

Case File Number PLN17-217

October 4, 2017

Location:	1385 16th Street; APN: 005-0480-02-00
Proposal:	The proposal is to construct a 59,761 sq. ft. addition (59' tall) to an existing 30,820 sq. ft. warehouse facility to be used as fine art storage and office space for a total of 90,581 sq. ft. on a 61,173 sq. ft. parcel. There are ten (10) parking spaces are provided on site.
Applicant/Owner:	Scott Atthowe; Fine Art Services / Michael Tauber Architect
Contact Person/ Phone number:	(510) 654-6816
Case File Number:	PLN17-217
Planning Permits Required:	Major Conditional Use Permit to allow and exceed construction of 25,000 sq. ft. warehouse facility in CIX-1B; Regular Design Review to construct 59,761 sq. ft. addition to an existing two-story warehouse facility; Minor Variance to waive the parking requirement of one space per 1,500 sq. ft. of floor area (61 parking spaces are required and ten (10) parking spaces are proposed).
General Plan:	Business Mix
Zoning:	CIX-1B/ S-19 West Oakland Plan Area Commercial Industrial Mix-1B and Health and Safety Protection Combining Zones.
Environmental Determination:	Section 15183: Projects consistent with a Community Plan, General Plan or Zoning.
Historic Status:	Not a Historic District
City Council District:	3
Date Filed:	06/06/17
Finality of Decision:	Appealable to City Council within 10 calendar days
For Further Information:	Contact case planner Jason Madani at (510) 238-4790 or by email: jmadani@oaklandnet.com

SUMMARY

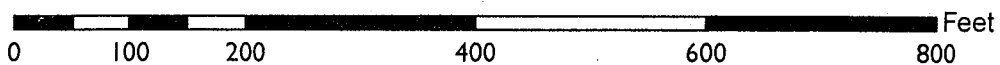
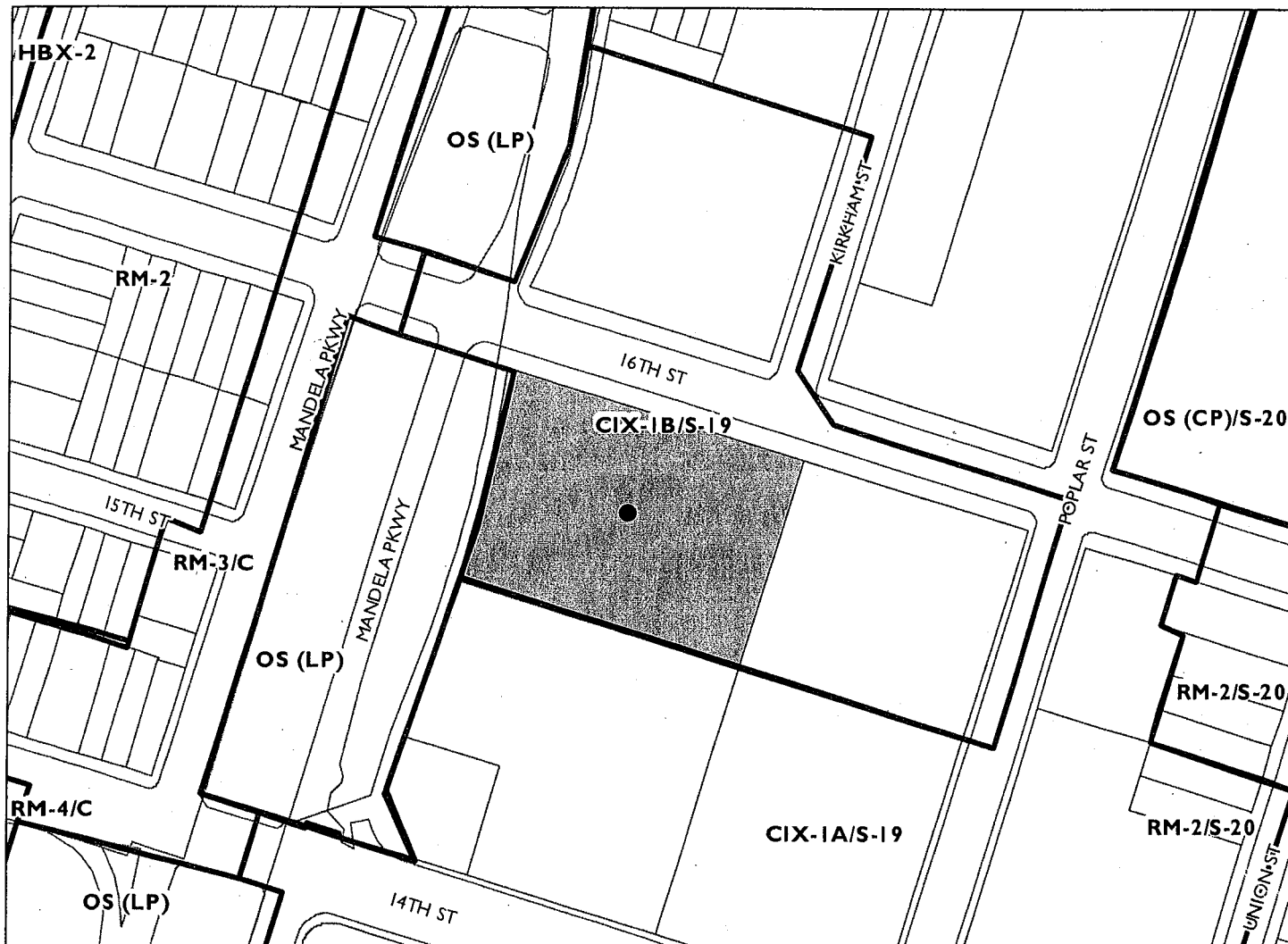
The proposal is to construct a 59,761 sq. ft. addition to an existing 30,820 sq. ft. warehouse facility. The proposed building will be used for fine art storage and warehousing with an accessory office space. The applicant is requesting the following Planning permits: a Major Conditional Use Permit to allow and exceed construction of a 25,000 sq. ft. warehouse facility in the West Oakland Plan Area Commercial Industrial - 1B Zone (CIX-1B), Regular Design Review for the addition, and a Minor Variance to waive the parking requirement of one space per 1,500 sq. ft. of floor area or 61 parking spaces where ten (10) parking spaces are proposed. As detailed below, staff finds that the project meets all the required findings for approval. Therefore, staff recommends approval of the project, subject to the attached Conditions of Approval.

PROPERTY DESCRIPTION

Project Site

The project is located at 1385 16th Street, at the corner of Mandela Park Way and 16th Street. The subject site is a 61,173 sq. ft. lot. Previously, the site along with the adjacent site to the East was a single lot used as a Carnation Dairy processing facility; however, the site has now been split into two parcels. The lot contains

CITY OF OAKLAND PLANNING COMMISSION



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Address: 1385 16th Street

Zone: CIX-1B/ S-19

an existing 30,800 sq. ft. "L" shaped concrete structure that is 21' height with limited openings on the street frontage.

Surrounding Area

The adjacent two-story building to the East is used as a dog daycare facility. The property directly to the South is a wholesale/retail complex which runs the length of the block from Mandela Parkway to Poplar Street. Directly across the street to the North on 16th Street is an industrial/warehouse one-story building used by the San Francisco Chronicle. Across the street is a one-story industrial warehouse painted brick building.

PROJECT DESCRIPTION

The proposal is to construct a 58,761 sq. ft. addition to an existing warehouse building for a total of 90,561 sq. ft. of floor area. The proposed addition will be 68'-7" in height at the stair penthouse and the mechanical roof-top equipment screen. The proposed building will be used as a fine art storage and warehouse facility with an accessory office. (Attachment A).

Site Design

The proposed addition will be located along the side and rear property lines, adjacent to the building on-site. Vehicular access is from 16th Street on an open, at-grade parking lot which can accommodate ten (10) parking spaces and a loading area for two (2) trucks. New street trees along 16th Street are also proposed.

Building Design

The proposed two-three story addition consists of two simple masses consistent with simple building geometries in the area. The new structure will step down in volume towards 16th Street. Thus, the proposed building will minimize the perceived building bulk and visual impacts from the street and neighboring properties. The first floor plans include storage space, staging, packing and a wood shop. The second floor is open to the first floor and includes a mezzanine. The third floor includes additional art storage. The plans provide functional interior space as warehouse storage facility.

The exterior building materials include tilt-up concrete, stucco or cement plaster and corrugated metal siding. The windows will be powder coated aluminum windows with operable fixed sashes, metal roll-up doors, and a clear anodized aluminum metal louver screen for mechanical equipment located on the roof. These materials resonant with the historical existing structures in the vicinity, create a design that is well-related to the setting, and would not have significant impacts on the adjacent industrial buildings.

GENERAL PLAN ANALYSIS

The proposed project site is classified as Business Mix per the General Plan's Land Use and Transportation Element (LUTE). The intent of this classification is "to create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses including those that have hazardous materials on site may be allowed provided they are adequately buffered from a residential area. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional transportation system." Desired character and uses areas of the Business Mix classification "may accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail related transportation services, warehouse and distribution facilities, office, and other uses of similar business

character.” The project is consistent with the intent, desired character and uses of the Business Mix classification as well as the following LUTE Objectives and Policies:

Objective I/C1: Expand and retain Oakland’s job base and economic strength.

Objective I/C2: Maximize the usefulness of existing abandoned and underutilized industrial buildings and land.

Objective I/C3: Ensure that Oakland is adequately served by a wide variety of commercial uses, appropriately sited to provide competitive retail merchandising and diversified office uses, as well as personal and professional uses.

The proposal will construct an addition to an existing warehouse to be used for art storage and warehousing with an accessory office. The project will retain and add to an industrial building, encourage additional job opportunities, and enhance Oakland’s position as a strong arts community.

ZONING ANALYSIS

The project is located in the CIX-1B Zone (Low Intensity Business). The intent of the CIX-1B Zone is “to support industrial areas in the West Oakland Specific Plan Area that are appropriate for a broad range of new custom and light manufacturing, light industrial, warehouse, research and development, and service commercial uses.”

Major Conditional Use Permit

Section 17.73.020 of the Oakland Planning Code requires a Major Conditional Use Permit to allow and exceed construction of a 25,000 sq. ft. of warehouse storage facility in the CIX-1B Zone. The required findings for a Major Conditional Use Permit are attached and included in staff’s evaluation as part of this report.

Design Review

Section 17.73.015 of the Oakland Planning Code requires Regular Design Review to construct a commercial/industrial building in CIX-1B Zone. The required findings for Regular Design Review are attached and included in staff’s evaluation as part of this report

Minor Variance

Section 17.116 of the Oakland Planning Code requires one parking space per 1,500 sq. ft. of floor area. For the 90,581 sq. ft. parcel, 61 parking spaces are required. However, the project applicant is only providing ten (10) parking stalls and those stalls will be inaccessible when loading occurs. Therefore, the applicant has requested a Minor Variance to the parking requirement. The findings for a Minor Variance are attached and included in staff’s evaluation as part of this report

The following table indicates existing and proposed development standards:

	CIX-1 B Zone	Proposed
Floor area limitation	Major Conditional Use Permit to allow and exceed construction of 25,000 sq. ft. of warehouse facility	59,761 sq. ft.
FAR	2.0	1.48
Front and Side Yard Setback	0' min.	0'
Rear Yard Setback	0' min.	0'
Height	85'	68'-7" at the top of the stair penthouse and the mechanical equipment screen on the roof.
Site landscaping area	5% of 61,116 sq. ft. = 3,056	8,427 sq. ft. of landscape area, including right-of-way area.
Parking Spaces	one space per 1,500 sq/ft of floor area, 61 parking spaces are required and 10 parking spaces are proposed. Parking stalls	10 parking spaces are proposed.
Parking lot landscaping	934 sq. ft	977 sq. ft.

The project meets Planning Code requirements for setbacks, height, lot coverage, buffering, recycling, landscaping and Green Building. The proposal is a good example of efficient use of space and constitutes the type of dynamic development needed to attract new investment to the area. Staff finds the project appropriate for the site and the surrounding neighborhood with inclusion of the Conditions of Approval (Attachment B).

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines Section 15183 exempts projects that are consistent with the General Plan or Zoning, as demonstrated above in the *General Plan Analysis* discussion.

Staff did not apply a CEQA categorical exemption as the project site is listed on the Cortese List. Per the information on Envirostor, the site was used to manufacture ice cream and packaged milk. Carnation Dairy purchased the site in 1929. "Following development by Carnation, facilities included food processing equipment, large cooler/freezer rooms, and five (5) underground storage tanks (UST); two (2) gasoline, two (2) diesel, one (1) waste oil) for delivery vehicles which produced hazardous contamination in both the soil and groundwater.

However, from 1980-2000, soil was removed, UST tanks were excavated, treated on-site and replaced, and soil vapor systems and monitoring wells installed. A Risk Management Plan and Deed Restriction on the site was recorded and the case was closed in 2000. The Restrictions as follows:

- Industrial or commercial use only,
- No residence for human habitation,
- No hospitals,
- No schools for persons under 21 years of age,
- No day care, and
- No excavation.

As the proposed project is for industrial use (warehousing) and no excavation is proposed, the project meets these restrictions. To further address the potential contamination, staff has included several Uniformly Applied Development Standards as Conditions of Approval which have been found to mitigate environmental effects, including Conditions 14, 23 and 24. Therefore, application of CEQA Section 15183 is appropriate.

KEY ISSUES AND IMPACTS

Staff has not identified any key issues or impacts for the proposal. The proposal meets all the building envelope requirements including setbacks, height and floor area ratio, and landscaping except the required parking spaces where staff has made appropriate variance findings for this project. Planning staff believes that the proposed project is an appropriate development for this area which furthers the overall objectives of the General Plan. Specifically, the project will retain an existing industrial building, encourage additional job opportunities, and enhance Oakland's position as a strong arts community. Furthermore, the project is compatible with the surrounding industrial uses.

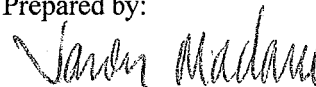
CONCLUSION:

The proposed project meets all the required findings for approval. Therefore, staff recommends approval of the project, subject to the attached conditions.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit, Regular Design Review and Minor Variance findings subject to the attached Findings and Conditions of Approval.

Prepared by:



Jason Madani
Planner II

Reviewed by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission:



Darin Ranelletti, Deputy Director
Bureau of Planning

Attachments have been re-lettered:

- A. Findings
- B. Conditions
- C. Project Plans
- D. Environmental Health Svcs. Letter

FINDINGS FOR APPROVAL A.

This proposal meets all the required findings under the General Use Permit Criteria (OMC Sec. 17.134.050); Regular Design Review Criteria (OMC Sec. 17.136.050(B) and Minor Variance findings Sec.17.148.050 of the Oakland Planning Code (Title 17); as set forth below. Required findings are shown in bold type; explanations as to why these findings can be made are in normal type.

SECTION 17.134.050 – GENERAL USE PERMIT CRITERIA:

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

The project is located at 1385 16th Street in an industrial neighborhood with mix of one-to-three story industrial/commercial buildings. The proposed building will be primarily 59' in height and 68'-7" high at the highest point of the stair penthouse and the mechanical roof top equipment screen on the roof. The building will be used as a fine art storage and warehousing. There are ten parking spaces and loading area provided on site.

The location and operating characteristics of the project will be compatible with, and will not adversely affect the livability or appropriate development of abutting properties. The project involves construction of an addition to an existing 30,800 square foot warehouse for a total of 90,561 square feet. Like many buildings in the vicinity, the massing of the proposed building steps up away from the street in simple shapes, limiting the bulk as seen from street. The proposal meets the required development standards in the CIX-1B Zone and is well-related to the surrounding commercial/industrial lots regarding size and design in the area including height, FAR, and landscaping except for the required parking space where variance findings for this project are provided below. The proposed warehouse storage facility will not generate significant traffic, and on-street parking will be preserved as the project is providing ten off-street parking spaces. Therefore, the proposal is consistent with the existing commercial/industrial neighborhood.

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 proposal is consistent with adjacent parcels in site orientation and configuration as the building is within the interior of the lot. The massing steps away from the street limiting the bulk of the building. The materials and design will ensure an attractive development. Therefore, the proposed project will result in a functional and appropriate warehouse/storage facility.

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 proposal will enhance the successful operation of the surrounding commercial/industrial area by constructing a 58,761 square feet addition to an existing 30,800 square foot warehouse while maintaining the allowed development standard requirements for CIX1-B zone. Furthermore, the project will retain an industrial building, encourage additional job opportunities, and enhance Oakland's position as a strong arts community.

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

The proposal conforms to all significant aspects of the Design Review criteria set forth in Chapter 17.136 of the Oakland Planning Code, as outlined below.

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

The proposed project site is classified as Business Mix classification per the General Plan's Land Use and Transportation Element (LUTE). The intent of this classification is "to create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses including those that have hazardous materials on site may be allowed provided they are adequately buffered from residential area. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional transportation system. Desired character and uses areas may accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail related transportation services, warehouse and distribution facilities, office, and other uses of similar business character. The proposed project to construct an addition to an existing warehouse structure, is consistent with the intent and desired character and uses of the Business Mix classification as well as the LUTE Objectives below:

Objective I/C1: Expand and retain Oakland's job base and economic strength.

Objective I/C2: Maximize the usefulness of existing abandoned and underutilized industrial buildings and land.

Objective I/C3: Ensure that Oakland is adequately served by a wide variety of commercial uses, appropriately sited to provide competitive retail merchandising and diversified office uses, as well as personal and professional uses.

17.136.050B FOR NON-RESIDENTIAL FACILITIES AND SIGNS:

- 1. 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, except as otherwise provided in Section 17.136.060;**

The project involves construction of a 58,761 square foot addition to an existing 30,800 square foot commercial storage building for a total of 90,561 square feet. The proposed addition will step down in volume towards the street to bring the building down to a more human scale. The design is both efficient and functional within the context of the surrounding area by providing site improvements to the commercial and industrial neighborhood. The exterior building materials are concrete and corrugated metal siding which resonant with the existing structures in the vicinity.

The proposed contemporary design applies a combination of materials that are compatible with the existing materials of neighboring structures. The proposed design will relate to the surrounding buildings in terms of setting, scale, bulk, height, materials, and textures. The existing commercial building has no significant historic rating nor is it located within a historic district. The proposed

addition and alterations to the building that introduce creative design elements and meet the West Oakland Specific Plan Commercial Guidelines will be a significant visual improvement to the site.

2. **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;**

The proposed addition to an existing warehouse storage facility will be similar in terms of massing to adjacent buildings and it is consistent with neighborhood characteristics. The proposed building has a contemporary design that is similar in quality, character, bulk, scale, and height to the other buildings in this neighborhood. The proposed project will include new street trees and landscaping to soften the buildings and buffer the parking from the street. The construction of the addition will create desirable visual upgrades consistent with the existing and neighboring architecture which will protect the value of private and public investments.

3. **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 finding above E.

Section 17.148.050A Variance findings required:

- a. **That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the Zoning Regulations, due to unique physical or topographical 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 the livability, operational efficiency, or appearance.**

The project is required to provide one space per 1,500 square feet of floor area or 61 parking spaces. Only ten parking spaces are provided. However, the building will have only four employees on site at any one time, and the proposed project is located within two major transit hubs (BART and AC Transit) within short walking distance. Given the nature of proposed storage use, a limited number of employees, and adequate available on-street parking, strict compliance with the parking requirement would reduce the functionality and operational efficiency of the subject project and use. Furthermore, strict compliance would reduce the size of the building, creating unusable space on the lot and effecting the overall appearance of the site.

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

See finding #1 above.

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

The variance will not have significant adverse impacts in this industrial neighborhood nor affect the appropriate development of abutting properties for the reasons mentioned above. Similar variances have been granted in the past for similarly zoned properties based on the use and number of actual employees.

- 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.

Granting the variance will improve the character of the surrounding areas by replacing what would be an unused parking lot with a project that will retain an industrial building, encourage additional job opportunities, and enhance Oakland's position as a strong arts community. Requiring a storage warehouse, with a staff count of () four, to provide a parking facility with 61 parking stalls does not reflect the actual operational needs of the project and does not meet the intent of the Planning Code. In addition, similar variances have been granted in the past for similarly zoned properties.

- 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 design review procedure at Section 17.136.050:**

The proposal meets the Design Review findings at Section 17.136.050 as discussed above.

- f. That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:**
- a. 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.**

-OR-

- b. Over 60 percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, 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 variance.**

The project does not involve a variance for height, setbacks, or building length; therefore, this finding is not applicable.

CONDITIONS OF APPROVAL ATTACHMENT **B.**

The proposal is hereby approved subject to the following 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, and the approved plans dated **June 6, 2017** and submitted on **June 6, 2017** and submitted, 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 calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, 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, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

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

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms

to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.

- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

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

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 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 the Bureau of Building, if directed by the Building Official, Director of City Planning, 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, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Compliance Matrix

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

13. Construction Management Plan

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

14. 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

15. 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:
 - Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - Use of paint with anti-graffiti coating.
 - Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - 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

16. 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.

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

17. 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

18. Construction-Related Air Pollution Controls (Dust and Equipment Emissions)

Requirement: The project applicant shall implement all of the following applicable air pollution 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. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.
- e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the

California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).

- i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. 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

20. 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

21. 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

22. 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

23. 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

24. 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

25. Erosion and Sedimentation Control Measures for Construction

Requirement: The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

26. Source Control Measures to Limit Stormwater Pollution

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 source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets "No Dumping – Drains to Bay;"
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
- f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
- g. Dumpster drips from covered trash, food waste, and compactor enclosures;
- h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
- j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing
Initial Approval: N/A
Monitoring/Inspection: N/A

27. NPDES C.3 Stormwater Requirements for Regulated Projects

c. Post-Construction Stormwater Management Plan Required

Requirement: The project applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The project applicant shall submit a Post-Construction Stormwater Management Plan to the City for review and approval with the project drawings submitted for site improvements, and shall implement the approved Plan during construction. The Post-Construction Stormwater Management Plan shall include and identify the following:

- i. Location and size of new and replaced impervious surface;
- ii. Directional surface flow of stormwater runoff;
- iii. Location of proposed on-site storm drain lines;
- iv. Site design measures to reduce the amount of impervious surface area;
- v. Source control measures to limit stormwater pollution;
- vi. Stormwater treatment measures to remove pollutants from stormwater runoff, including the method used to hydraulically size the treatment measures; and
- vii. Hydromodification management measures, if required by Provision C.3, so that post-project stormwater runoff flow and duration match pre-project runoff.

