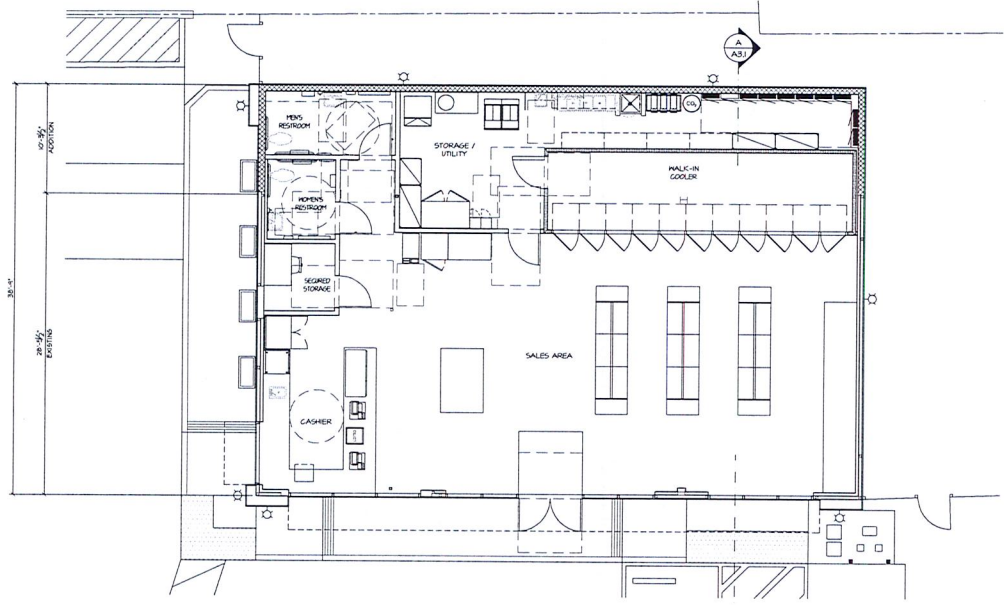
NO.	DATE	DESCRIPTION
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EXISTING AND NEW FLOOR PLANS
 PROJECT # 15-106-01
 DRAWN BY CHECKED BY
 SCALE: AS NOTED DATE: 08-06-15

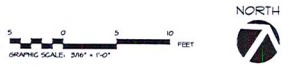
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 SHEET 09



1 EXISTING FLOOR PLAN
 3/16" = 1'-0"



2 NEW FLOOR PLAN
 3/16" = 1'-0"



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m1arch@architects.com
www.m1architects.com

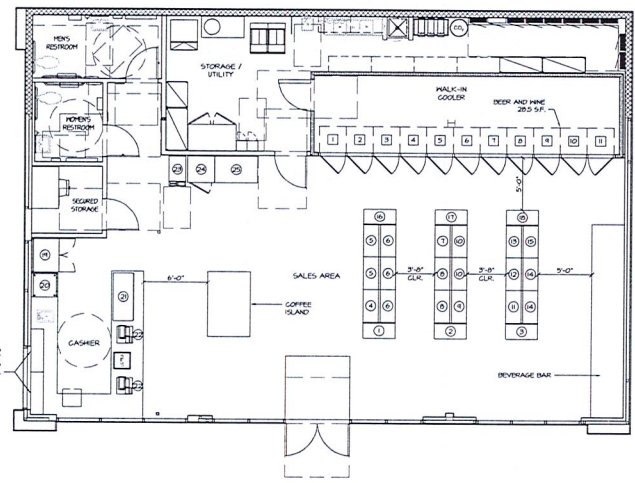
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EQUIPMENT PLAN & CAMERA LOCATION PLAN	
PROJECT #	15-106-01
DRAWN BY	HI
CHECKED	HI
SCALE: AS NOTED	DATE: 08-06-15