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Planning; Bureau of Building
Monitoring/Inspection: Bureau of Building

Maintenance Agreement Required

Requirement: The project applicant shall enter into a maintenance agreement with the City, based on the Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement, in accordance with Provision C.3, which provides, in part, for the following:

- i. The project applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary.

The maintenance agreement shall be recorded at the County Recorder's Office at the applicant's expense.

When Required: Prior to building permit final
Initial Approval: Bureau of Building
Monitoring/Inspection: Bureau of Building

28. 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

29. 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

30. Construction Noise Complaints

Requirement: The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:

- a. Designation of an on-site construction complaint and enforcement manager for the project;
- b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;
- c. Protocols for receiving, responding to, and tracking received complaints; and
- d. Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City's request.

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Building
Monitoring/Inspection: Bureau of Building

31. Extreme Construction Noise

a. *Construction Noise Management Plan Required*

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit
Initial Approval: Bureau of Building
Monitoring/Inspection: Bureau of Building

b. *Public Notification Required*

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for

review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

32. 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

33. Jobs/Housing Impact Fee

Requirement: The project applicant shall submit payment to the City in accordance with the requirements of the City of Oakland Jobs/Housing Impact Fee Program (chapter 15.68 of the Oakland Municipal Code).

When Required: Prior to construction

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

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

a. 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 and sidewalks.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Traffic Control Plan Required

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian detours, including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. 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: Bureau of Building

35. **Bicycle Parking**

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

36. **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

37. **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

38. Recycling Collection and Storage Space

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two cubic feet of storage and collection space per residential unit is required, with a minimum of ten cubic feet. For nonresidential projects, at least two cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

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

Requirement: 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).

- i. The following information shall be submitted to the City for review and approval with the 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 final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit.
 - Green Building points noted in the appropriate checklist approved during the Planning entitlement process.
 - All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
 - The required green building point minimums in the appropriate credit categories.

When Required: Building Permit stage

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 Oakland Green Building Ordinance during construction of the project.

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

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: Building Permit

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. Compliance with Green Building Requirements After Construction

Requirement: Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation to and attain the minimum required certification/point level. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Bureau of Planning the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.

When Required: Building Permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

40. Sanitary Sewer System

Requirement: The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City's Master Fee Schedule for funding improvements to the sanitary sewer system.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Department of Engineering and Construction

Monitoring/Inspection: N/A

41. Storm Drain System

Requirement: The project storm drainage system shall be designed in accordance with the City of Oakland's Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

Site Specific Conditions of Approval

42. Encroachment Permit

Prior to issuance of building permit.

The applicant shall obtain any encroachment permits, waiver of damages or other approvals required by the Bureau of Building, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way.

43. Street Trees.

Prior to issuance of building permit.

The applicant shall provide street tree in front of the building on 16th Street (one street tree per 25') with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Planning and Building Department.

Applicant Statement

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

Name of Project Applicant

Signature of Project Applicant

Date

SCOPE OF WORK THIS PROJECT:

ADDITION OF 69,761 SF WAREHOUSE SPACE TO (E) 30,820 SF WAREHOUSE SPACE. (N) WORK TO INCLUDE A (N) 2 STORY + MEZZANINE PRE-ENGINEERED BUILDING AND A (N) METAL PANEL AND TILT UP CONCRETE FACADE BUILDING.

APPLICABLE REGS & STDS:

APPLICABLE CODES: 2016 CALIFORNIA BUILDING CODE, 2016 CALIFORNIA MECHANICAL CODE, 2016 CALIFORNIA PLUMBING CODE, 2016 CALIFORNIA ELECTRICAL CODE, 2016 CALIFORNIA FIRE CODE, ENERGY CODE - TITLE 24 - CALIFORNIA CODE OF REGULATIONS LIFE SAFETY CODE, 2016 NFPA 72

BLDG AND PLANNING DEPT. NOTES:

OWNER: ATTHOVE FINE ART SERVICE 1385 16TH STREET OAKLAND, CA 94607 CONTACT: SCOTT ATTHOVE PARCEL/APN: 005-048-200200 ZONING: C1X-1B1S-19 CONDITIONAL USE FOR WAREHOUSE OVER 25,000 SF MAX HEIGHT - 85'-0" LANDSCAPE - 5% OF SITE LANDSCAPE - 10% OF PARKING AREA SUMMARY: SITE: 61,173 SF FAR: 2.0 ALLOWABLE AREA: 122,346 EXISTING SF: 30,820 PROPOSED SF: 59,761 TOTAL PROPOSED SF: 90,581 PROPOSED FAR = 1.48 PARKING: TOTAL NUMBER OF EMPLOYEES ON SITE - 4 EMPLOYEES DAILY. REQUIRED: PARKING FOR THE ZONING PER SEC. 17.116.090 - ONE (1) SPACE/1,500 SF OF FLOOR AREA 90,525 SF/1,500SF = 61 SPACES REQ'D PROVIDED: 10 SPACES (1 HC INSTALL INCL., 1 DEDICATED TO CARPOOL/CLEAN AIR VEHICLE, 1 DEDICATED TO ELECTRIC VEHICLE WITH CHARGER) LANDSCAPE: NOTE: SITE IS CURRENTLY 100% IMPERMEABLE WITH PAVING AROUND THE ENTIRETY OF THE PROPOSED BUILDING AREA. REQUIRED: 5% OF SITE = 61,116 SF X .05 3,056 SF PROVIDED: PLANTING IN PARKING/ENTRY AREA 977 SF PLANTING IN CALTRANS RIGHT OF WAY 7450 SF TOTAL 8,427 SF 10% OF PARKING AREA DEDICATED TO LANDSCAPING INCL. PERMEABLE PAVING: REQUIRED: PARKING AREA = 9,342 SF X .1 934 SF PROVIDED: LANDSCAPE: 977 SF

SHEET INDEX

A0.0 PROJECT INFO, VICINITY MAP, ELECT. DESIGN BUILD REQ., CONSTR. NOTES, RENDERINGS AND EXISTING PHOTOS, CONTEXT MAP AND PHOTOS, MATERIAL PALETTE, SITE PLAN A0.01 A0.02 A0.03 A0.1 A2.0 A2.0.1 A2.1 A2.2 A2.3 A3.0 A3.1 A3.2 A3.3 CONSTRUCTION PLAN - FIRST FLOOR CONSTRUCTION PLAN - MEZZANINE CONSTRUCTION PLAN - SECOND FLOOR CONSTRUCTION PLAN - THIRD FLOOR CONSTRUCTION PLAN - ROOF ELEVATIONS - NORTH AND EAST ELEVATIONS - SOUTH (FROM PROPERTY LINE) AND WEST BUILDING SECTIONS - TRANSVERSE THROUGH PRE-ENGINEERING BLDG BUILDING SECTIONS - TRANSVERSE AND LONGITUDINAL

ELECTRICAL DESIGN BUILD REQ'TS

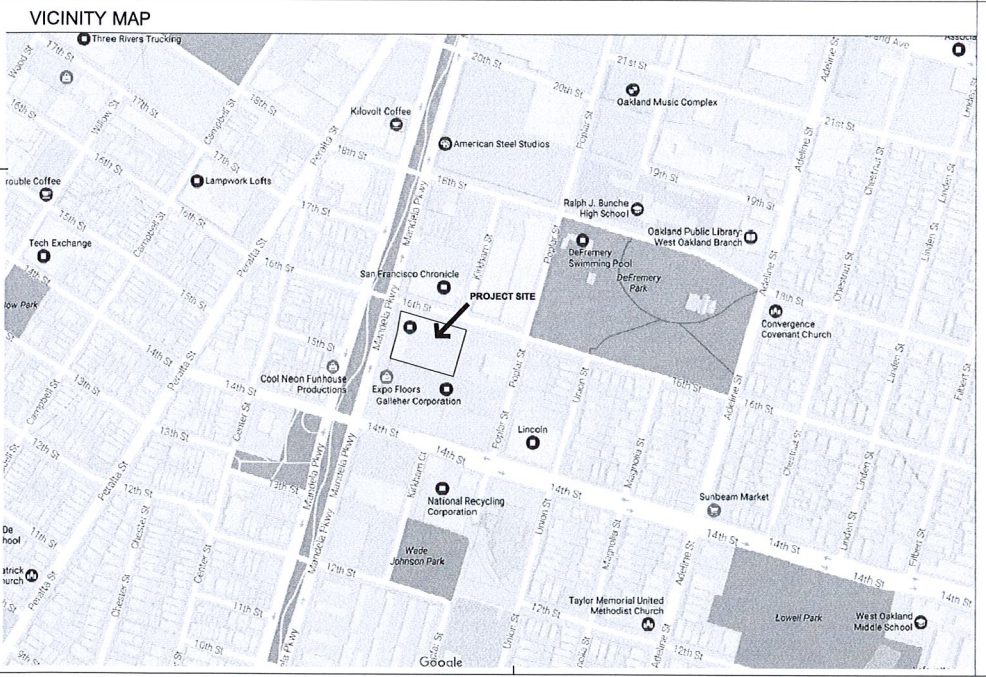
1. Codes and Standards: A. All work included under this section shall conform with governing federal, state and local codes and regulations including but not limited to the latest edition of the National Electrical Code (NEC) with local amendments, the requirements of the local Building Official, the rules and regulations of the Pacific Gas and Electric Company (PG&E) where applicable, and the Building Owner. B. All required materials, products and equipment, including components, shall be Underwriter's Laboratories approved, new, and of the highest residential quality. 2. Permits, documents and fees: A. The Contractor shall obtain all permits, pay all fees, give all notices, file all necessary plans, prepare all documents, and obtain all required approvals, as required for completion of the Work included under this section. B. All Work shall be inspected, tested, and approved, as required before being concealed or placed into operation. C. Inspections required by local authorities shall be arranged by the Contractor, including any required payments for related fees. 3. Work included: A. The Work under this section shall include all labor and materials noted, required or necessary for the design and required modification to the existing electrical system, in order to provide a complete and fully functional residential electrical system, described herein and as shown in part on the drawings. The Contractor will be responsible to select an appropriate item for fixtures, components and equipment, which are required, but not identified in the schedules and drawings. B. This work includes, but is not limited to: i. The required modifications to the existing incoming electrical service and metering, in order to provide a complete electrical service and metering system, including fees, permits, and all required provisions for metering equipment. ii. The required modifications to the existing electrical distribution system, in order to provide a complete system of distribution for the utilization for light and power. iii. The required modifications to the existing telephone system, in order to provide a complete telephone system. The Contractor will verify with the Designer the requirements of this system, if the Owner has an arrangement with a specified Telephone Vendor, the extent of work to be performed by this Vendor outside the scope of this contract and the extent of the work that the Contractor will perform in coordination with a designated Vendor. iv. The installation of new lighting fixtures and lamps, as well as the required changes and alterations to existing lighting fixtures and lamps. v. The required rough-in and final connections to any new mechanical equipment, as well as the required changes and alterations for electrical connections to the existing mechanical equipment required to maintain operation. vi. The rough-in, installation and final connection, as required, for any Owner furnished fixtures and equipment. Verify these conditions with the Owner. 4. Design and Responsibility: A. The electrical system shall be designed, fabricated and installed by skilled and experienced Supplier/Subcontractors specializing in the design, manufacture and installation of the specified systems with at least ten years experience, respectively, in the type of work indicated and specified. B. Contractor or Specialist Subcontractor shall design the respective specified systems complete in all their components and in accordance with industry design criteria appropriate for high quality commercial installation and the requirements of the design intent shown on the drawings, these specifications and all applicable codes. C. The following is a list and description of some specific minimum requirements: i. Insure that adequate operating or servicing space is maintained for all items. Include such requirements with design/build submittal. ii. Conduit where required shall be standard rigid IMC or EMT (thin wall) according to code requirements, 3/4-inch minimum size. iii. Use only copper conductors. Aluminum conductors are not permitted. iv. Include all incidental work, material, structural supports necessary for the secure mounting of equipment under this division. v. Coordinate installation of smoke detector locations and types with Owner. vi. Provide for and include connections to the irrigation power and control equipment, if required, to the mechanical equipment, as required and any existing, new and future site lighting, as required. vii. Switches for all devices, as required and as indicated in plans. viii. Receptacles, required and as indicated in plans. ix. Wall device and cover plates, as required. x. Provide GFI safety and disconnect switches, as required by code, including all receptacles in bathrooms, kitchens and all exterior receptacles. Also, provide weatherproof cover plates at all exterior receptacles. xi. Junction boxes, pull boxes and outlet boxes, as required with approved accessibility. xii. Label all functional distribution panels, lighting panels, time clocks and disconnect switches, where required, with engraved bakelite nameplates showing appropriate names or other information.

CONSTRUCTION NOTES

1. The Contractor will be responsible to maintain the security of the job site during the construction process until final acceptance by the Owner or until an alternate date, as mutually agreed between the Owner and the Contractor. 2. Dimensions shown are typically to the finished wall, unless otherwise noted. The Contractor will verify the rough-in dimensions and requirements from the appropriate manufacturer or fabricator for doors, windows, equipment, cabinetry, plumbing fixtures, electrical fixtures, appliances and any other devices before proceeding to lay out areas where such items are located. 3. All connectors and fasteners are intended to be concealed, unless otherwise noted. Where such devices cannot be concealed, as intended, notify the Owner's Agent for review of design conformance. 4. Fire stops shall be provided in the following locations in accordance with Code Sec. 708: A. Concealed spaces of stud walls and partitions, including furred spaces, at the ceiling and floor levels and at 10 ft. intervals, both vertically and horizontally. B. At all interconnections between vertical and horizontal spaces such as soffits and drop ceilings. C. In concealed spaces between stair stringers at the top and bottom of the run and between studs along and in line with the run of stairs, if the walls under the stairs are unfinished. D. In openings around vents, pipes, ducts, chimneys and similar openings which afford a passage for fire at the ceiling and floor levels, with noncombustible materials. The Contractor will verify all framing spaces required to be ventilated with the local field inspector and provide the appropriate net free ventilation area, but in no case less than 1/150th of the area of the space to be ventilated. When the means of ventilation is visible from a commonly used space or passageway to the building, review this situation with the Owner's Agent for design conformance. 5. The Contractor will verify and provide the required blocking and backing for all cabinetry, wall mounted accessories, built-in equipment and fixtures, as well as any future handicap features required by accessibility regulations related to commode bathrooms and kitchens. The Contractor will provide all required furring required to enclose any structural member intended to be concealed. 6. The Contractor will verify and provide all code required fireproofing at all penetrations into and through floor, wall, ceiling and roof assemblies. 7. All changes in floor finish material will occur under a threshold, when provided, or at the centerline of a door transition, unless otherwise indicated on the drawings. 8. The sealant, caulking and flashing locations shown on these drawings are not intended to cover all conditions requiring these products. It is the responsibility of the Contractor to identify all conditions requiring these products, to review conditions not identified in the drawings with the Owner's Agent for design conformance and to provide and warrant a complete waterproof installation. 9. The Contractor shall identify and provide the required sidewalk and public passage enclosure protection at the affected Right-of-Way areas, if required. The Contractor will review all intended signage with the Building Owner and the Owner's Agent. 10. Complete all work required to meet the State of California Energy Conservation requirements, including but not limited to, all mandatory and special features identified in Title 24 report submitted for this project, as well as any local ordinances (CECO and RECO) and any new requirements identified by the local building field inspector. 11. The Contractor shall identify in his proposal which utility (water, electricity, telephone, etc.) connections, use and related costs will be included in his overhead and which costs he expects the Building Owner to provide. Any utility cost which is not identified as an Owner provided item will be assumed to be included in the Contractor's overhead cost. 12. The Contractor shall identify and provide the required sidewalk and public passage enclosure protection at the affected Right-of-Way areas, if required. The Contractor will review all intended signage with the Building Owner and the Owner's Agent.

ABBREVIATIONS:

Table with 3 columns: Abbreviation, Description, and another Description. Includes terms like AIR CONDITIONING, ACUSTIC TILE, ACCESSIBLE, ACUSTICAL, ACCESS PANEL, AREA DRAIN, ADJACENT, ADJUSTABLE, ABOVE EXISTING SLAB, ARCHITECTURAL EXPOSED STRUCTURAL STEEL, ABOVE FINISHED FLOOR, AGGREGATE, ALUMINUM, APPROXIMATELY, ARCHITECTURAL, ASBESTOS, ASPHALT, AT, BOARD, BITUMINOUS, BUILDING, BLOCK, BLOCKING, BEAM, BOTTOM OF, BOTTOM CABINET, CATCH BASIN, CEMENT, CERAMIC, CAST IRON, CENTER LINE, CEILING, CAULKING, CLOSET, C.M.U., CONCRETE MASONRY UNIT, COUNTER, TRANSLUCENT CORIAN, COLUMN, COMPACT, CONCRETE, CONNECTION, CONSTRUCTION, CONTINUOUS, CORRIDOR, CONTRACTOR SUPPLIED, CONTRACTOR INSTALLED, CERAMIC TILE, CENTER, COUNTERSUNK, DOUBLE, DEPARTMENT, DETAIL, DRINKING FOUNTAIN, DIAMETER, DIMENSION, DOWN, DOOR OPENING, DRESSING, DRESSPOUT, DRY STANDPIPE, DETAIL, DRAWING, EAST, EXISTING, EACH, EXPANSION JOINT, ELEVATION, ELECTRICAL, ELEVATOR, EMERGENCY, ENCLOSURE, ELECTRICAL PANEL, EQUAL, EQUIPMENT, ESCALATOR, ELECTRIC WATER COOLER, EXISTING, EXPANSION, EXTERIOR, FIRE ALARM, FLAT BAR, FLOOR DRAIN, FOUNDATION, FIRE EXTINGUISHER CAB., FINISH, F.I.T., FLASHING, FLUORESCENT, FACE OF, FACE OF CONCRETE, FACE OF FINISH, FACE OF STUDS, FIRE PROOF, FIRE PROOFING, FIRE RETARDANT, FIRE TREATED, FOOTING, FOOTING, FULL SIZE, FURRING, FUTURE, GAUGE, GALVANIZED, GRAB BAR, GENERAL CONTRACTOR, GARMENT HOOK, GLASS, GAS METER, GROUND, GRADE, GALVANIZED SHEET METAL, GYPSUM WALLBOARD, GYPSUM BOARD, HOSE BIBB, HOLLOW CORE, HAND, HARDWOOD, HOLLOW METAL, HORIZONTAL, HOUR, HEIGHT, INSIDE DIAMETER, INSULATION, INTERIOR, JANITOR, JOINT, KITCHEN, ANGLE, LAMINATE, LAVATORY, LANDLORD, LOCKER, LIGHT, MANUFACTURER, MAXIMUM, MEDICINE CABINET, MEDIUM DENSITY, FIBERBOARD, MECHANICAL, MEMBRANE, MANUFACTURER, MILL WORK, MANHOLE, MINIMUM, MIRROR, MISCELLANEOUS, MASONRY OPENING, METAL, MOUNTED, MULLION, MILLWORK CONTRACTOR, NORTH, NEW, NOT IN CONTRACT, NUMBER, NOMINAL, NOT TO SCALE, NUMBER, OVERALL, OBSOLETE, ON CENTER, OUTSIDE DIAMETER, OFFICE, OPENING, OPPOSITE, OPPOSITE HAND, OWNER SUPPLIED, CONTRACTOR INSTALLED, PAINT, PRECAST CONCRETE, PIECES, PLATE, PLASTIC LAMINATE, PLASTER, PLYWOOD, POLISHED, FIXTURE, FLOW LINE, FLASHING, FLUORESCENT, POINT, PAPER TOWEL DISPENSER, PAINTED, PAPER TOWEL DISPENSER, RECEPTACLE COMBINATION, PARTITION, PAPER TOWEL RECEPTACLE, POLYURETHANE, POLYCARBONATE, QUARRY TILE, RISER, RADIUS, REFLECTED CEILING PLAN, ROOF DRAIN, REDWOOD, REFERENCE, REFRIGERATOR, REINFORCED, REGISTER, REGISTER, RESILIENT, RETARDANT, REGISTER (CASH), ROOM, ROUGH OPENING, RAIN WATER LEADER, SOUTH, SUPPLIED BY OWNER, SOLID CORE, SEAT COVER DISPENSER, SCHEDULE, SCHEDULE(D), SOAP DISPENSER, SECTION, SEE ELECTRICAL DRAWINGS, SHELF, SHOWER, SIMILAR, SEE MECHANICAL DRAWINGS, SANITARY NAPKIN DISPENSER, SANITARY NAPKIN RECEPTACLE, SEE PLUMBING DRAWINGS, SPECIFICATION, SQUARE, SEE STRUCTURAL DRAWINGS, SERVICE SINK, STAINLESS STEEL, STONE, STATION, STANDARD, STEEL, STORAGE, STRUCTURAL, SUSPENDED, SYMMETRICAL, TREAD, TOWEL BAR, TOP OF CURB, TERRA COTTA, TEMPERED, TERRAZZO, THICK, TOP OF CONCRETE, TOP OF PAVEMENT, TOP OF SLAB, TUBE STEEL, TYPICAL, UNEQUAL, UNLESS OTHERWISE NOTED, URINAL, VERIFY IN FIELD, VERTICAL, VESTIBULE, WEST, WITH, WATER CLOSET, WOOD, WINDOW, WITHOUT, WALLPAPER, WEIGHT.

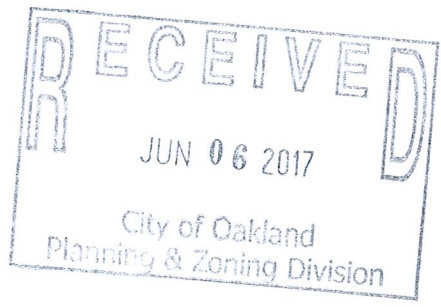


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Revisions table with columns for number and date.

Attachment

ATTHOVE ART WAREHOUSE PHASE 2 1385 16TH STREET OAKLAND, CA



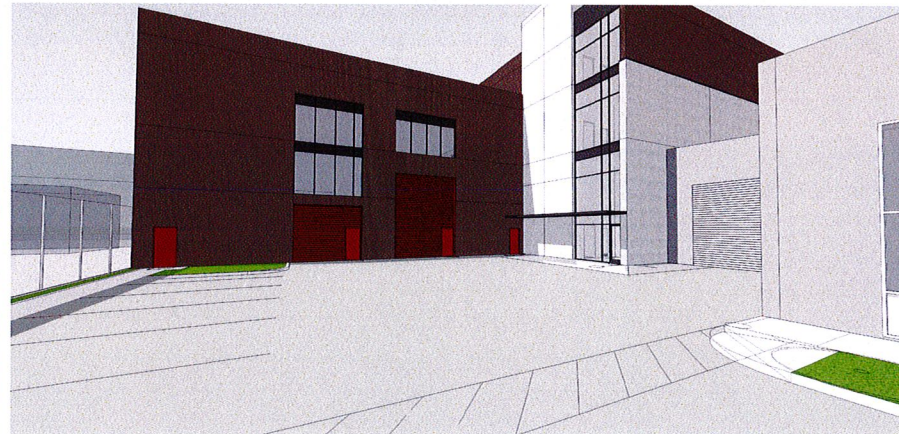
issue date 06/06/17 scale AS NOTED drawn MT checked file name 200085 A0.0 job number 200085 drawing SITE PLAN sheet number A0.0 of sheets



VIEW FROM KIRKHAM STREET



VIEW FROM MANDELA PARKWAY AND 16TH STREET



PROPOSED NEW BUILDING FROM THE DRIVE



AERIAL VIEW FROM THE NORTH EAST



(E) LOT LOOKING NORTH TO KIRKHAM



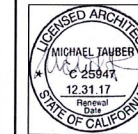
(E) LOT LOOKING NORTHEAST



(E) LOT LOOKING EAST

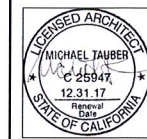
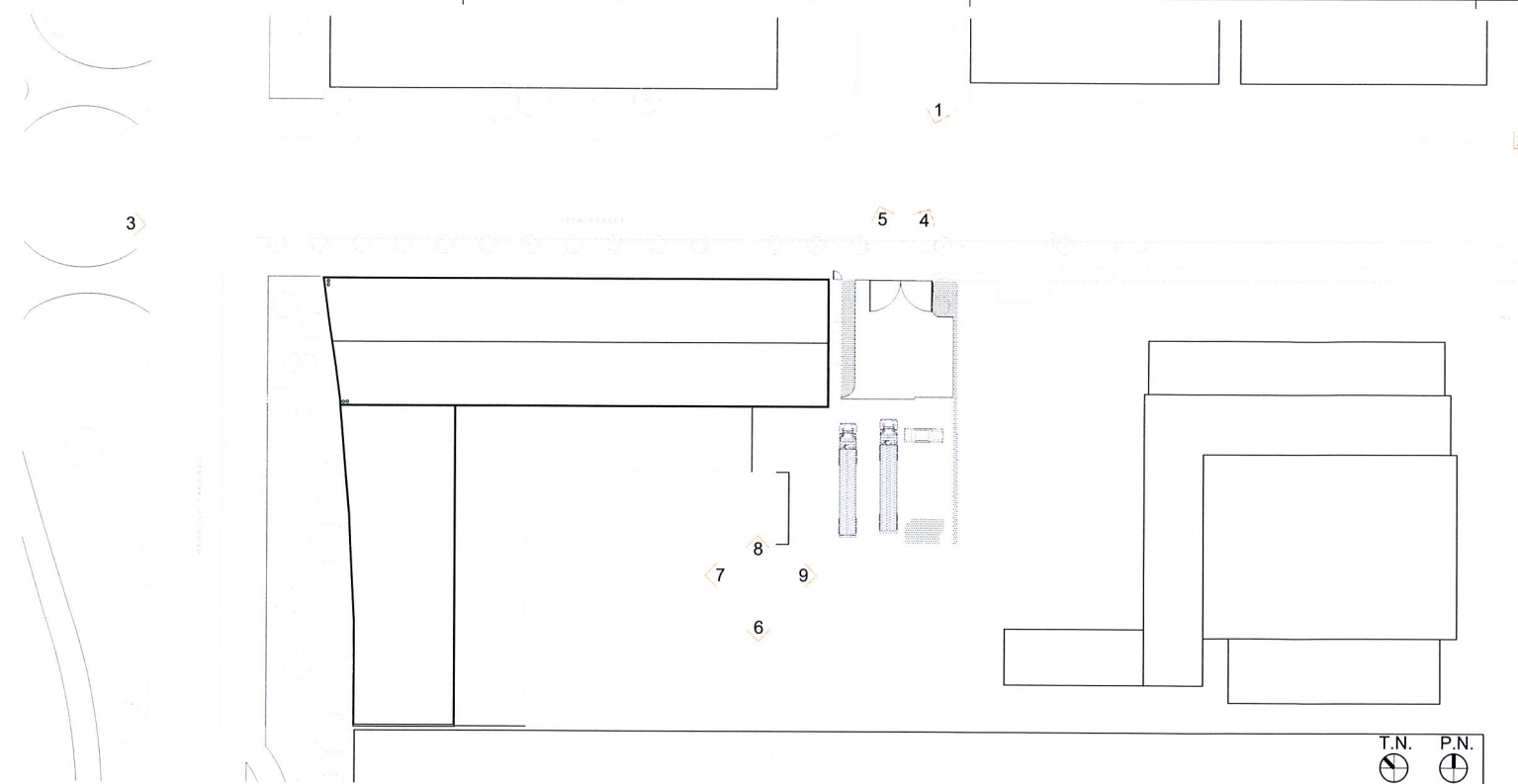


(E) LOT LOOKING NORTH TO KIRKHAM



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revisions	
number	date



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revisions	
number	date



7. (E) LOT LOOKING WEST.



8. (E) LOT LOOKING NORTH



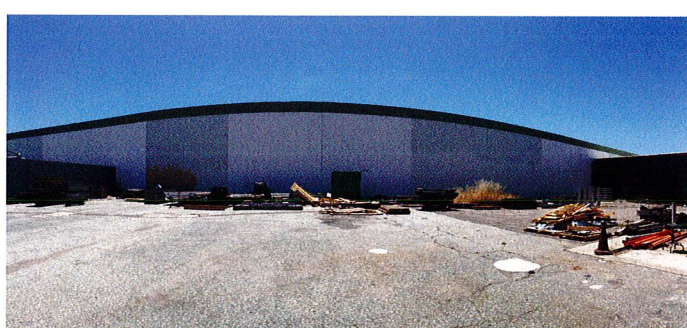
9. (E) LOT LOOKING EAST



4. 1660 KIRKHAM STREET, OAKLAND, CA 94607



5. 1350 16TH STREET, OAKLAND, CA 94607



6. (E) LOT LOOKING SOUTH.



1. SUBJECT SITE - 1385 16TH STREET, OAKLAND, CA 94607



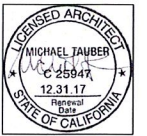
2. 1315 16TH STREET, OAKLAND, CA 94607



3. MANDELA PARKWAY LOOKING EAST AT SUBJECT PROPERTY

ATTHOWE ART WAREHOUSE PHASE 2
 1385 16TH STREET
 OAKLAND, CA

issue date 06/06/17
 scale AS NOTED
 drawn MT
 checked
 file name 200085 A0.02
 job number 200085
 drawing CONTEXT MAP AND PHOTOS
 sheet number



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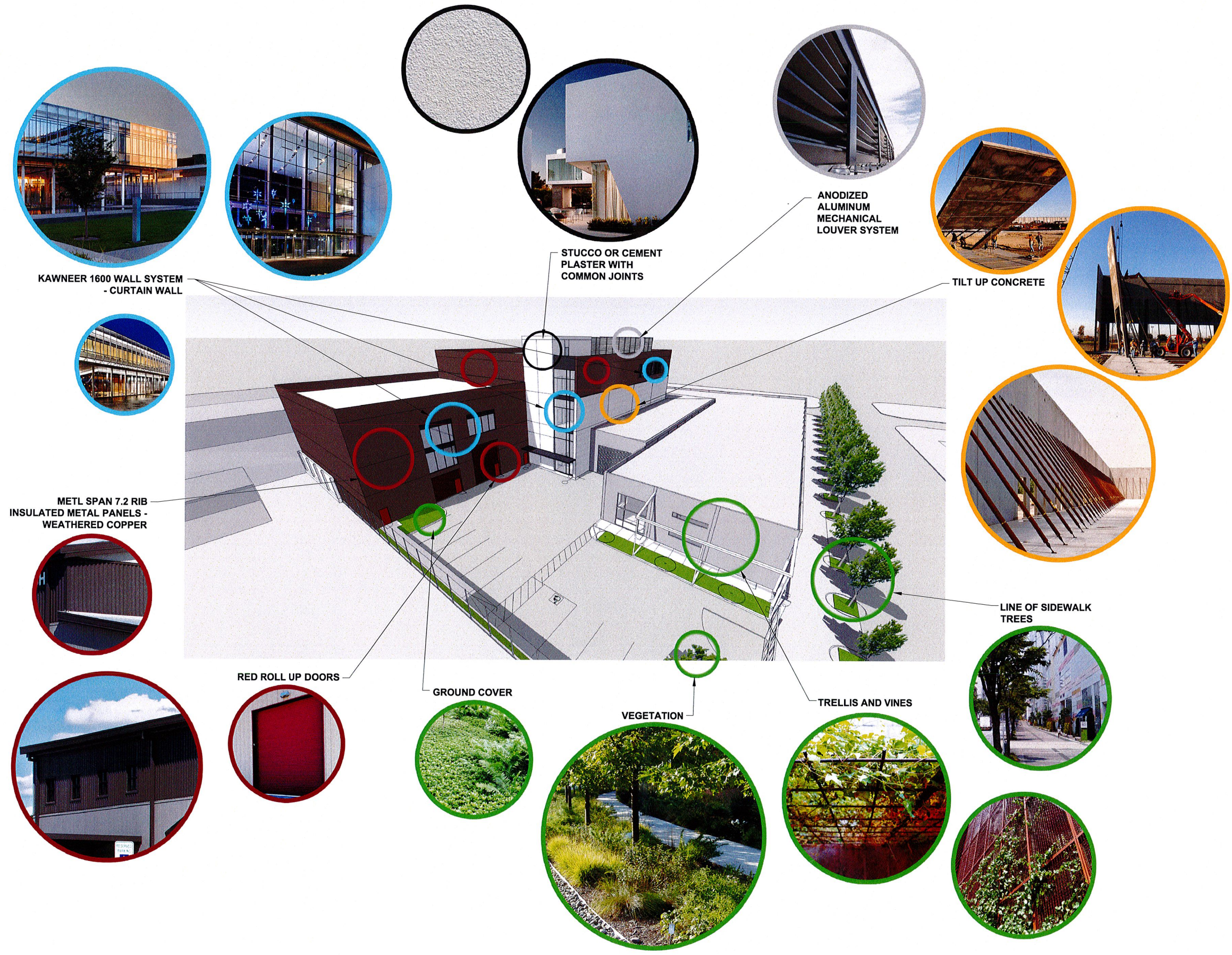
ATTHOWE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

issue date 06/06/17
scale AS NOTED
drawn MT
checked
file name 200085 A0.03
job number 200085
drawing MATERIAL PALETTE

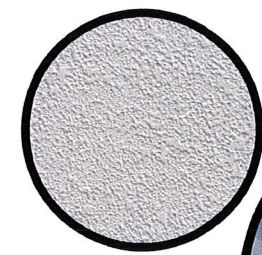
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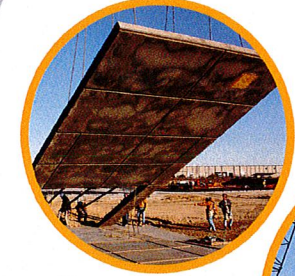
KAWNEER 1600 WALL SYSTEM - CURTAIN WALL



STUCCO OR CEMENT PLASTER WITH COMMON JOINTS



ANODIZED ALUMINUM MECHANICAL LOUVER SYSTEM



TILT UP CONCRETE



METL SPAN 7.2 RIB INSULATED METAL PANELS - WEATHERED COPPER



RED ROLL UP DOORS



GROUND COVER



VEGETATION



TRELLIS AND VINES



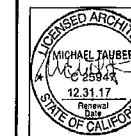
LINE OF SIDEWALK TREES



Michael Tauber
Architecture

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San Francisco CA
94107

p. 415.252.7044



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GENERAL NOTES

PARCEL/APN: 005-048-200200
ZONING: C1X-1B5-1B
CONDITIONAL USE FOR WAREHOUSE OVER 25,000 SF
MAX HEIGHT - 85'-0"
LANDSCAPE - 6% OF SITE
LANDSCAPE - 10% OF PARKING

AREA SUMMARY:
SITE: 81,173 SF
FAR: 2.0
ALLOWABLE AREA: 122,348
EXISTING SF: 30,820
PROPOSED SF: 69,761
TOTAL PROPOSED SF: 90,581
PROPOSED FAR = 1.48

PARKING:
TOTAL NUMBER OF EMPLOYEES ON SITE - 4 EMPLOYEES DAILY.

REQUIRED:
PARKING FOR THE ZONING PER SEC. 17.118.090 - ONE (1) SPACE/1,500 SF OF FLOOR AREA
90,626 SF/1,500SF = 61 SPACES REQ'D

PROVIDED:
10 SPACES (1 HO INSTALL INCL., 1 DEDICATED TO CARPOOL/CLEAN AIR VEHICLE, 1 DEDICATED TO ELECTRIC VEHICLE WITH CHARGER)

LANDSCAPE:

NOTE: SITE IS CURRENTLY 100% IMPERMEABLE WITH PAVING AROUND THE ENTIRETY OF THE PROPOSED BUILDING AREA.

REQUIRED:
5% OF SITE = 61,118 SF X .05 = 3,058 SF

PROVIDED:
PLANTING IN PARKING/ENTRYWAY AREA = 677 SF
PLANTING IN CALTRANS RIGHT OF WAY = 7450 SF

TOTAL: 8,427 SF

10% OF PARKING AREA DEDICATED TO LANDSCAPING INCL. PERMEABLE PAVING:

REQUIRED:
PARKING AREA = 9,342 SF X .1 = 934 SF

PROVIDED:
LANDSCAPE: 977 SF

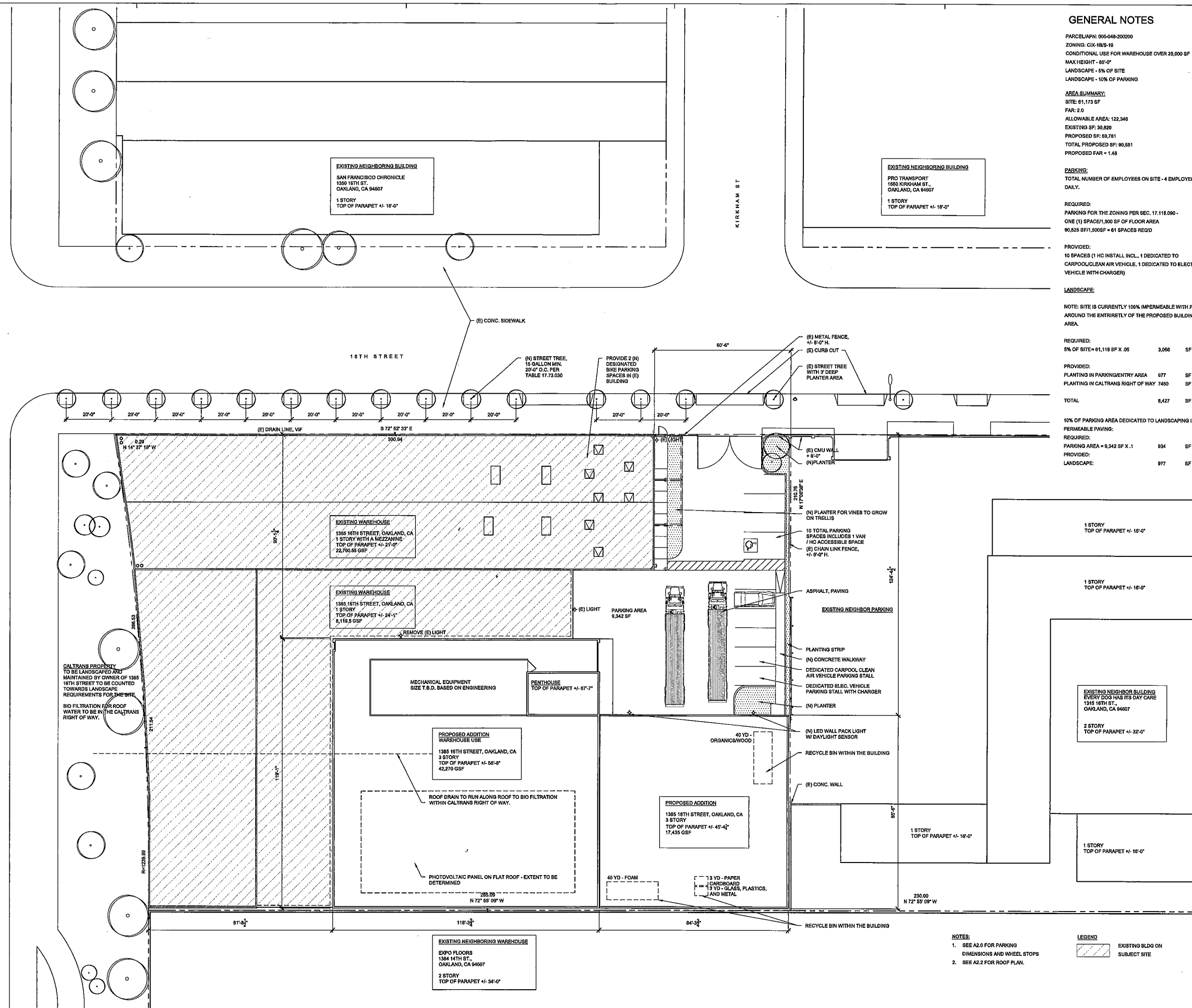
revisions	number	date

ATTHOWE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

Issue date: 06/06/17
Scale: AS NOTED
Drawn: MT
Checked: []
File name: 200085 A0.1
Job number: 200085
Drawing: SITE PLAN
Sheet number: A0.1

A0.1

of sheets



1 SITE PLAN
A0.1 SCALE: 1/16" = 1'-0"
TRUE NORTH PROJECT NORTH
GRAPHIC SCALE

NOTES:
1. SEE A2.0 FOR PARKING DIMENSIONS AND WHEEL STOPS
2. SEE A2.2 FOR ROOF PLAN.

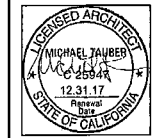
LEGEND:
EXISTING BLDG ON SUBJECT SITE



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size. Some notes on drawings
may be in larger type.

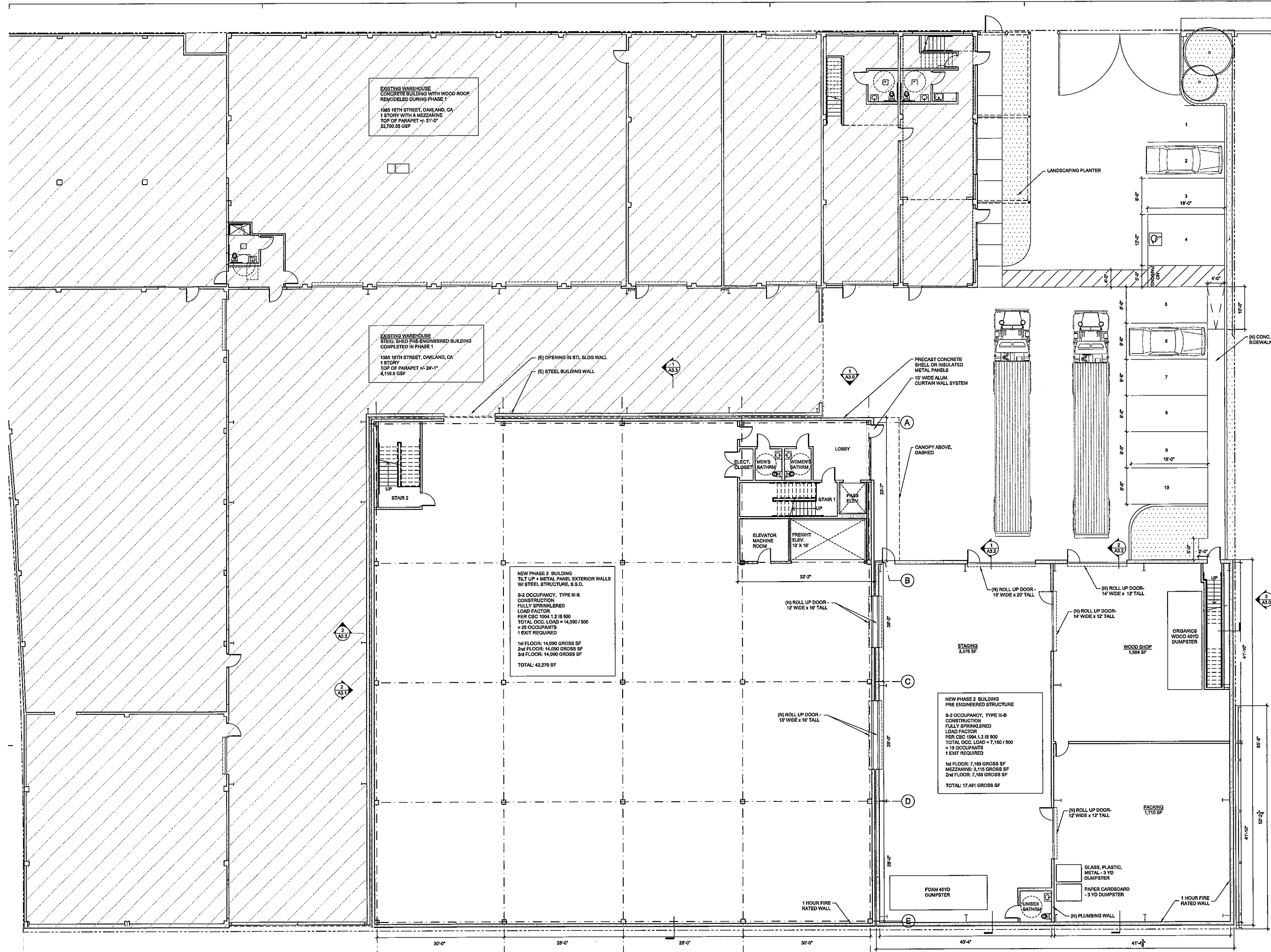
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ATTHOWE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