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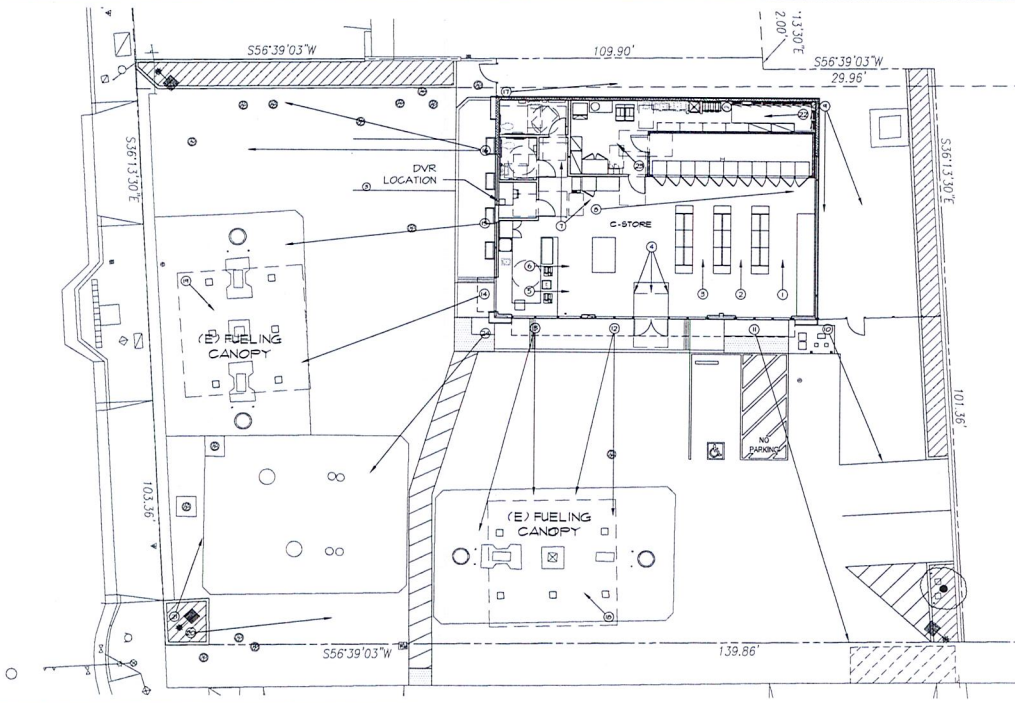
SHEET OF



- MALICIOUS-COOLED CLASSIFIED**
- ① DAIRY PRODUCTS, DELI PRODUCTS, EGGS, LUNCHABLES AND SANDWICHES
 - ② JUCES AND SPORT DRINKS
 - ③ WATER AND ARIZONA
 - ④ ENERGY AND PROTEIN DRINKS
 - ⑤ SOFT DRINKS
 - ⑥ SOFT DRINKS
 - ⑦ SOFT DRINKS
 - ⑧ BEER AND PINE
 - ⑨ BEER AND PINE
 - ⑩ BEER AND PINE
 - ⑪ BEER AND PINE
- SOLD AREA**
- ① JERSEY RACK
 - ② HOSTESS RACK
 - ③ HBC
 - ④ GMP FRONTS
 - ⑤ PRILO LAYS, GMP'S AND DIPS
 - ⑥ CANDY AND GUM
 - ⑦ BAK CANDY
 - ⑧ COOKIE AND ENERGY BARS
 - ⑨ SEEDS AND NUTS
 - ⑩ SALTY SNACKS
 - ⑪ GMP NOODLES AND SOUPS
 - ⑫ GARDENIES
 - ⑬ NON EDIBLE BAKERIES AND HOUSEHOLD PRODUCTS
 - ⑭ AUTOMOTIVE PRODUCTS
 - ⑮ WATER DISPLAY
 - ⑯ SNACK CLUB
 - ⑰ PROMOTIONAL PRODUCTS
 - ⑱ SEASONAL PROMOTIONS
 - ⑲ HORIZON REFRIGERATOR
 - ⑳ MICROWAVE / CONVECTION OVEN
 - ㉑ HOT FOOD DISPLAY CASE
 - ㉒ POINT OF SALE SYSTEM
 - ㉓ ATM MACHINE
 - ㉔ ICE MERCHANTIZER
 - ㉕ 4 FT. OPEN AIR MERCHANTIZER
- | | |
|-------------------|----------------------|
| TOTAL BUILDING | 2025 S.F. |
| SALES AREA | 1392.3 S.F. - 69.2 % |
| WARMER STORAGE | 306.5 S.F. - 17.1 % |
| COLD STORAGE | 151.5 S.F. - 10.0 % |
| BEER & PINE | 283.5 S.F. - 19.8 % |
| CIGARETTE DISPLAY | 45.5 S.F. - 0.4 % |

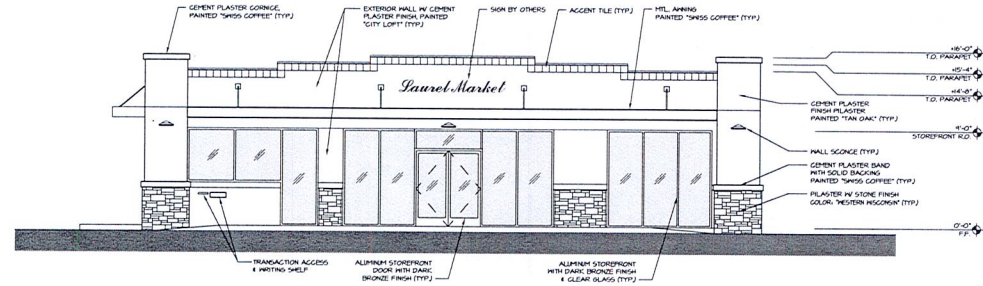
1 EQUIPMENT PLAN
3/16" = 1'-0"
GRAPHIC SCALE: 3/16" = 1'-0" FEET
NORTH