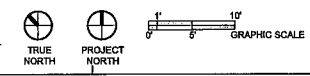
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 scale AS NOTED
 drawn MT
 checked
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 job number 200085
 drawing CONSTRUCTION PLAN
 FIRST FLOOR
 sheet number

A2.0

of sheets



1 CONSTRUCTION PLAN - FIRST FLOOR
 A2.0 SCALE: 1/8" = 1'-0"



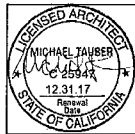
30'-0" 28'-0" 28'-0" 30'-0" 40'-4" 84'-0" 41'-0" 41'-0"



Michael Tauber
Architecture

2325 Third Street Ste. 322
San Francisco CA
94107

p. 415.252.7044



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state. Some noted on drawing
details are no longer applicable.

revisions	number	date

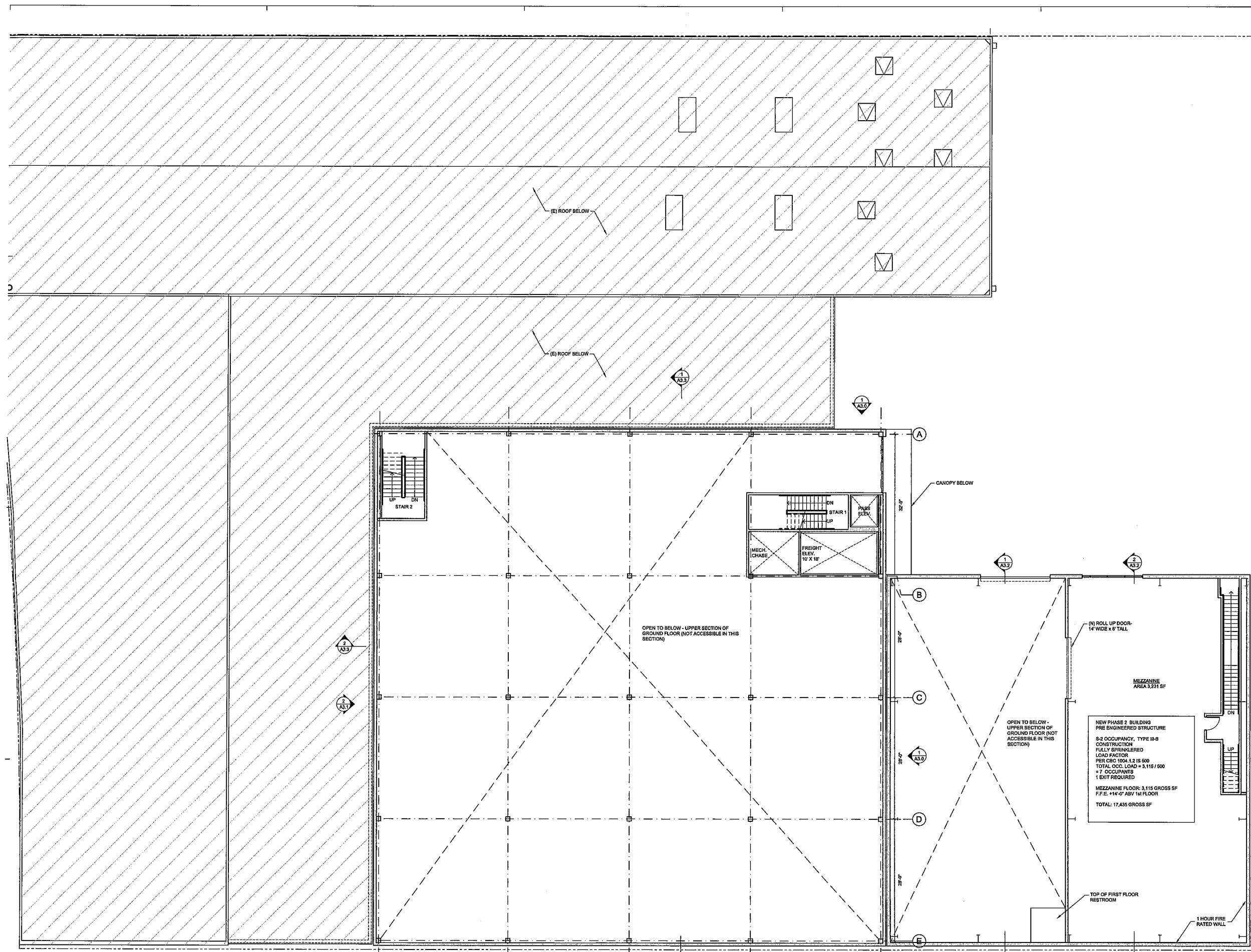
ATTHOWE ART WAREHOUSE PHASE 2

1885 16TH STREET
OAKLAND, CA

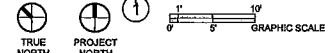
Issue date 06/06/17
 scale AS NOTED
 drawn MT
 checked MT
 file name 200085 A2.0.1
 job number 200085
 drawing CONSTRUCTION PLAN
 MEZZANINE FLOOR
 sheet number

A2.0.1

of sheets



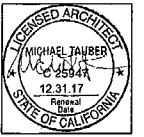
1 CONSTRUCTION PLAN - MEZZANINE FLOOR
SCALE: 1/8" = 1'-0"





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94107

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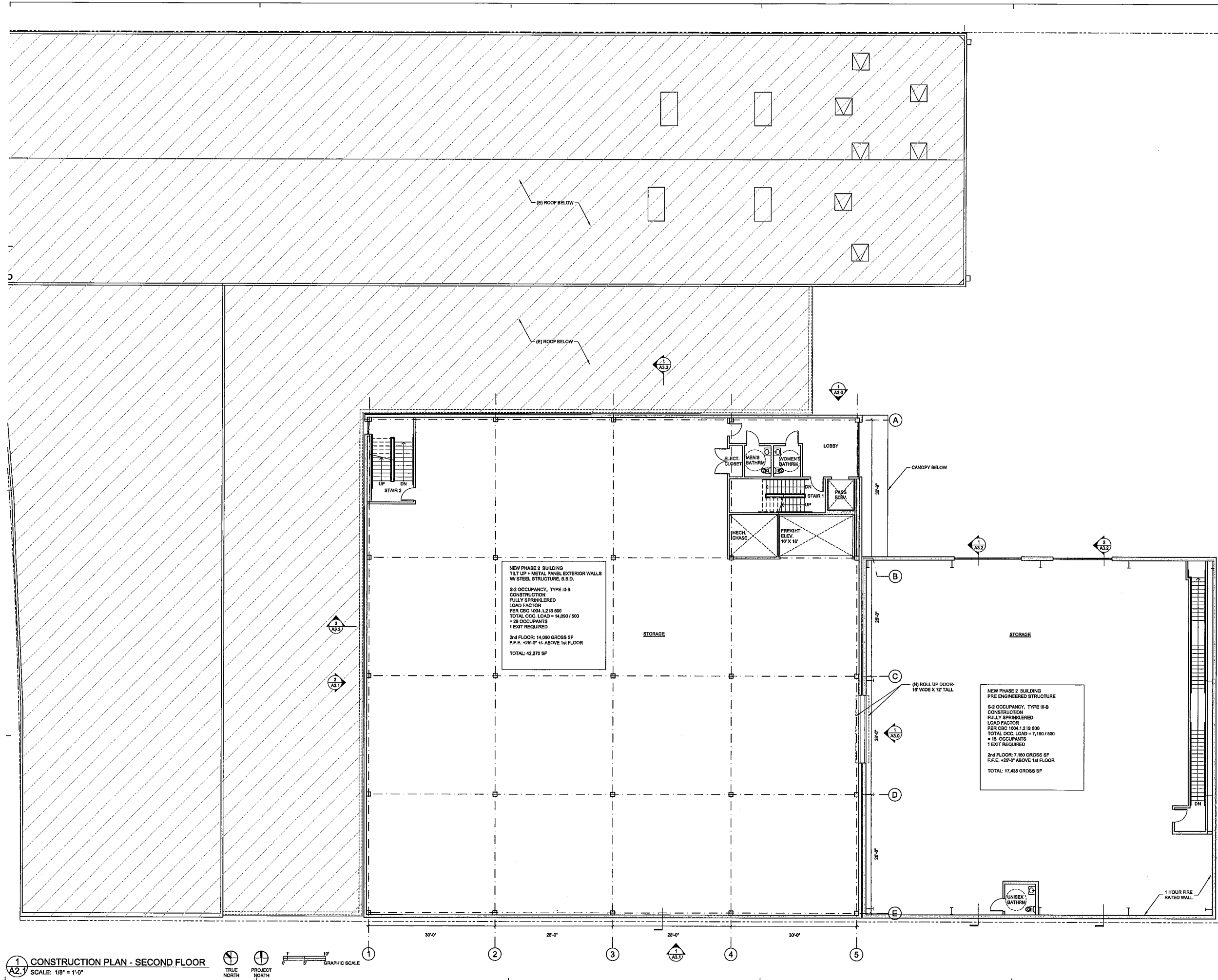
revisions	number	date

ATTHOWE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

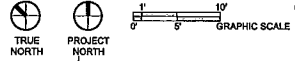
Issue date 06/06/17
Scale AS NOTED
drawn MT
checked
file name 200085 A2.1
job number 200085
drawing CONSTRUCTION PLAN
SECOND FLOOR
sheet number

A2.1

of sheets



1 CONSTRUCTION PLAN - SECOND FLOOR
A2.1 SCALE: 1/8" = 1'-0"





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Architecture

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94107

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revision number	date

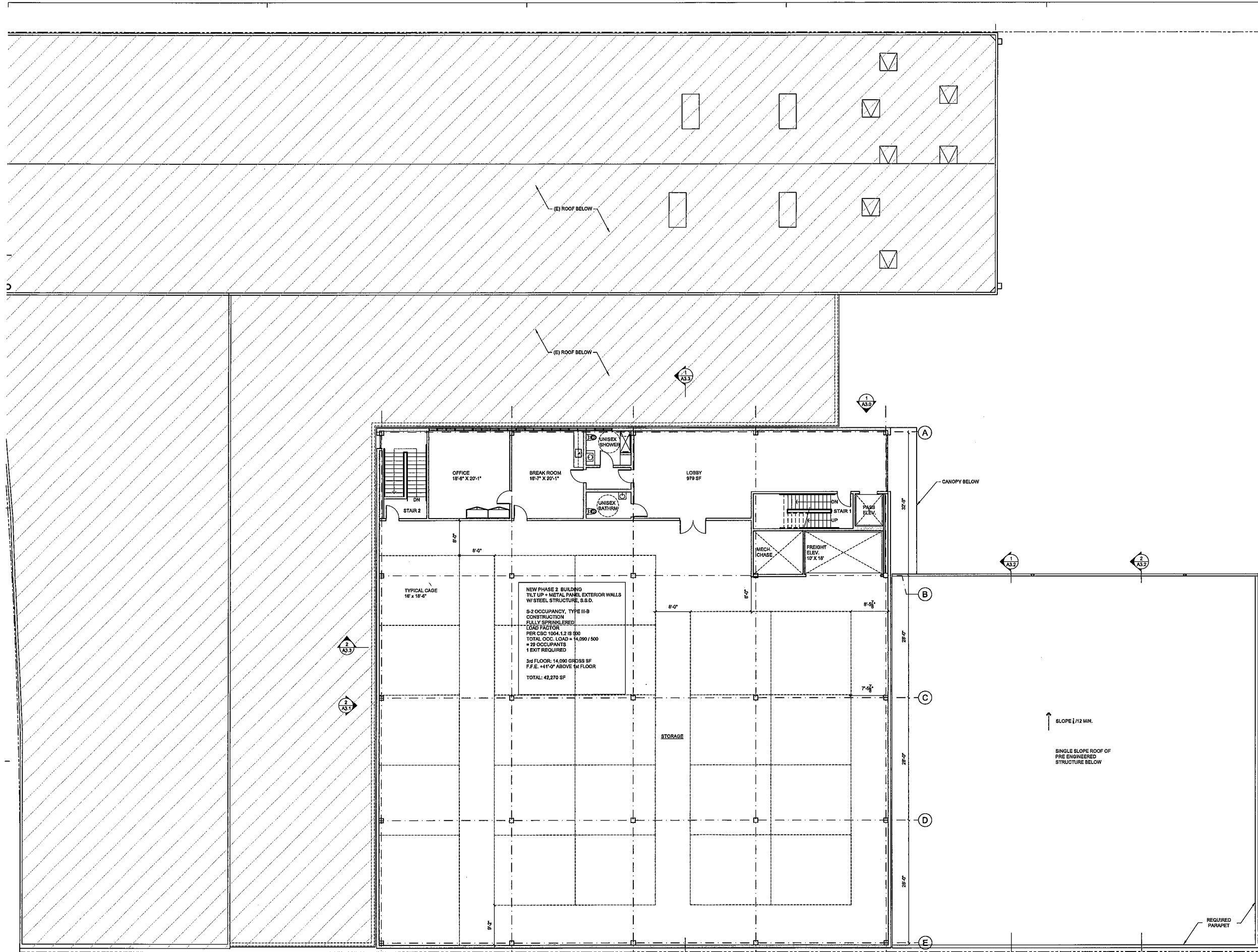
ATTHOWE ART WAREHOUSE PHASE 2

1885 16TH STREET
OAKLAND, CA

issue date 06/06/17
 scale AS NOTED
 drawn MT
 checked
 file name 200085 A2.2
 job number 200085
 drawing CONSTRUCTION PLAN
 THIRD FLOOR
 sheet number

A2.2

of sheets

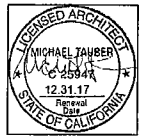




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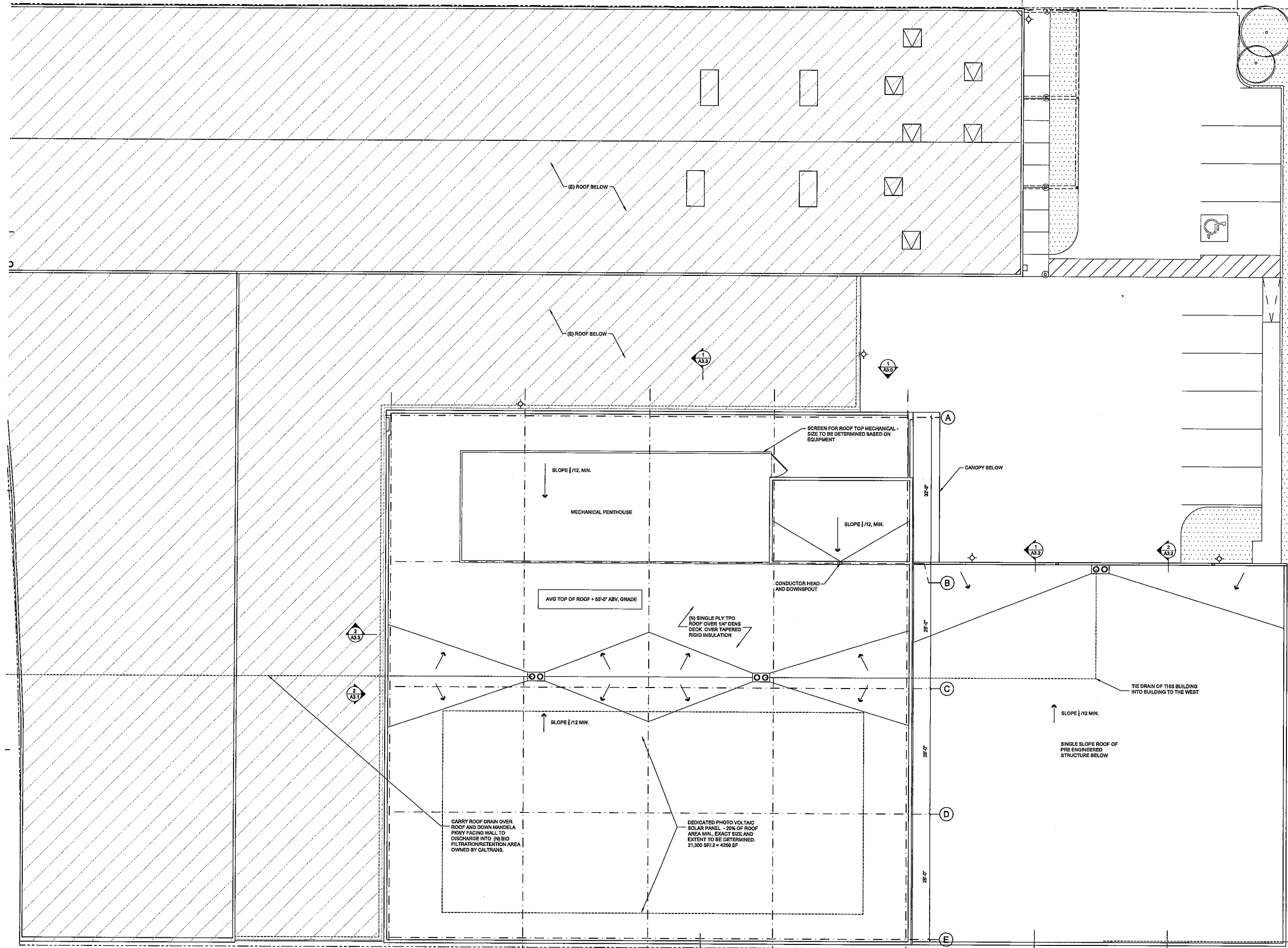
revisions	number	date

ATTOWNE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

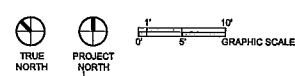
Issue date 08/06/17
scale AS NOTED
drawn MT
checked
file name 200085 A2.3
job number 200085
drawing CONSTRUCTION PLAN ROOF
sheet number

A2.3

of sheets



1 CONSTRUCTION PLAN - ROOF
A2.3 SCALE: 1/8" = 1'-0"



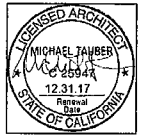
1 2 3 4 5



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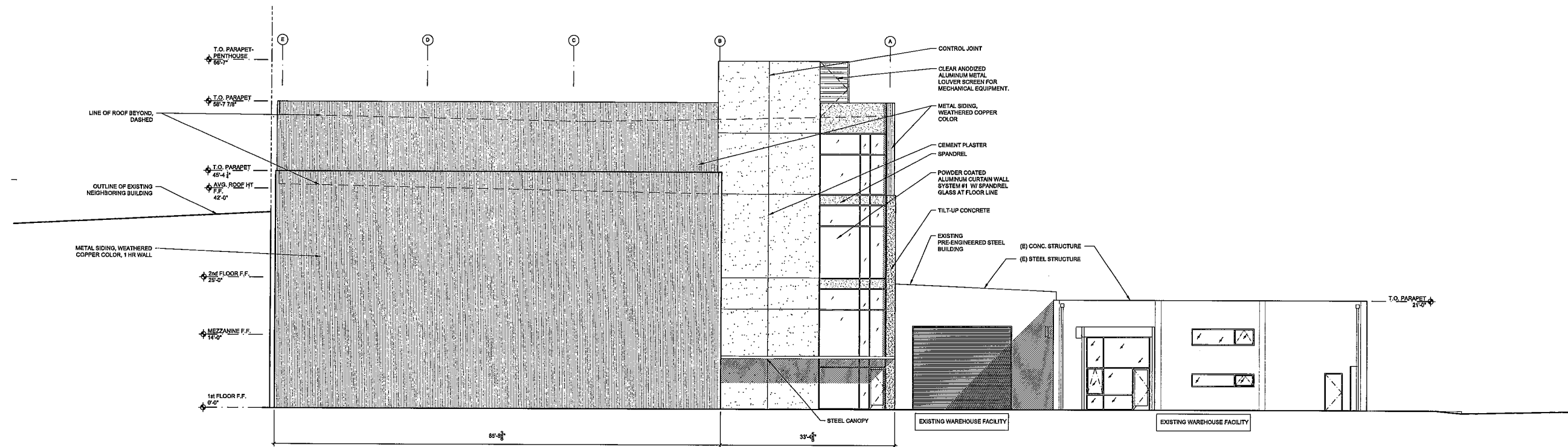
2325 Third Street Ste. 322
San Francisco CA
94107

p. 415.252.7044

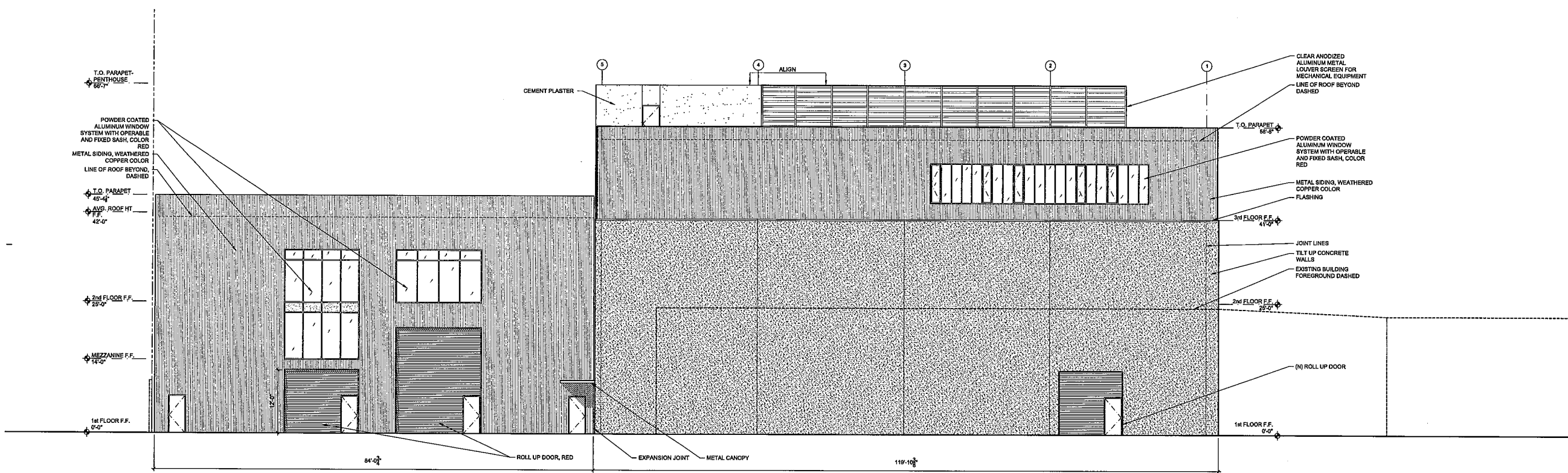


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revisions	number	date



2 ELEVATION - EAST
A3.0 SCALE: 1/8" = 1'-0" GRAPHIC SCALE



1 ELEVATION - NORTH
A3.0 SCALE: 1/8" = 1'-0" GRAPHIC SCALE

ATTHWE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

Issue date	06/06/17
scale	AS NOTED
drawn	MT
checked	
file name	200085 A3.0
job number	200085
drawing	ELEVATIONS - NORTH AND EAST
sheet number	

A3.0
of sheets



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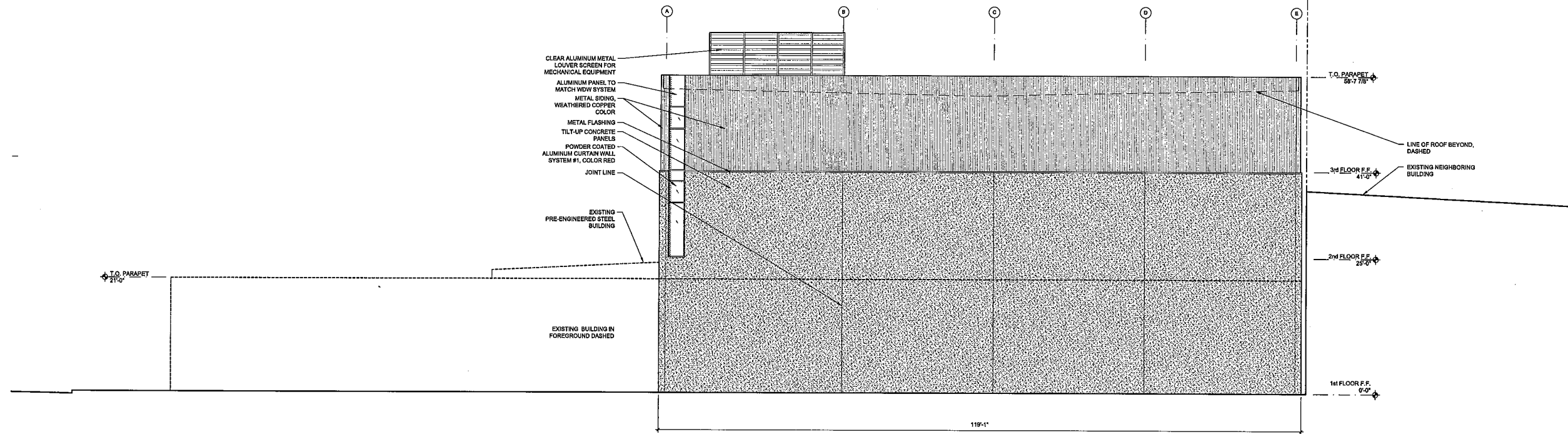
revisions	number	date

ATTHOWE ART WAREHOUSE PHASE 2
1385 16TH STREET
OAKLAND, CA

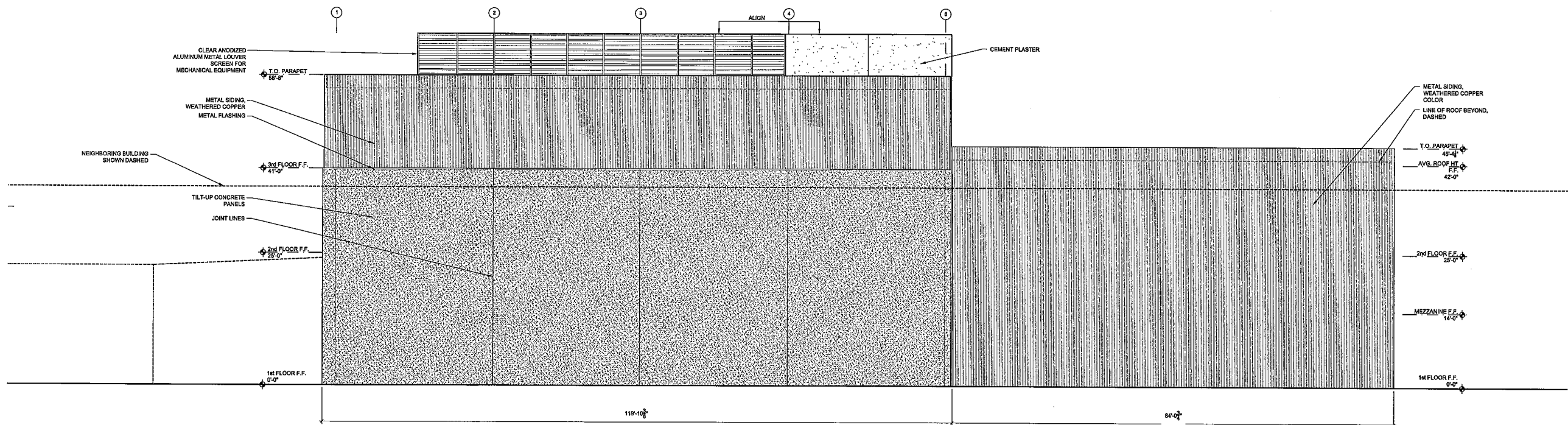
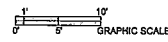
Issue date: 06/06/17
Scale: AS NOTED
Drawn: MT
Checked:
File name: 200085 A3.1
Job number: 200085
Drawing: ELEVATIONS - SOUTH AND WEST
Sheet number:

A3.1

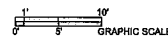
of sheets



2 ELEVATION - WEST
A3.1 SCALE: 1/8" = 1'-0"



1 ELEVATION - SOUTH (FROM PROPERTY LINE)
A3.1 SCALE: 1/8" = 1'-0"

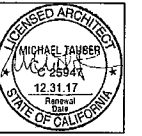




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Architecture

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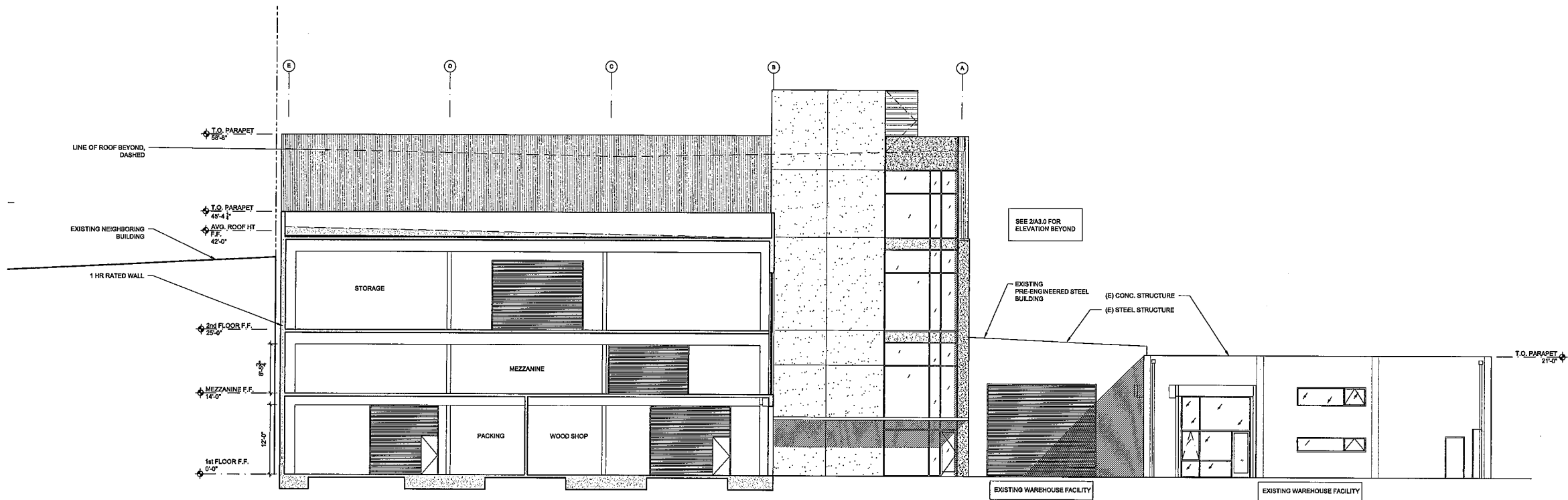
p. 415.252.7044



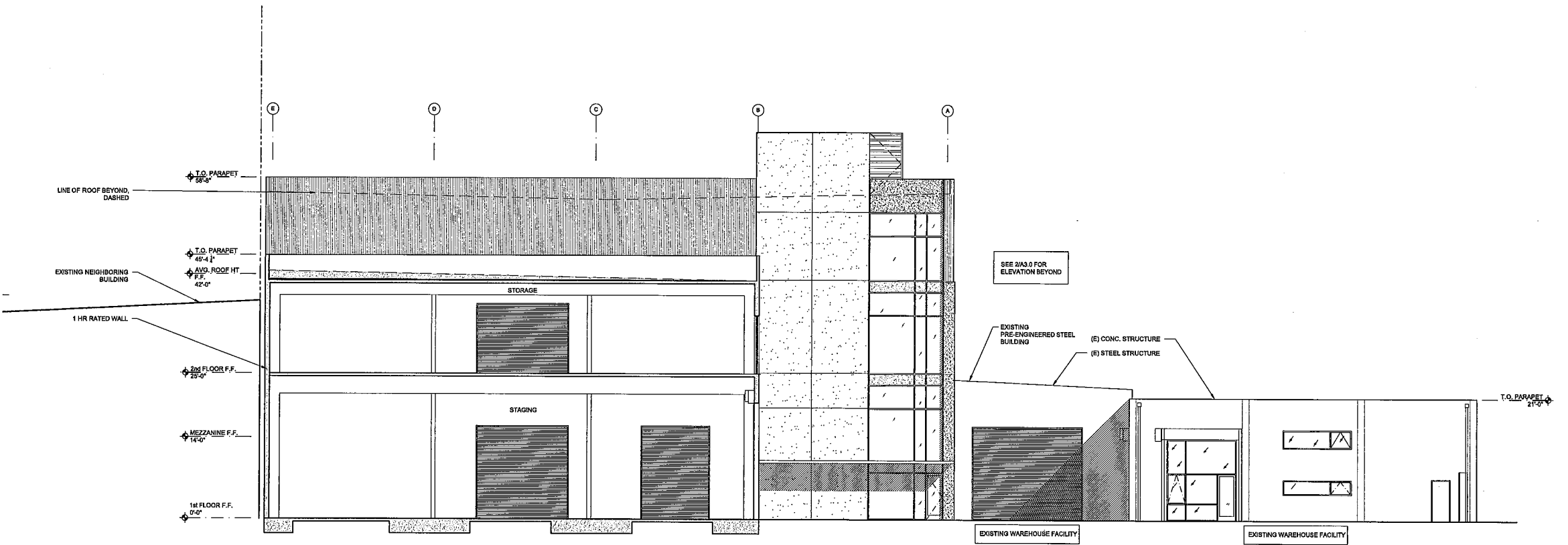
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revisions	number	date



2 TRANSVERSE SECTION THROUGH PRE-ENGINEERED BUILDING
 A3.2 SCALE: 1/8" = 1'-0"
 GRAPHIC SCALE



1 TRANSVERSE SECTION THROUGH PRE-ENGINEERED BLDG
 A3.2 SCALE: 1/8" = 1'-0"
 GRAPHIC SCALE

ATTHOVE ART WAREHOUSE PHASE 2
 1385 16TH STREET
 OAKLAND, CA

Issue date	06/06/17
scale	AS NOTED
drawn	MT
checked	
file name	200085 A3.2
job number	200085
drawing	BUILDING SECTIONS
	TRANSVERSE THROUGH
	PRE-ENGINEERED BLDG
sheet number	

A3.2

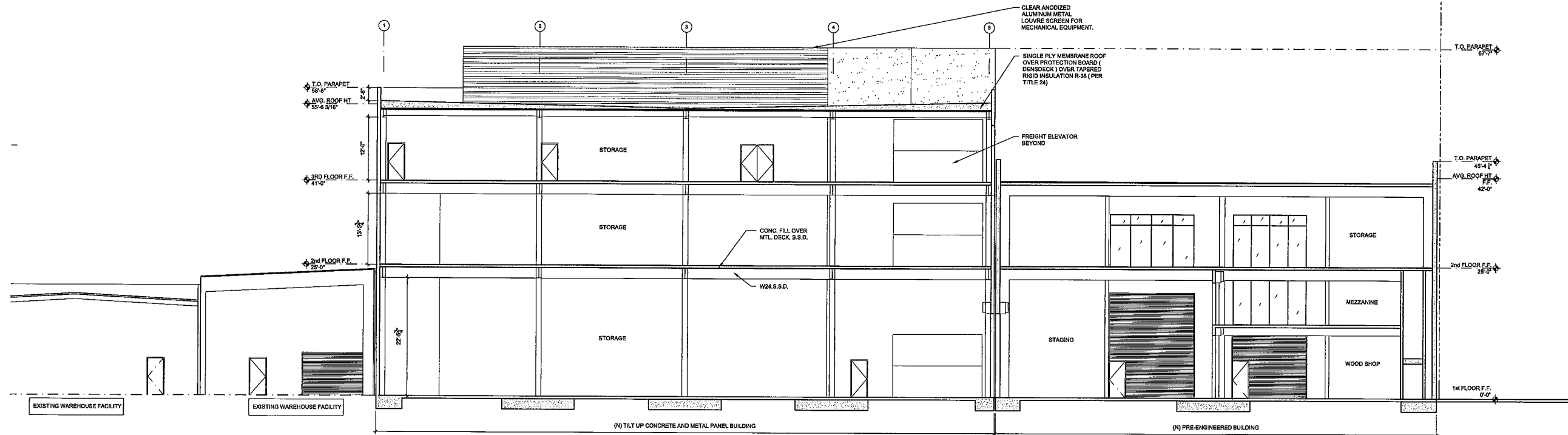
of sheets



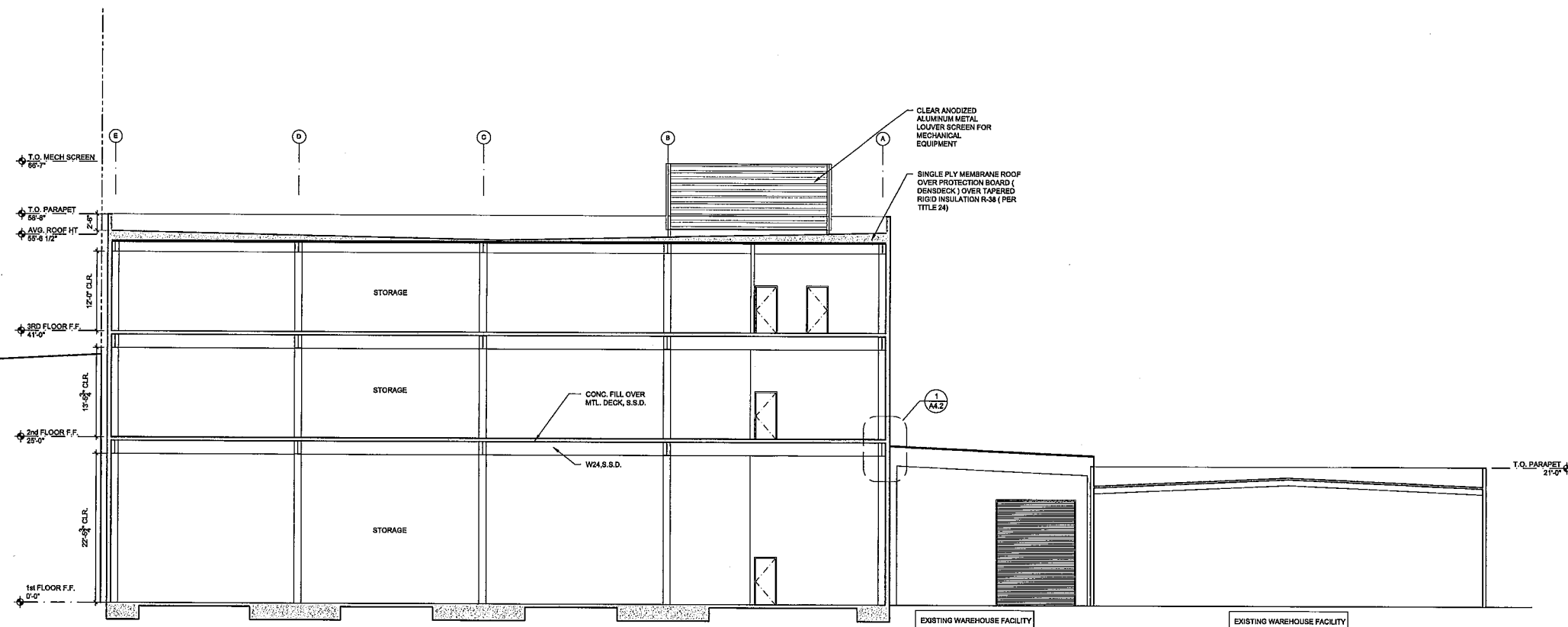
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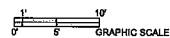
revisions	number	date



2 LONGITUDINAL SECTION
A3.3 SCALE: 1/8" = 1'-0"



1 TRANSVERSE SECTION
A3.3 SCALE: 1/8" = 1'-0"



ATTOWNE ART WAREHOUSE PHASE 2

1385 16TH STREET
OAKLAND, CA

Issue date 06/06/17
scale AS NOTED
drawn MT
checked
file name 200085 A3.3
job number 200085
drawing BUILDING SECTIONS -
TRANSVERSE AND
LONGITUDINAL
sheet number

A3.3

of sheets

Attachment C

2325 Third Street Suite 322
San Francisco, CA 94107

www.michaeltauberarchitecture.com
michael@michaeltauberarchitecture.com

Project Description

Project: 1385 16th Street PLN17-217 – Atthowe Warehouse Addition
September 12, 2017

To:

Jason Madani, Planner II
City of Oakland – Bureau of Planning
250 Frank H. Ogawa, Suite 2114
Oakland, CA 94612
(510) 238-4790

From:

Michael Tauber, AIA
Michael Tauber Architecture
2325 Third Street #322
San Francisco, CA 94107
(415) 252-7044

The proposed project at 1385 16th Street is at the corner of Mandela Parkway and consists of a stepped addition of 2 and 3 stories to an existing single story warehouse facility. This site and the adjacent site to the East was once a single site used as a Carnation Dairy facility. Today, the site has been split and the existing building on the 1385 property is a 30,800 square foot "L" shaped warehouse building composed of a tilt up concrete structure of 21'-0" height with limited openings on the street frontage. The proposed addition consists of 58,761 square feet for a total of 90, 561 square feet and will be 68'-7" at the highest point, the stair penthouse to the roof and the mechanical roof top equipment screen. The addition is stepped back from the street frontages and the East property line to minimize the bulk/massing.

The adjacent building to the East on the block is a two story, flat roofed, dog daycare facility of approximately 32 feet in height which steps down towards the subject property and 16th street to a single story building of approximately 16 feet in height. The day care building is separated from the subject property by a parking lot and driveway ensuring that the proposed design will not adversely affect access to natural light for the dog daycare. The two story portion of the building is the original refrigeration house for Carnation and is constructed of brick painted a bright red color. The new single story portion of the building is clad in a grey metallic fine grained metal panel.

The property directly behind the subject property to the south, is a flat roofed, wholesale retail complex which runs the length of the block from Mandela Parkway to Poplar Street, with an on-grade parking lot extending from the building to the south property line. This building is 2 stories and approximately 32' in height. It is painted white tilt up concrete and has a minimal amount of articulation towards Mandela and only minimal amount of openings (doors and windows) towards the 14th Street parking lot.

Directly across the street to the North, on 16th Street, is an industrial/warehouse building in use by the San Francisco Chronicle. This building is comprised of a long, high bay industrial gabled shed building which runs between Mandela Parkway and Kirkham Street with a single story single slope shed portion facing 16th Street. The height of this building is approximately 18'. The building is largely comprised of a vertical ribbed metal panel which is beige in color and a grey colored concrete block administration building to the south East under the same roof line. There is a small

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San Francisco, CA 94107

www.michaeltauberarchitecture.com
michael@michaeltauberarchitecture.com

Landscaped buffer between the sidewalk and the building line. There is a vehicular access point at the south east portion of the lot and that part of the parcel is not built upon.

Across the street to the East is a single story industrial painted brick building of approximately 18' in height currently being used as a warehouse. The former windows have all been in filled with brick in what appears to have been done in the not recent past. There is one vehicular opening facing Kirkham.

The project sponsors are requesting a minor variance for the reduction of off-street parking. The proposed design provides 10 parking spaces which includes 1 HC space, 1 dedicated to a carpool/ clean air vehicle, and 1 dedicated to electric vehicle with charger. The number of parking will be more than sufficient for the 4 employees who are on-site daily.

The project is also requesting a conditional use to increase the square footage of the warehouse above the current permitted 30,000 Square feet. The project sponsor requests this variance to make his operations more feasible and to consolidate a scattering of facilities throughout Oakland into one central location. He desires to continue to operate in Oakland and be a steward for hiring locally and operating sustainably at this one location.

MEMORANDUM

DATE 5/30/2017
TO City of Oakland Building Department
FROM Lauren Fakhoury, Brightworks
RE **1385 16th Street Addition**
Green Building Ordinance Compliance Letter

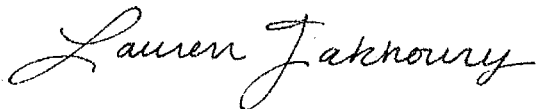
To whom it may concern:

This letter is to verify that, as currently submitted, the 1385 16th Street Addition project will comply with all applicable Title 24 Part 11 (CALGreen) Mandatory Measures. Additionally, to maintain compliance with City of Oakland Green Building Ordinance requirement (LEED Silver verified by a LEED AP) the project team has included a LEED-NC v4 Scorecard. Based on the current planning submittal, the project is targeting compliance with all 42 LEED credit/points designated on the LEED Scorecard under the YES column, and is actively pursuing/verifying the 12 points listed in the "maybe yes" column. The "?YES" column indicates points that are likely for the project to achieve, although final confirmation has not been provided. There is also potential to achieve the design & construction credits designated under the "?NO" columns as feasibility and cost allow.