MACARTHUR BLVD.
70' WIDE PUBLIC RIGHT OF WAY

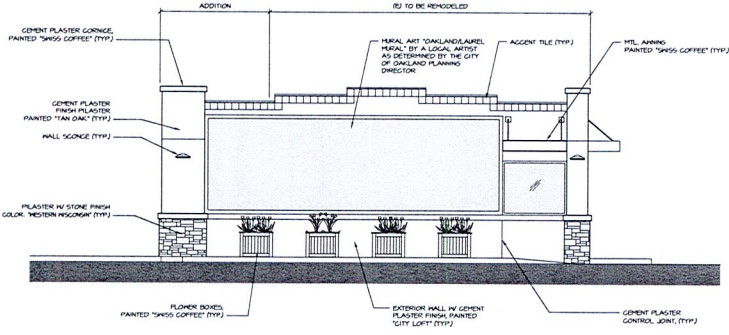


2 CAMERA LOCATION PLAN
1" = 20'-0"
GRAPHIC SCALE: 1" = 20'-0" FEET
NORTH

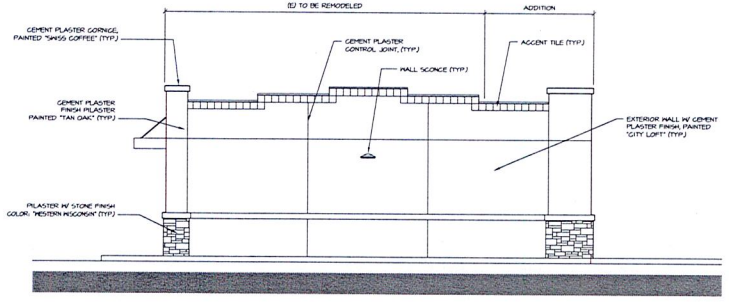
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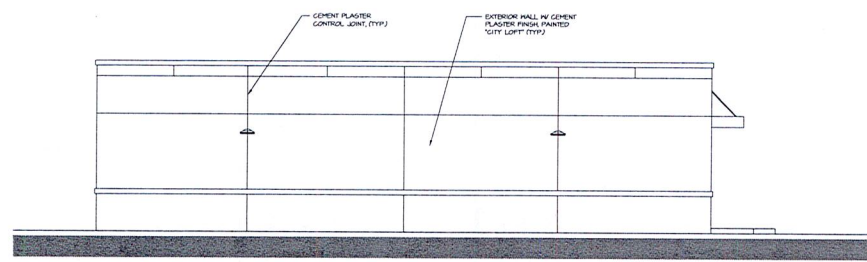
A SOUTH EAST ELEVATION (HIGH ST. FRONTAGE)
3/16" = 1'-0"



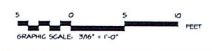
B SOUTH WEST ELEVATION (MAC-ARTHUR BLVD. FRONTAGE)
3/16" = 1'-0"



C NORTH EAST ELEVATION (SIDE)
3/16" = 1'-0"



D NORTH WEST ELEVATION (REAR)
3/16" = 1'-0"



COLOR & MATERIAL NOTES

- * 'TAN OAK', KELLY MOORE #M0715-3
- * 'SWISS COFFEE', KELLY MOORE #23
- * 'CITY LOFT', KELLY MOORE #M4566-3
- * EL DORADO STONE, WESTERN PROFILES, HEATHER EDE. COLOR, 'WESTERN MESQUON'
- * 'DARK BRONZE' ANODIZED STOREFRONT. SEE 'STOREFRONT NOTES' IN OR SET, ALL

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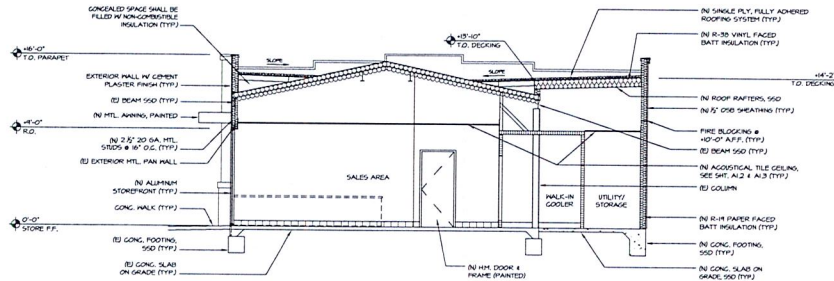
NO.	DATE	DESCRIPTION
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CONVENIENCE STORE
BUILDING ELEVATIONS

PROJECT # 15-106-01
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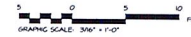
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1. CONTRACTOR TO PROVIDE G6M STUD FRAMING AS NECESSARY @ 24" O.C. TO ALLOW INSTALLATION OF BATT INSULATION. BOTTOM OF STUDS SHALL BE 10" MIN. BELOW ROOF DECK.
2. THERMAL INSULATION AT EXTERIOR WALLS & BELOW ROOF DECK SHALL BE E8020000 THERMAL BATT INSULATION MANUFACTURED BY OWENS CORNING OR APPROVED EQUAL.

A BUILDING SECTION A-A
 3/16" = 1'-0"



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