The team is fully committed to achieving no less than a Silver level of LEED equivalency and will ensure the minimum number of YES points does not fall below 50. Final verification of the permit submittal and design requirements will be undertaken by Brightworks, as will the construction requirements for occupancy. An appropriate Verification Letter will be provided after LEED Silver equivalency has been confirmed.

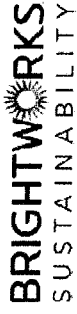
Please contact me if you need any further clarifications related to the project's sustainability goals during the planning review.

Kind regards,



Lauren Fakhoury | Project Manager
BRIGHTWORKS SUSTAINABILITY
+1 (415) 230-2134 (Direct)
Lauren.fakhoury@brightworks.net

LEED NC v4 Scorecard
 1385 16th Street Addition
 5/30/2017



Certified 40-49 points Silver 50-59 points Gold 60-79 points Platinum 80 or more points

Total Project Score

Yes	Y	No	N
42	12	4	52

Y	Y	N	N	Points Possible
1	1	0	0	1
13	0	0	3	16
1	1	0	0	1
2	2	0	0	2
2	2	0	0	2-5
5	5	0	0	1-5
1	1	0	0	1
1	1	0	0	1
1	1	0	0	1

Y	Y	N	N	Points Possible
2	1	2	8	13
Y	Y	Y	Y	5
1	1	1	1	1 or 2
1	1	1	1	1 or 2
2	2	0	0	1 or 2

Y	Y	N	N	Points Possible
4	0	0	6	n/a
1	1	0	0	1
2	2	0	0	1 or 2
1	1	0	0	1
3	3	0	0	2 or 3
2	2	0	0	1 or 2
1	1	0	0	1

Y	Y	N	N	Points Possible
6	3	0	7	16
Y	Y	Y	Y	1
3	3	0	0	1-3
1	1	1	1	1
1	1	1	1	1 or 2
1	1	1	1	1
1	1	1	1	1 or 2
3	3	0	0	1-3
1	1	1	1	1
1	1	1	1	1

Y	Y	N	N	Points Possible
5	0	0	6	n/a
Y	Y	Y	Y	n/a
Y	Y	Y	Y	n/a
1	1	1	1	1 or 2
4	4	0	0	1-6
2	2	0	0	1 or 2
1	1	0	0	1

Y	Y	N	N	Points Possible
4	2	0	0	6
1	1	0	0	1
1	1	0	0	1
1	1	0	0	1
1	1	0	0	1
1	1	0	0	1
1	1	0	0	1

Y	Y	N	N	Points Possible
5	5	2	21	33
Y	Y	Y	Y	n/a
Y	Y	Y	Y	n/a
Y	Y	Y	Y	n/a
3	3	3	14	2-6
2	2	1	1	1-18
1	1	0	0	1
1	1	0	0	1 or 2
1	1	0	0	1-3
1	1	0	0	1
1	1	0	0	1 or 2

Y	Y	N	N	Points Possible
2	1	0	1	4
1	1	0	0	1
1	1	0	0	1
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1	1	0	0	1
1	1	0	0	1
1	1	0	0	1



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

March 2, 2011

Mr. Michael Desso (sent via E-mail to: michael.desso@us.nestle.com)
800 North Brand Blvd.
Glendale, CA 91203

Mr. Mark Hall (sent via E-mail to: markh@hallequitiesgroup.com)
Encinal 14th Street, LLC
1855 Olympic Blvd., Suite 250
Walnut Creek, CA 94596

Subject: Case Closure for SLIC Case No. RO0000018 and GeoTracker Global ID T0600100262,
Carnation Dairy, 1310 14th Street, Oakland, CA 94607

Dear Mr. Desso and Mr. Hall:

This letter confirms the completion of site investigation and remedial actions for the soil and groundwater investigation at the above referenced site. We are also transmitting the enclosed case closure summary. These documents confirm the completion of the investigation and cleanup of the reported releases at the subject site with the provision that the information provided to this agency was accurate and representative of existing conditions. The subject Spills, Leaks, Investigation, and Cleanup (SLIC) case is closed. This case closure letter and the case closure summary can also be viewed on the State Water Resources Control Board's Geotracker website (<http://geotracker.swrcb.ca.gov>) and the Alameda County Environmental Health website (<http://www.acgov.org/aceh/index.htm>).

SITE INVESTIGATION AND CLEANUP SUMMARY

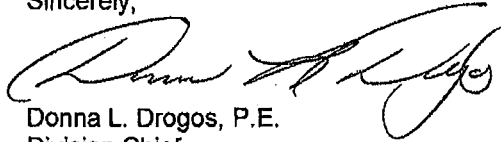
Please be advised that the following conditions exist at the site:

- Total petroleum hydrocarbons as gasoline remain in soil beneath the site at concentrations up to 12,000 parts per million (ppm).
- Benzene remains in groundwater beneath the site at concentrations up to 50,000 parts per billion (ppb).
- Due to the residual contamination, a Covenant and Environmental Restriction was recorded for the site on February 25, 2011. The Covenant and Environmental Restrictions limit future land use to commercial or industrial land use only and requires that the residual contamination be capped to limit potential exposure. If the cap is to be disturbed by excavation or construction, approved development/construction plans must be submitted to ACEH for review and approval.
- The restrictions on this site are to be entered into the City Of Oakland Permit Tracking System due to the residual contamination on the site.

Responsible Parties
RO0000018
March 2, 2011
Page 2

If you have any questions, please call Jerry Wickham at (510) 567-6791. Thank you.

Sincerely,



Donna L. Drogos, P.E.
Division Chief

Enclosure: Case Closure Summary

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341,
Oakland, CA 94612-2032 (Sent via E-mail to: lgriffin@oaklandnet.com)

Kenneth Cheitlin, Hall Equities Group, 1855 Olympic Blvd., Suite 250
Walnut Creek, CA 94596 (sent via E-mail to KenC@hallequitiesgroup.com)

Jennifer Costanza, Nestle USA, Inc., 800 North Brand Blvd.
Glendale, CA 91203 (sent via E-mail to jennifer.costanza@us.nestle.com)

Brent Searcy, Environmental Cost Management, 3525 Hyland Avenue, Suite 200, Costa Mesa, CA
92626 (sent via E-mail to bsearcy@ecostmanage.com)

Markus Niebanck, amicus, 580 Second Street, Suite 260, Oakland CA 94607 (Sent via E-mail to:
markus@amicusenv.com)

Donna Drogos, ACEH (Sent via E-mail to: donna.drogos@acgov.org)

Jerry Wickham, ACEH (Sent via E-mail to: jerry.wickham@acgov.org)

GeoTracker, e-File



2011066645

02/25/2011 09:02 AM

OFFICIAL RECORDS OF ALAMEDA COUNTY

PATRICK O'CONNELL

RECORDING FEE

132.00

of Document Recorded



40 PGS

Recording Requested By:

Encinal 14th Street, LLC
c/o Hall Equities Group
1855 Olympic Boulevard, Suite 250
Walnut Creek, CA 94596

When Recorded, Mail To:

Ariu Levi, Director
Alameda County Environmental Health Services
1131 Harbor Bay Parkway
Alameda, California 94502

**COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY**

(APN: 005-0482-2)

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 9th day of February, 2011, by Encinal 14th Street, LLC, a California-limited liability company ("Covenantor") who is the Owner of record of that certain property situated at 1385 16th Street, in the City of Oakland, County of Alameda, State of California, which is more particularly described as Parcel "B" on Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the Alameda County Environmental Health Services (the "County"), with reference to the following facts:

A. The Burdened Property and groundwater underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. Soil at the Burdened Property was contaminated by releases from petroleum underground storage tanks. These releases resulted in contamination of soil and groundwater with organic chemicals including benzene, toluene, ethylbenzene, xylenes, and 1,2-dichloromethane, which are hazardous materials as that term is defined in Health & Safety Code Section 25260. Removal of underground storage tanks and remediation of the petroleum hydrocarbons was initiated in January 1988 and is summarized below:

Tank, Line and Dispenser Removal

Four (4) underground fuel storage tanks containing gasoline and diesel fuel and associated piping were removed in December 1988. One (1) 1,000 gallon used-oil tank was removed in January 1989.

Remedial Actions

Soil Excavation: Between January and March 1989, 1,200 cubic yards of soil

were removed in the area of the former underground storage tanks and associated piping. This soil was treated onsite and replaced back in the excavated area.

Liquid Petroleum Hydrocarbon Removal: Liquid petroleum hydrocarbons were removed using a product skimming system from the subsurface during January through March 1989. Approximately 1,800 gallons were removed during this time period.

Soil Vapor Extraction: A soil vapor extraction system operated from January 1994 to December 1995 and removed an estimated 5,200 gallons of hydrocarbon.

Multi-phase Extraction: A multi-phase extraction system has been operating at the site since August 1997. Approximately 10,500 pounds of hydrocarbons have been removed using this system. Thickness of petroleum hydrocarbons decreased since August 1997.

C. **Exposure Pathways:** The contaminants addressed in this Covenant are present in soil and groundwater on the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, exposure to these contaminants could take place via

- ingestion and dermal contact with surface soils and
- inhalation of volatile emissions from subsurface soils and groundwater.

The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. **Adjacent Land Uses and Population Potentially Affected.** The Burdened Property is currently an unused industrial facility and is adjacent to industrial, commercial, and residential land uses.

E. Full and voluntary disclosure to the County of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the County, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

A R T I C L E I GENERAL PROVISIONS

1.1 **Provisions to Run with the Land.** This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence

on the land of hazardous materials Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the County and all Owners and Occupants Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code Each and all of the Restrictions are enforceable by the County

1 2 Concurrence of Owners and Lessees Presumed All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the County and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein

1 3 Incorporation into Deeds and Leases Covenanter desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease

1 4 Purpose It is the purpose of this instrument to convey to the County real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials

A R T I C L E I I D E F I N I T I O N S

2 1 County "County" shall mean the Alameda County Environmental Health Services and shall include its successor agencies, if any

2 2 Improvements "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property

2 3 Occupants "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property

2 4 Owner or Owners "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the

Burdened Property.

A R T I C L E I I I
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED
PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development of the Burdened Property shall be restricted to industrial and commercial use;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;
- f. No Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on the Property, unless expressly permitted in writing by the County. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with all applicable provisions of local, state and federal law;
- g. All uses and development of the Burdened Property shall be consistent with any applicable County Cleanup Order or Risk Management Plan (Exhibit B), each of which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, unless otherwise expressly permitted in writing by the County.
- h. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the County.
- i. The Owner shall notify the County of each of the following: (1) The type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the County shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs. The Covenantor agrees that the County, and/or any persons acting pursuant to County

cleanup orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code

J No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property All use and development of the Burdened Property shall preserve the integrity of any capped areas In the event that the site is to be redeveloped for commercial or industrial land use, replacement of the existing building slab during site development may be acceptable provided that

- 1 The new building slab provides a similar or greater level of protection from vapor intrusion as the existing building slab
- 2 No subsurface structures are constructed other than utility trenches
- 3 No unexpected conditions are encountered during removal of the existing slab
- 4 The new perimeter building foundation will extend to a similar depth as the existing perimeter foundation to potentially provide a similar barrier to off-site contaminant migration
- 5 Approved development/construction plans are to be submitted to the County for review and approval to assure that the above conditions are met and the integrity of the cap will be maintained

3 2 Enforcement Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3 1, shall be grounds for the County, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph Violation of the Covenant shall be grounds for the County to file civil actions against the Owner as provided by law

3 3 Notice in Agreements After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property Any such instrument shall contain the following statement

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of _____, _____, 2011, and recorded on _____, 2011, in the Official Records of _____ County, California, as Document No _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein This statement is not a declaration that a hazard exists

A R T I C L E I V
VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the County for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to the County for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

A R T I C L E V
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Covenantor"
Encinal 14th Street, LLC
c/o Hall Equities Group
1855 Olympic Boulevard, Suite 250
Walnut Creek, CA 94596

If To: "County"
Alameda County Environmental Health
Services Attention: Director
1131 Harbor Bay Parkway
Alameda, California 94502

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the

Director of Environmental Health Services. This instrument shall be recorded by the Covenantor in the County of Alameda within ten (10) days of the date of execution.

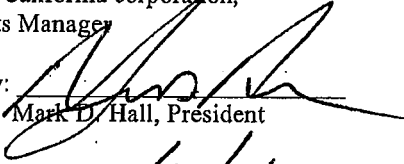
5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

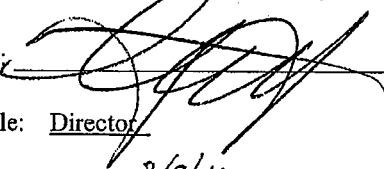
Covenantor: Encinal 14th Street, LLC;
a California limited liability company

By: Hall Encinal, Inc.,
a California corporation,
its Manager

By: 
Mark D. Hall, President

Date: 2/9/11

Agency: Alameda County Environmental Health Services

By: 

Title: Director

Date: 2/9/11

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Contra Costa }

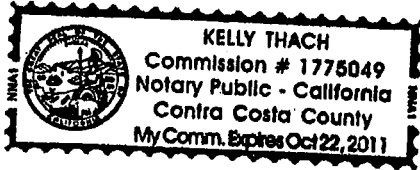
On Feb. 4, 2011 before me, Kelly Thach, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Mark D. Hall
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s); or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature: Kelly Thach
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

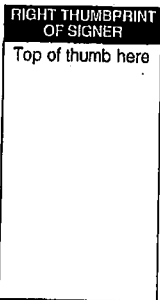
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

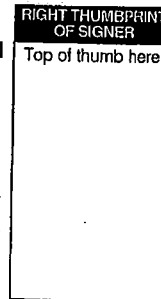
Signer's Name: _____ Signer's Name: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Alameda }

On 2/9/11 before me, W. Luis, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Ariou Levi
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature: [Handwritten Signature]
Signature of Notary Public



Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

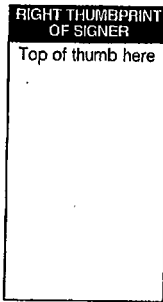
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

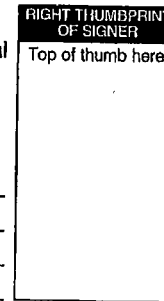
Signer's Name: _____ Signer's Name: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY STATES THAT THEY ARE THE OWNER OF THE LAND DELINEATED AND EMBRACED WITHIN THE EXTERIOR BOUNDARY LINES ON THE HEREON EMBODIED MAP ENTITLED "PARCEL MAP 9733, CITY OF OAKLAND, ALAMEDA COUNTY, STATE OF CALIFORNIA"; THAT SAID OWNERS ACQUIRED TITLE TO SAID LAND BY VIRTUE OF THE DEED RECORDED ON JUNE 12, 2000 UNDER SERIES NO. 200075686, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA; THAT THEY CONSENT TO THE PREPARATION AND FILING OF THIS MAP.

THIS MAP SHOWS ALL EASEMENTS ON THE PREMISES, OR OF RECORD.

OWNER:
ENONCAL 14TH STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
BY: HALL ENONCAL, INC., A CALIFORNIA CORPORATION
ITS: MANAGER
BY: Mark D. Hall
MARK D. HALL
ITS: PRESIDENT

OWNER'S ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF Contra Costa) SS
ON September 3, 2008 BEFORE ME,
John J. Trinch A

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED
Mark D. Hall

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE /THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES) AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

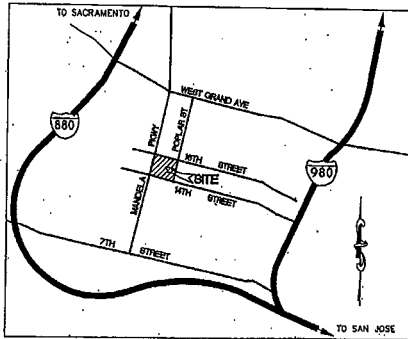
SIGNATURE John J. Trinch
NAME (TYPED OR PRINTED), NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

PRINCIPAL COUNTY OF BUSINESS: Contra Costa
COMMISSION EXPIRES: 08/28/2011
COMMISSION # OF NOTARY: 17150445

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION-MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE ENONCAL 14TH STREET, LLC IN JULY OF 2008. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE PARCEL MAP, IF ANY. I HEREBY STATE THAT THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATE: 08/27/08
Mark J. D'Alto
MARK J. D'ALTO
L.S. 4210
EXPIRATION DATE: 6-30-10



VICINITY MAP
NTS

CITY ENGINEER'S STATEMENT

I, RAYMOND M. DERANIA, INTERIM CITY ENGINEER, HAVING BEEN AUTHORIZED TO PERFORM THE FUNCTIONS OF THE CITY ENGINEER OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, FOR THE PURPOSE OF REVIEWING SUBDIVISION MAPS, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE HEREON EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 9733, CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA" THAT THE SUBDIVISION AS SHOWN UPON SAID PARCEL MAP IS SUBSTANTIALLY THE SAME AS THAT APPEARING ON THE TENTATIVE PARCEL MAP AND ANY APPROVED ALTERATIONS THEREOF, THAT SAID PARCEL MAP COMPLIES WITH ALL PROVISIONS OF THE SUBDIVISION MAP ACT OF THE GOVERNMENT CODE AND THE LOCAL ORDINANCES APPLICABLE AT THE TIME OF THE TENTATIVE MAP; AND THAT I AM SATISFIED THAT THE PARCEL MAP IS TECHNICALLY CORRECT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 15th DAY OF September, 2008

Raymond M. Derania
RAYMOND M. DERANIA, RCE 27815
INTERIM CITY ENGINEER
ALAMEDA COUNTY, STATE OF CALIFORNIA
LICENSE EXPIRES: 03-31-10



SEISMIC HAZARD DISCLOSURE NOTE:

THIS REAL PROPERTY LIES WITHIN A SEISMIC HAZARD ZONE-LIQUEFACTION ZONE PURSUANT TO SECTION 2808 OF THE STATE OF CALIFORNIA PUBLIC RESOURCES CODE. THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER. THE MAPS PREPARED BY THE STATE GEOLOGIST ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL DISASTERS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S) AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

PARCEL MAP 9733

ALL OF LOTS 7, 8, 9, 10, 11, 12, 13, AND 14 AND PORTIONS OF LOTS 5, 6, AND 15, BLOCK 583, FILED APRIL 25, 1981 (10 M 56); ALL OF LOTS 7, 8, 19, 30, 31, AND 32 AND A PORTION OF LOT 29, BLOCK 583, MAP NO. 1 OF A PORTION OF THE SCOTCHLER TRACT AND VICINITY FILED DECEMBER 10, 1874 (7 M 21); ALL OF LOTS 6, 9, 10, 11, 14, 16, 17, 18, 20 AND 21 AND PORTIONS OF LOTS 4, 5, 12, 13, 15, AND 22, BLOCK 583, MAP OF THE SCOTCHLER TRACT FILED NOVEMBER 3, 1870 (2 M 10); A PORTION OF 15TH STREET (2 M 10); A PORTION OF KIRKHAM STREET (2 M 10); ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 19, 20, 21, 22, 23 AND PORTIONS OF LOTS 13, 16, 17, 18, 24, AND 25, BLOCK 584, REDIVISION OF BLOCKS 584, 585, 601, 153, AND 580A FILED MAY 1, 1885 (4 M 25) ALL IN ALAMEDA COUNTY RECORDS. CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AUGUST 2008

CLERK OF THE BOARD OF SUPERVISORS STATEMENT

I, Special Victoria Grant, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT CERTIFICATES HAVE BEEN FILED AND DEPOSITS HAVE BEEN MADE IN CONFORMANCE WITH THE REQUIREMENTS OF SECTIONS 66492 AND 66493 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

DATED: August 2008
CLERK OF THE BOARD OF SUPERVISORS, COUNTY OF ALAMEDA, STATE OF CALIFORNIA
Victoria Grant
182,744-08

RECORDER'S CERTIFICATE

FILED AT THE REQUEST OF FIRST AMERICAN TITLE INSURANCE COMPANY AT 1420 P.M. ON THE 16th DAY OF September, 2008. RECORDERS SERIAL NO. 200802098 IN BOOK 318 OF MAPS AT PAGES 178 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA. 20080910

COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA
BY: Debra Knis



Parcel Map 9733

Map Bk. 310 pp 171a

NOTES

- ① SUBJECT TO ANY RIGHTS RESERVED PER 431 M 521 AND SERIES 83-212908.
- ② RIGHTS OF INGRESS/EGRESS TO ANY PROPOSED STATE OF CALIFORNIA FREEWAY ARE RESERVED BY 7804 OR 225 AND 7749 OR 447.

PARCEL MAP 9733

ALL OF LOTS 7, 8, 9, 10, 11, 12, 13, AND 14 AND PORTIONS OF LOTS 5, 6, AND 15, BLOCK 583, FILED APRIL 25, 1891 (10 M 56); ALL OF LOTS 7, 8, 19, 30, 31, AND 32 AND A PORTION OF LOT 29, BLOCK 583, MAP NO. 1 OF A PORTION OF THE SCOTCHLER TRACT AND VICINITY FILED DECEMBER 10, 1874 (7 M 21); ALL OF LOTS 6, 9, 10, 11, 14, 16, 17, 18, 20 AND 21 AND PORTIONS OF LOTS 4, 5, 12, 13, 15, AND 22, BLOCK 583, MAP OF THE SCOTCHLER TRACT FILED NOVEMBER 3, 1870 (2 M 10); A PORTION OF 15TH STREET (2 M 10); A PORTION OF KIRKHAM STREET (2 M 10); ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 19, 20, 21, 22, 23 AND PORTIONS OF LOTS 13, 16, 17, 18, 24, AND 25, BLOCK 584, REDIVISION OF BLOCKS 584, 585, 601, 153, AND 580A FILED MAY 1, 1885 (4 M 25) ALL IN ALAMEDA COUNTY RECORDS. CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AUGUST 2008 1"=50'



ALICQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS

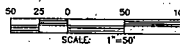
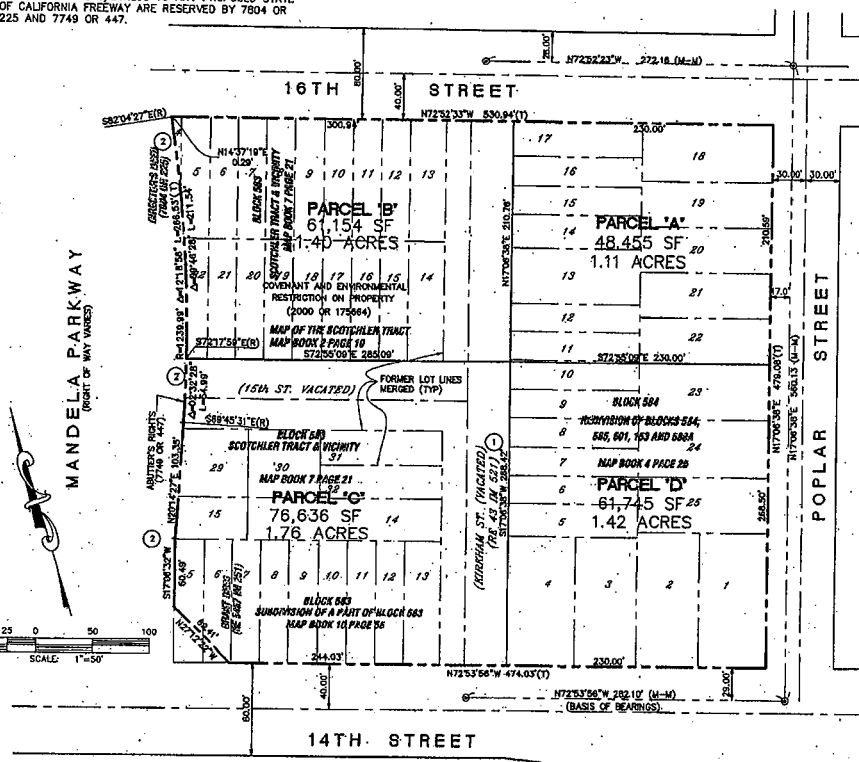
1390 SOUTH MAIN STREET, SUITE 310
WALNUT CREEK, CA 94598

LEGEND

- FOUND STANDARD STREET MONUMENT
- (M-M) MONUMENT TO MONUMENT
- BOUNDARY
- LOT LINE
- MONUMENT LINE
- CENTER LINE
- SF SQUARE FEET
- (T) TOTAL

REFERENCES

- R1: BLOCK 583, APRIL 25, 1891 (10 M 56)
- R2: BLOCK 583, MAP NUMBER 1 OF A PORTION OF THE SCOTCHLER TRACT AND VICINITY, DECEMBER 10, 1874 (7 M 21)
- R3: BLOCK 583, MAP OF THE SCOTCHLER TRACT NOVEMBER 3, 1870 (2 M 10)
- R4: BLOCK 584, REDIVISION OF BLOCKS 584, 585, 601, 153, AND 580A MAY 1, 1885 (4 M 25)



08/12

EXHIBIT B

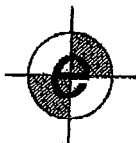
Report to:

Nestlé USA, Inc.
800 North Brand Boulevard
Glendale, California 91203

Risk Management Plan
1310 14th Street, Oakland, CA

February 3, 2011

Prepared By:



ENVIRONMENTAL COST MANAGEMENT, INC.
Managing Cost and Liability

3525 Hyland Avenue, Suite 200
Costa Mesa, California 92626
Main: (714) 662-2739 Fax: (714) 662-2738
www.ecostmango.com

Binayak Acharya

Binayak Acharya
Program Manager

February 3, 2011
Date

Brent Searcy

Brent Searcy, P.E.
Senior Engineer

February 3, 2011
Date



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- Figure 2: Deed Restricted Area

APPENDICES

- Appendix A: Covenant and Environmental Restriction (Deed Restriction)

ACRONYMS and ABBREVIATIONS

AB	Assembly Bill
ACEH	Alameda County Environmental Health
BTEX	benzene, toluene, ethylbenzene, total xylenes
bgs	below ground surface
Cal/EPA	California Environmental Protection Agency
CAP	<i>Corrective Action Plan</i>
CCR	California Code of Regulations
CFR	Code of Federal Regulations
COFS	City of Oakland Fire Services
COPCs	chemicals of potential concern
1,2-DCA	1,2-dichloroethane
HASP	health and safety plan
HVOCs	halogenated volatile organic compounds
IIPP	Injury and Illness Prevention Program
LPH	liquid-phase hydrocarbons
µg/kg	micrograms per kilogram
mg/kg	milligrams per kilogram
ND	non-detect
PCBs	polychlorinated biphenyls
RBCA	risk-based corrective action
RMP	<i>Risk Management Plan</i>
SCM	<i>Site Conceptual Model</i>
TPH-d	Total petroleum hydrocarbons in the diesel range
TPH-g	Total petroleum hydrocarbons in the gasoline range
TPH-mo	Total petroleum hydrocarbons in the motor oil range
USEPA	United States Environmental Protection Agency
USTs	underground storage tanks
VOCs	volatile organic compounds

1. INTRODUCTION

On behalf of Nestlé USA, Inc. (Nestlé), Environmental Cost Management, Inc. (ECM) has prepared this *Revised Risk Management Plan* (RMP) for the Site located at 1310 14th Street, Oakland, California (**Figure 1**). **Figure 2** outlines the area for which the restrictions and risk management protocols discussed in this document apply. This RMP responds to requests made in a June 9, 2010 letter from the Alameda County Environmental Health Care Services (ACEH). The June 9, 2010 letter acknowledged ECM's submittal of the April 2010 *Corrective Action Plan (CAP) Report*¹ and requested the RMP as part of the recommended final corrective action and institutional controls for the Site. The RMP includes the Deed Restriction filed for the portion of the property formerly operated by Nestlé (**Appendix A**). In addition, potential health risks associated with commercial/industrial occupants at the Site have been evaluated and documented in the May 18, 2009 *Screening Health Risk Evaluation* and the March 22, 2010 *Sub-slab Soil Gas Sampling and Analysis Report*.

This RMP describes the specific risk management measures that will be implemented prior to, during, and after any future development of the Site. It was prepared solely for use within the Site and is not intended for management of risks outside of this area. Although this RMP sets forth the requirements to appropriately manage the chemicals in soil and groundwater, the RMP is not intended to catalog all other legal requirements that may apply to the project or to activities conducted within the Site area.

Current and future owners and lessees, occupants and managers, or contractors delegated or authorized to perform property maintenance or construction are required to comply with the measures identified in the RMP when engaging in the relevant activities discussed. A Deed Restriction for the portion of the property formerly operated by Nestlé (Site) has been recorded in February 2011 with the ACEH (**Appendix A**). **Figure 2** shows the deed-restricted portion of the property, referred to as the Site in this RMP report. The Deed Restriction requires Owner and/or Lessee compliance with the RMP measures. Specifically, the Deed Restriction places responsibility for compliance with the Owner and/or Lessee of the Site at the time the activity is conducted, even when such Owner or Lessee has contracted with another party to perform those measures. The term "Owner" or "Owners", as used in this RMP, shall mean those persons (whether individuals, corporations, or other legal entities) who, at such time when activities regulated by this RMP are conducted, hold title to the Site. The term "Lessee" or "Lessees", as used in this RMP, shall mean those persons who are entitled by ownership, leasehold, license, permit, or other legal relationship with the Owner, to enter and exclusively occupy the Site and to engage in activities that are regulated by this RMP. A former Owner or former Lessee, licensee, permittee, or other former holder of a property or contract right who, at such time when activities regulated by this RMP are conducted, no longer holds an interest in title to a parcel or no longer has a property or contract interest in a parcel, will not be considered an Owner or Lessee for the purposes of this RMP.

The California Environmental Protection Agency (Cal/EPA) has designated ACEH as the "Administering Agency" under Assembly Bill (AB) 2061, in December 1998. As the Administering Agency, ACEH is responsible for overseeing implementation of the CAP recommendations, approval of the necessary institutional control documents (i.e., this RMP and the associated Deed Restriction (**Appendix A**)), and closure requirements of the Site.

The *Screening Health Risk Evaluation and 2010 Sub-slab Soil Gas Sampling and Analysis Report* concluded that the chemicals of potential concern (COPCs) observed at the Site do not pose a significant risk to daily site occupants under a commercial/industrial land use scenario, provided that a surface cap of the soil, exclusive of minor landscape areas, is maintained. The surface cap consists of the existing building foundation and paved surfaces that prevent direct exposure to residual contamination. In addition, implementation of risk management practices, as described in this RMP, is recommended to address potential health risks associated with direct exposure of construction workers to chemicals beneath the site during any work requiring disturbance of the cap.

2. SITE BACKGROUND

2.1. SITE LOCATION

The property is located at 1310 14th Street, Oakland, California. The deed-restricted area is located in the northwest portion of the property (**Figure 1**). The deed-restricted portion of the property is bounded by 16th Street to the north and Mandela Parkway to the west. As of the date of this RMP, an "L" shaped building is present on the Site. The "L" shaped building once housed warehouse and service bay facilities.

The topography slopes gently to the west, toward San Francisco Bay. Land use in the immediate area is primarily light industrial, with some commercial property and residences located east and west of the property.

2.2. SITE HISTORY

Ice cream and packaged milk were once manufactured on the Site. The Site was also used for the distribution of ice cream and packaged fresh milk by trucks. A maintenance yard for vehicles used in the distribution of dairy products operated at the facility and included underground fuel and waste oil storage tanks.

The original facilities were constructed by American Creamery in 1915. The Carnation Company purchased the property in 1929 and made additions and improvements to the buildings between 1946 and 1973 for dairy product processing and distribution. Nestlé (as Nestlé USA, Inc.) assumed operation of the property following the purchase of Carnation in approximately 1985. Nestlé ceased operations at the property in 1991, and the property, including the Site (northwestern portion of property) was sold to Encinal 14th Street, LLC in July 2000.

2.2.1. ADJACENT LAND USE

Land use surrounding the property/Site is light industrial and residential. Facilities to the north and south of the Site are primarily light industrial. Immediately east of the site are light industrial facilities, with residential land use extending from approximately one block east of the Site to Interstate 980 (I-980). West of the Site is a mixed light industrial and residential area.

ETIC Engineering conducted database searches and door-to-door well surveys for areas surrounding the site in November 1999². No active water supply wells were identified during

these efforts. The January 2001 *Comprehensive Site Characterization Report*³ documents the aforementioned well surveys and database searches.

2.3. SUMMARY OF SITE INVESTIGATIONS AND CURRENT ENVIRONMENTAL CONDITIONS

Following the discovery of hydrocarbons in the subsurface during the December 1988 and January 1989 excavation of underground storage tanks (USTs) at the Site, multiple phases of site characterization and remediation have taken place. The following sections provide an overview of the delineation of COPCs, as well as the various remediation activities undertaken to address impacts at the Site.

2.3.1. SOIL GAS CHARACTERIZATION

Soil gas samples were collected across the Site during three separate studies (August 1999, May 2008, and January 2010) to evaluate the magnitude and extent of volatile organic compounds (VOCs) in shallow soil gas. All soil gas investigations addressed soil vapor conditions following active remediation activities. As directed by ACEH, a focused sub-slab vapor sampling event was conducted in January 2010.

Following the May 2009 submittal of a Draft CAP Report and the *Screening Health Risk Evaluation*, ACEH requested additional subslab sampling to verify the site-specific calculation of exposure risks to on-site commercial workers. Sub-slab soil gas sampling was performed on January 6, 2010 at six locations beneath the existing, unoccupied onsite commercial/industrial building. The results of the subslab sampling were reported in the March 2010 *Sub-slab Soil Gas Sampling and Analysis Report*.

The findings of the sub-slab soil gas data evaluation included:

- No chemical was detected in any sample at a concentration exceeding its cancer-based or noncancer-based screening level.
- The estimated cumulative cancer risk at every sampling location is below the accepted exposure level of 1×10^{-6} , as defined, and endorsed by, relevant state and federal agencies⁴.
- The estimated cumulative noncancer hazard index ranges from 0.0094 to 0.12 across the six primary sub-slab soil gas samples, and thus is below the threshold noncancer level of 1.0 at all locations.

These results are consistent with the previous screening-level vapor intrusion evaluation of the building, and confirm the lack of exposure risks to on-site commercial workers posed by residual hydrocarbon impacts currently beneath the Site.

2.3.2. SOIL CHARACTERIZATION

Three separate historical field investigations in 1991, 1999, and 2008 involved subsurface soil sampling and analysis. Soil data gathered after active remediation activities were integrated into the three dimensional model of hydrocarbon impacts presented in the November 2008 *Revised Site Conceptual Model Report (Revised SCM Report)*⁵.

The 1991 soil boring investigation data indicated that impacts from total petroleum hydrocarbons in the gasoline range (TPH-g) were mainly limited to the 5 to 15-foot interval

below ground surface (bgs). The maximum TPH-g concentration at 5 feet bgs was 2,500 milligrams per kilogram (mg/kg). At 10 feet bgs, the maximum TPH-g concentration was 10,000 mg/kg. By 15 feet bgs, the maximum TPH-g concentration dropped to 1,900 mg/kg, and at 20 feet bgs, the maximum TPH-g level decreased to 260 mg/kg.

The distribution of total petroleum hydrocarbons in the diesel range (TPH-d) followed a pattern similar to that of TPH-g. The maximum TPH-d impact at 5 feet bgs was 470 mg/kg. At 10 feet bgs, the maximum TPH-d concentration increased to 940 mg/kg. By 20 feet bgs, the maximum TPH-d concentration dropped to 23 mg/kg.

Thirteen soil borings were advanced and sampled during the August 1999 soil investigation. The locations of the borings represented subsurface conditions in the area downgradient (NNW) of the UST source areas and assessed impacts beneath the footprint of the L-shaped building on the northwest edge of the property. Low levels (at or below 2.7 micrograms per kilogram [$\mu\text{g}/\text{kg}$]) of 1,2-dichloroethane (1,2-DCA), toluene, ethylbenzene and total xylenes were observed in the 3.5 to 4-foot bgs interval. The maximum TPH-d was 1,200 mg/kg in this interval.

Sporadic concentrations of hydrocarbons and halogenated-VOCs (HVOCs) characterized the soil at the water table (6.5 to 7 feet bgs). Concentrations of 1,2-DCA ranged from below laboratory reporting limits at multiple locations, to 430 $\mu\text{g}/\text{kg}$ of 1,2-DCA. Concentrations of TPH-g ranged from 2.25 to 10,100 mg/kg, and TPH-d ranged from 60 to 2,900 mg/kg. Benzene concentrations ranged from 0.07 to 76 mg/kg.

For the May 2008 soil sampling investigation, 15 soil borings were advanced using a 2-inch diameter direct-push Geoprobe[®] coring method and logged⁶. Soil samples were analyzed for TPH-g, TPH-d, and TPH as motor oil (TPH-mo). Soil samples were also analyzed for 1,2-DCA. Elevated levels of hydrocarbons were detected at borings located to the north and northwest of the former UST locations. TPH-g ranged from non-detect (ND) up to 12,000 mg/kg. TPH-d ranged from ND up to 17,000 mg/kg. TPH-mo ranged from ND up to 13,000 mg/kg. Concentrations of 1,2-DCA were not detected above detection limits at any of the soil boring sampling locations.

2.3.3. GROUNDWATER CHARACTERIZATION

As many as 65 monitoring wells were sampled quarterly and semi-annually to characterize dissolved hydrocarbons and VOCs in groundwater between 1994 and 2004. The number of wells monitored was reduced in 2004, consistent with ACEH approval in November 2002. Between December 2002 and late 2004, 11 monitoring wells were sampled. Grab groundwater samples were collected during the May 2008 soil boring investigation. Cumulative groundwater monitoring results (1993 through 2008) are provided in the November 2008 Revised SCM Report⁷

Historical groundwater results indicate that TPH-g and benzene detections above reportable limits are generally limited to the area immediately downgradient (NNW) of the former USTs. Groundwater monitoring data do not indicate any predominant or persistent source of HVOCs.

ACEH had also requested delineation of the potential presence of polychlorinated biphenyls (PCBs) in the subsurface at the Site⁸, which was completed as part of the May 2008 soil investigation discussed in Section 2.3.2. Groundwater samples were collected during this

investigation and analyzed for PCBs at eight boring locations. No PCBs were detected⁹. The absence of PCB detections in groundwater confirms that PCBs are not present at the Site.

Liquid phase hydrocarbons (LPH) were first observed at the Site in the area of the USTs and maintenance bays during UST removal in 1988. Following the cessation of regular LPH monitoring in August 2001, semi-annual groundwater sampling was continued at 11 on- and off-site wells from November 2002 through November 2004. LPH was not observed in any of the 11 monitoring wells monitored as part of the semi-annual sampling events.

2.4. DEED RESTRICTION

A Covenant and Environmental Restriction on Property (Deed Restriction) between Encinal 14th Street LLC and ACEH. The entire property was sold by Nestlé to Encinal 14th Street, LLC in July 2000. A complete copy of the Deed Restriction is included as **Appendix A**. The Deed Restriction included in Appendix A replaces Covenants and Environmental Restrictions signed by the City of Oakland Fire Services on June 12, 2000.

3. SUMMARY OF HEALTH RISKS

Risk assessments were performed in support of the April 2010 Revised CAP Report for the site in order to document any human health risks associated with residual comprehensive site characterization and the low risk designation requirement for the Site. These risk analyses focus on potential health risks to construction workers and future daily occupants at and in the vicinity of the Site.

The Revised SCM Report provides a basis for the characterization of residual COCs used in the assessment of the fate and transport, and potential exposure scenarios, considered in the *Screening Health Risk Evaluation* and the *Sub-slab Soil Gas Sampling and Analysis Report*. As indicated in these risk assessment documents, complete exposure pathways associated with daily onsite and offsite occupants include:

- Ingestion, inhalation, and dermal contact with surface soils (onsite industrial/commercial workers);
- Inhalation of volatile emissions and/or particulates from subsurface soils and groundwater to indoor air (onsite industrial/commercial workers);
- Inhalation of volatile emissions and/or particulates from subsurface soils and groundwater to outdoor air (onsite industrial/commercial workers);
- Inhalation of volatile emissions and/or particulates from groundwater to indoor air (offsite residents); and
- Inhalation of volatile emissions and/or particulates from groundwater to outdoor air (offsite residents).

The risk assessment documents do not include an evaluation of health risks to potential intermittent receptors such as site visitors and/or trespassers; however, the risks to daily site occupants may be used as a conservative estimate of risks to intermittent receptors.

Conclusions of the risk-based corrective action (RBCA) analyses for onsite and offsite receptors include:

- Risks/hazards associated with direct exposure of daily site (commercial/industrial) occupants to observed levels of chemicals in surface soils are protective of United States Environmental Protection Agency (USEPA)-defined target risk/hazard levels;
- Risks/hazards associated with onsite (commercial/industrial) indoor and outdoor air inhalation of volatiles detected in shallow soil vapor samples are protective of USEPA-defined target risk/hazard levels;
- Risks/hazards associated with offsite (residential) indoor and outdoor air inhalation of volatiles detected in groundwater at offsite locations are protective of USEPA-defined target risk/hazard levels; and
- Risks/hazards associated with onsite outdoor intrusive construction workers are above the accepted exposure levels as defined, and endorsed by, relevant state and federal agencies¹⁰. However, this cancer risk and noncancer hazard were attributable entirely to assumed dermal contact with COPCs in groundwater at the bottom of a construction trench, and do not account for personal protective equipment that intrusive construction workers would be required to use. Therefore, to protect construction workers from potentially hazardous exposure levels at the Site, the recommendations in this RMP document should be implemented.

4. RISK MANAGEMENT MEASURES DURING SITE DEVELOPMENT

As of December 2010, specific future development and/or construction plans for this site are unknown. This section discusses risk management measures to be followed in the event that disturbance of the cap (existing building or paved surfaces) is necessary as part of site development for commercial or industrial land use. For any activities that will disturb the existing cap, including construction of a new structure, excavation or grading, or other alterations to the cap, approved development/construction plans are to be submitted to ACEH for review and approved to assure that integrity of the cap will be maintained. As noted in the Deed Restriction, replacement of the existing building slab during site development may be acceptable provided that:

1. The new building slab provides a similar or greater level of protection from vapor intrusion as the existing building slab.
2. No subsurface structures are constructed other than utility trenches.
3. No unexpected conditions are encountered during removal of the existing slab.
4. The new perimeter building foundation will extend to a similar depth as the existing perimeter foundation to potentially provide a similar barrier to off-site contaminant migration.
5. Approved development/construction plans are to be submitted to the County for review and approval to assure that the above conditions are met and the integrity of the cap will be maintained.

Should excavation be permitted as part of redevelopment, the primary exposure to chemicals at the Site will be associated with construction workers. As indicated in Section 3, risk management measures are recommended for protection of construction workers. To this end, risk management measures were developed to provide adequate protection to human health for onsite construction workers during development of the Site. Additional measures may be necessary to protect nearby residents and site visitors during the excavation and construction activities.

Development activities at the facilities may include various site preparation activities such as, but not limited to, excavation, stockpiling, trenching, site grading, backfilling, and dewatering that may disturb the native soils and/or groundwater beneath the Site. Specifically, potential events or activities associated with development of the Site that may result in potential health impacts to onsite construction workers during development include:

- Dust generation associated with soil excavation and trenching, grading, loading activities, backfilling, movement of construction and transportation equipment, and fugitive dust generation from winds traversing an exposed soil stockpile; and
- Potential contact with subsurface chemicals during trenching and excavation.

The risk management measures that will control potential impacts associated with each of these activities are described below. Management measures that are recommended to control potential impacts on construction workers, contractors, and short-term intrusive workers who may be engaged in limited excavation activities, such as utility repair, are also described below.

4.1. PROTOCOLS FOR FUTURE EXCAVATION ACTIVITIES

If plans for excavation activities are approved by ACEH, proper health and safety protocol should be followed during any excavation activity. Any impacted soil subject to excavation and brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of local, state, and federal laws.

4.2. SITE-SPECIFIC HEALTH AND SAFETY REQUIREMENTS AND SAFETY PLAN

The construction contractor shall assume full responsibility and liability for the compliance with provisions of the Work Hours and Safety Standard Act (40 U.S.C. 327 et seq.). The construction contractor shall comply with all applicable safety regulations and other requirements, including, but not limited to, the following:

- Code of Federal Regulations (CFR), Title 29-Labor
- State of California, California Code of Regulations (CCR), Industrial Relations
- Medical Surveillance Programs (e.g., OSHA, 29 CFR 1200)
- Injury and Illness Prevention Programs (e.g., SB 198, 8 CCR, CAL/OSHA, GISO 3203 Section 5192, and CSO 1509/GISO 3203)
- Implementation of mitigation measures under California Environmental Quality Act (CEQA), if any

- The Construction Standard (29 CFR 1926)
- Workers' Right to Know (29 CFR 1910.120)
- Section 6360-99 of the California Labor Code (Hazard Communication)

During construction and site development activities, workers that may directly contact contaminated soil or groundwater at the Site must perform their activities in accordance with a hazardous operations site-specific health and safety plan (HASP). The construction contractor will be responsible for development and implementation of the HASP in compliance with all applicable federal, state, and local regulations and requirements. The HASP shall be prepared by a Certified Industrial Hygienist. Preparation of a HASP will be required for, but not limited to, site preparation work including grading, utility installation, foundation construction, service pit construction, and other activities where workers might directly contact impacted soil or groundwater beneath the Site.

4.3. CONSTRUCTION IMPACT MITIGATION MEASURES

Measures must also be implemented to mitigate potential health impacts on construction workers, should they be exposed directly to chemicals in soil and groundwater underlying the Site. Potential exposure pathways associated with onsite construction workers include inhalation, incidental ingestion, and dermal contact with chemicals in soils and groundwater.

Specifically, measures that must be implemented to mitigate potential impacts during construction include the following:

- Each contractor will prepare and implement a site-specific HASP to address the potential exposure to contaminated soils and groundwater during construction;
- Dust control through spraying of water and other techniques to minimize mobility of impacted soils toward offsite locations; and
- Minimize soil and groundwater contact by onsite construction worker.

Details of these mitigation measures, except the site-specific HASP, are described below.

4.3.1. DUST CONTROL

Dust controls must be implemented to prevent offsite dispersion and accumulation of impacted soils and to comply with applicable regulations pertaining to air quality and nuisance control. Potential construction activities that could generate dust and warrant risk management measures include: (1) excavation and stockpile control; (2) onsite construction vehicle traffic, and (3) windblown soil.

Alameda County may require monitoring of dust generation during site construction at the Site. Results of the monitoring will be used by the construction contractor for determining the needs and appropriate dust control practices in accordance with the regulations for excavating and restoring streets in Alameda County.

Dust generation will be minimized by all appropriate measures, which may include, but not be limited to, the following:

- Wetting of surface soils and spoil piles during excavation, trenching, compaction, and site grading and paving;

- Control of excavation techniques to minimize dust generation such as minimizing drop distances; and
- Covering of stockpiles, if present, with visqueen or other suitable membrane covers.

Additional measures, if required, may be utilized at the discretion of the construction contractor.

4.3.2. MINIMIZING SOIL AND GROUNDWATER CONTACT BY CONSTRUCTION WORKER

Existing data indicate the subsurface presence of chemicals in unsaturated soils, saturated soils, and groundwater beneath the Site. Shallow groundwater beneath the Site occurs at depths ranging from 5 to 10 feet bgs. Details of the hydrogeological characterization are presented in the Revised SCM Report¹¹.

Future construction work at the site may involve excavation and/or direct contact with chemicals above and below the water table. To mitigate risks associated with this exposure, the construction contractor shall develop and implement a site-specific HASP. Examples of health and safety measures are the use of protective clothing, protective gloves and boots, and suitable respirators with cartridges during construction activities.

5. LONG-TERM RISK MANAGEMENT MEASURES

This section discusses long-term risk management measures necessary to maintain the surface cap and prevent exposure to residual site contamination. These long-term risk management measures require maintenance of the surface cap. The Deed Restriction for the Site indicates that no owners or occupants of the Site or any portion thereof shall conduct any excavation work on the Site, unless expressly permitted in writing by the ACEH. Sub-item (i) of Section 3.1 (Restrictions on Development and Use) of the Deed Restriction for the Site states:

"The Owner shall notify the County of each of the following: (1) The type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, or any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the County shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs."

These long-term risk management measures apply both prior to and following any site development. Maintenance of the surface cap is discussed in section 5.1.

5.1. MAINTENANCE OF THE SURFACE CAP

As indicated in the Deed Restriction (**Appendix A**) for the former Nestlé property, all uses and development of the Site shall maintain a surface cap of the soil, exclusive of minor landscape areas, by buildings or paved surfaces. The Maintenance and Operations Facility Manager or their designated representative must annually conduct a visual inspection of the cover to ensure that the cover materials remain in adequate shape. Damage to the integrity of the cover materials, such as major cracks, must be promptly repaired.

Upon completion of the inspection and any necessary repairs, the Maintenance and Operations Facility Manager or their designated representative will prepare a report documenting the inspection and repairs. The report will contain, at a minimum, the following information:

- Date of inspection
- Personnel conducting the inspection
- Results of the inspection
- Repairs completed to maintain the integrity of the cover

Reports must be signed by the Maintenance and Operations Facility Manager or their designated representative. Reports must be saved in a file maintained by the site occupant at the Maintenance and Operations Facility or similar location at the Site. The reports will be available for review by the ACEH.

5.2. USE OF GROUNDWATER

As indicated in the Deed Restriction (**Appendix A**) for the former Nestlé property, no owner or occupants of the Site shall drill, bore, otherwise construct, or use a well for the purpose of extracting groundwater for any use, including, but not limited to, domestic, potable, or industrial uses.

6. **ENDNOTES**

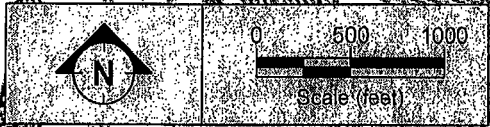
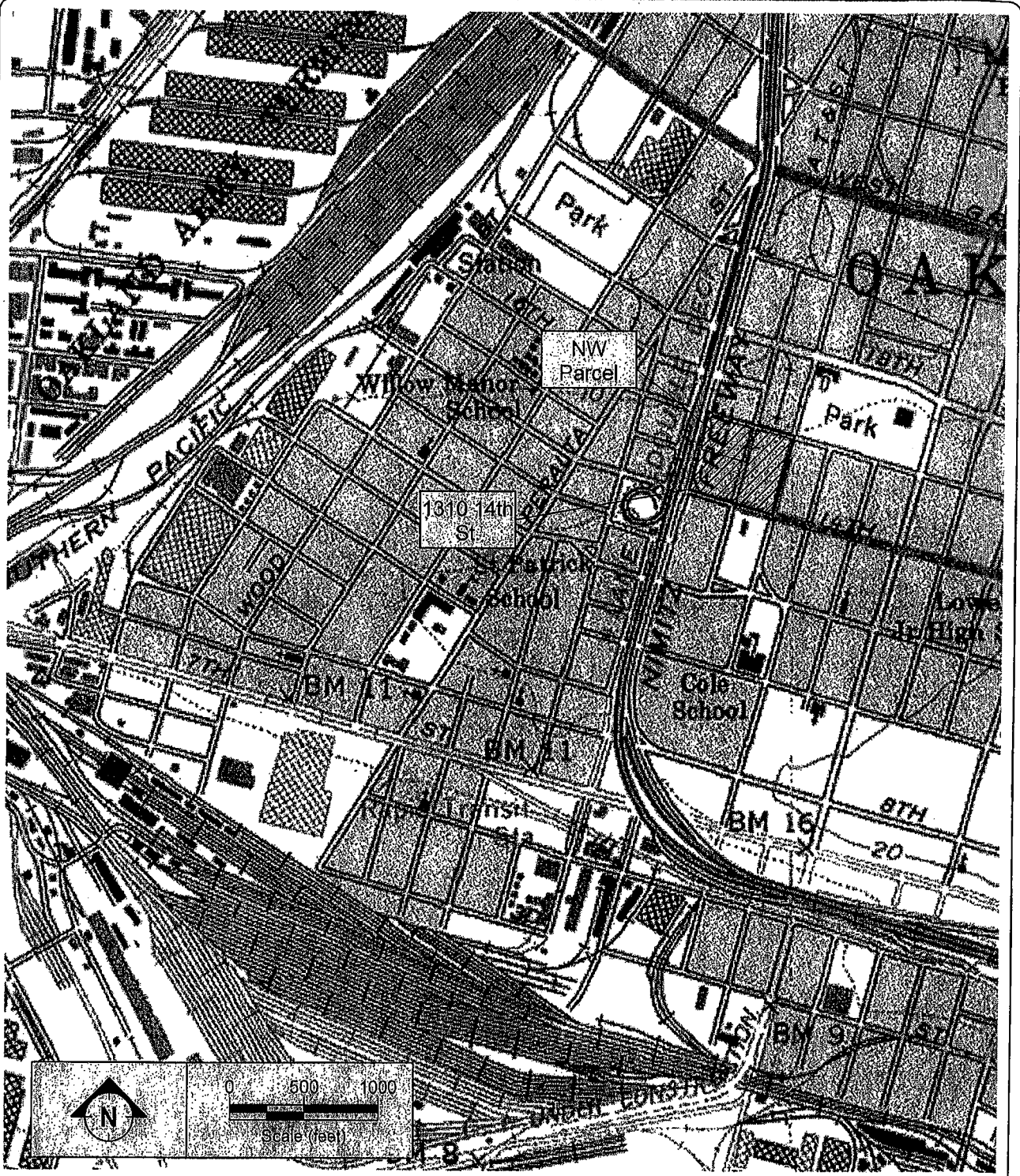
- ¹ Environmental Cost Management (ECM, Inc.). 2008. Corrective Action Plan (CAP) Report Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ECM, Costa Mesa, California. April.
- ² ETIC (ETIC Engineering, Inc.). 2001. Comprehensive Site Characterization Report, Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ETIC, Pleasant Hill, California. January.
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- ⁴ United States Environmental Protection Agency (USEPA). 1989. Risk Assessment Guidance for Superfund Volume I: Human Health Evaluation Manual (Part A). Interim Final. Office of Emergency and Remedial Response. December.
- ⁵ Environmental Cost Management (ECM, Inc.). 2008. Revised Site Conceptual Model Report, Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ECM, Costa Mesa, California. November.
- ⁶ Environmental Cost Management (ECM, Inc.). 2008. Revised Site Conceptual Model Report, Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ECM, Costa Mesa, California. November.
- ⁷ Environmental Cost Management (ECM, Inc.). 2008. Revised Site Conceptual Model Report, Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ECM, Costa Mesa, California. November.
- ⁸ Alameda County Health Care Services Agency. 2007. *September 28th letter directive from Jerry Wickham, P.G. to Mr. Mike Desso (Nestlé) and Mr. Mark Hall (Encinal), Fuel Leak Case No. ROO000018 and Geotracker Global ID T0600100262, Carnation Dairy, 1310 14th Street, Oakland, CA 94607, Alameda, California.*
- ⁹ Environmental Cost Management (ECM, Inc.). 2008. Revised Site Conceptual Model Report, Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ECM, Costa Mesa, California. November.
- ¹⁰ United States Environmental Protection Agency (USEPA). 1989. Risk Assessment Guidance for Superfund Volume I: Human Health Evaluation Manual (Part A). Interim Final. Office of Emergency and Remedial Response. December.
- ¹¹ Environmental Cost Management (ECM, Inc.). 2008. Revised Site Conceptual Model Report, Former Nestlé USA, Inc. Facility, 1310 14th Street, Oakland, California. ECM, Costa Mesa, California. November.

FIGURES

Figure 1: Site Location

Figure 2: Deed Restricted Area

File Path: B:\Nestle\Oakland\2010\Revised CAP Report . Drafter: JWP
 Chkd by: B. Searcy . Date drafted: 3/22/10 Proj. Manager: B. Acharya Project: Nestle-Oakland

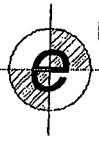
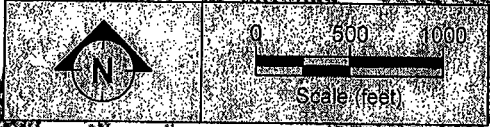
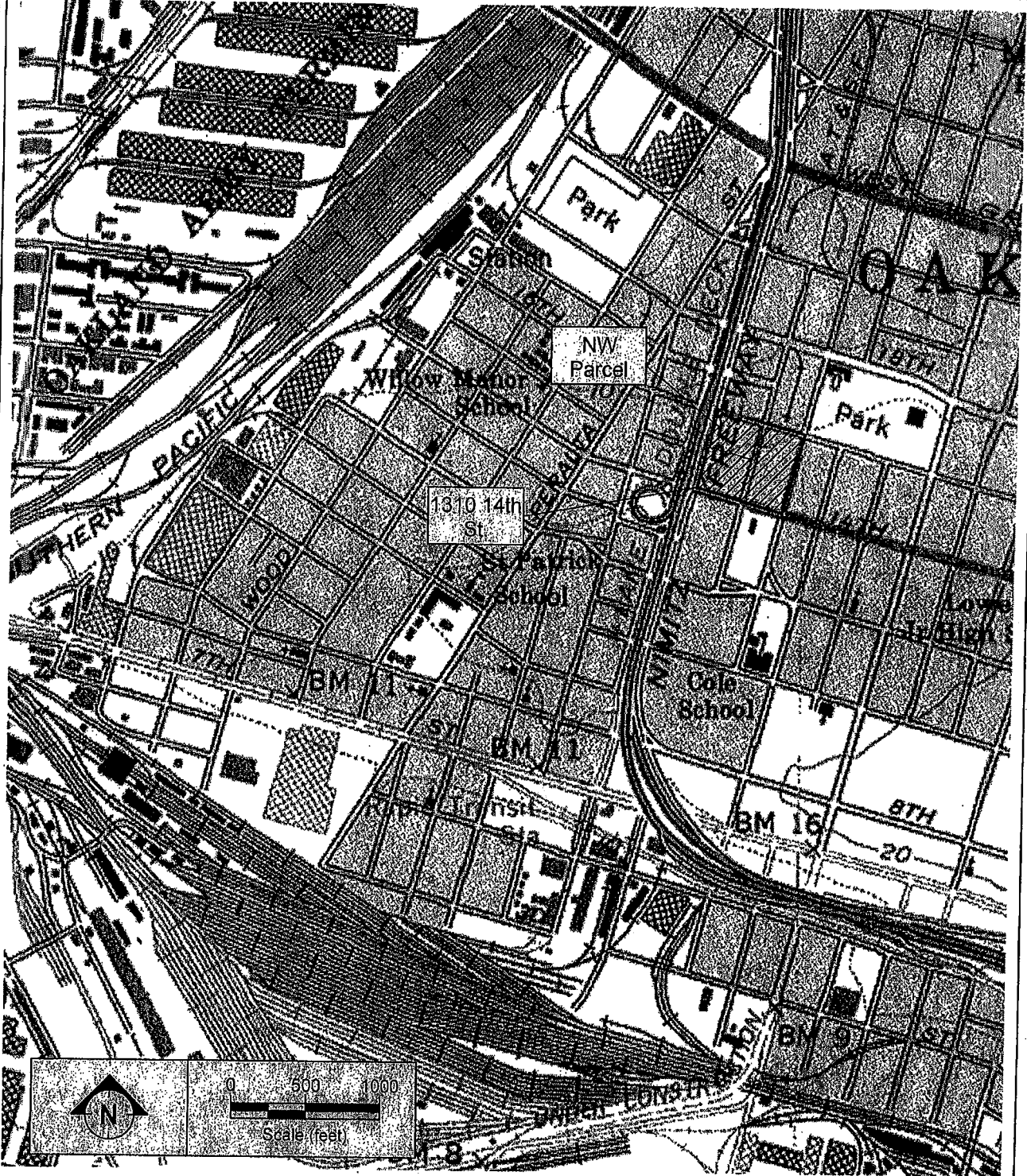


 **ENVIRONMENTAL COST MANAGEMENT, Inc.**
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Site Location
 Former Nestle Oakland Facility
 1310 14th Street, Oakland, CA-94607

Figure
 1

File Path: B:\Nestle\Oakland2010\Revised CAP Report
 Drafted by: B. Seary
 Date drafted: 3/22/10
 Proj. Manager: B. Acharya
 Project: Nestle-Oakland



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 Tel: (714) 662-2759 • Fax: (714) 662-2758

Site Location
 Former Nestle Oakland Facility
 1310 14th Street, Oakland, CA-94607

Figure
 1

Appendix A: Covenant and Environmental Restriction (Deed Restriction)

Recording Requested By:

Encinal 14th Street, LLC
c/o Hall Equities Group
1855 Olympic Boulevard, Suite 250
Walnut Creek, CA 94596

When Recorded, Mail To:

Ariu Levi, Director
Alameda County Environmental Health Services
1131 Harbor Bay Parkway
Alameda, California 94502

**COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY**

(APN: 005-0482-2)

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 9th day of February, 2011, by Encinal 14th Street, LLC, a California limited liability company ("Covenantor") who is the Owner of record of that certain property situated at 1385 16th Street, in the City of Oakland, County of Alameda, State of California, which is more particularly described as Parcel "B" on Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the Alameda County Environmental Health Services (the "County"), with reference to the following facts:

A. The Burdened Property and groundwater underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. Soil at the Burdened Property was contaminated by releases from petroleum underground storage tanks. These releases resulted in contamination of soil and groundwater with organic chemicals including benzene, toluene, ethylbenzene, xylenes, and 1,2 - dichloromethane, which are hazardous materials as that term is defined in Health & Safety Code Section 25260. Removal of underground storage tanks and remediation of the petroleum hydrocarbons was initiated in January 1988 and is summarized below:

Tank, Line and Dispenser Removal

Four (4) underground fuel storage tanks containing gasoline and diesel fuel and associated piping were removed in December 1988. One (1) 1,000 gallon used-oil tank was removed in January 1989.

Remedial Actions

Soil Excavation: Between January and March 1989, 1,200 cubic yards of soil

were removed in the area of the former underground storage tanks and associated piping. This soil was treated onsite and replaced back in the excavated area.

Liquid Petroleum Hydrocarbon Removal: Liquid petroleum hydrocarbons were removed using a product skimming system from the subsurface during January through March 1989. Approximately 1,800 gallons were removed during this time period.

Soil Vapor Extraction: A soil vapor extraction system operated from January 1994 to December 1995 and removed an estimated 5,200 gallons of hydrocarbon.

Multi-phase Extraction: A multi-phase extraction system has been operating at the site since August 1997. Approximately 10,500 pounds of hydrocarbons have been removed using this system. Thickness of petroleum hydrocarbons decreased since August 1997.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil and groundwater on the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, exposure to these contaminants could take place via

- ingestion and dermal contact with surface soils and
- inhalation of volatile emissions from subsurface soils and groundwater.

The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is currently an unused industrial facility and is adjacent to industrial, commercial, and residential land uses.

E. Full and voluntary disclosure to the County of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the County, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

A R T I C L E I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence

on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the County and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the County.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the County and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenanter desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the County real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

A R T I C L E I I D E F I N I T I O N S

2.1 County. "County" shall mean the Alameda County Environmental Health Services and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the

Burdened Property.

A R T I C L E I I I
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED
PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development of the Burdened Property shall be restricted to industrial and commercial use;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No schools for persons under 21 years of age shall be permitted on the Burdened Property;
- e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;
- f. No Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on the Property, unless expressly permitted in writing by the County. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with all applicable provisions of local, state and federal law;
- g. All uses and development of the Burdened Property shall be consistent with any applicable County Cleanup Order or Risk Management Plan (Exhibit B), each of which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, unless otherwise expressly permitted in writing by the County.
- h. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the County.
- i. The Owner shall notify the County of each of the following: (1) The type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the County shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs. The Covenantor agrees that the County, and/or any persons acting pursuant to County

cleanup orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

j. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas. In the event that the site is to be redeveloped for commercial or industrial land use, replacement of the existing building slab during site development may be acceptable provided that:

1. The new building slab provides a similar or greater level of protection from vapor intrusion as the existing building slab.
2. No subsurface structures are constructed other than utility trenches.
3. No unexpected conditions are encountered during removal of the existing slab.
4. The new perimeter building foundation will extend to a similar depth as the existing perimeter foundation to potentially provide a similar barrier to off-site contaminant migration.
5. Approved development/construction plans are to be submitted to the County for review and approval to assure that the above conditions are met and the integrity of the cap will be maintained.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the County, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the County to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of _____, _____, 2011, and recorded on _____, 2011, in the Official Records of _____ County, California, as Document No. _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

A R T I C L E I V
VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the County for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to the County for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

A R T I C L E V
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Covenantor"
Encinal 14th Street, LLC
c/o Hall Equities Group
1855 Olympic Boulevard, Suite 250
Walnut Creek, CA 94596

If To: "County"
Alameda County Environmental Health
Services Attention: Director
1131 Harbor Bay Parkway
Alameda, California 94502

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the

Director of Environmental Health Services. This instrument shall be recorded by the Covenantor in the County of Alameda within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: Encinal 14th Street, LLC,
a California limited liability company

By: Hall Encinal, Inc.,
a California corporation,
its Manager

By: _____
Mark D. Hall, President

Date: _____

Agency: Alameda County Environmental Health Services

By: _____

Title: Director

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY STATES THAT THEY ARE THE OWNER OF THE LAND DELINEATED AND ENCLOSED WITHIN THE EXTERIOR BOUNDARY LINES ON THE HEREIN EMBODIED MAP ENTITLED "PARCEL MAP 9733, CITY OF OAKLAND, ALAMEDA COUNTY, STATE OF CALIFORNIA"; THAT SAID OWNERS ACQUIRED TITLE TO SAID LAND BY VIRTUE OF THE DEED RECORDED ON JUNE 12, 2000 UNDER SERIES NO. 2000076666, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA; THAT THEY CONSENT TO THE PREPARATION AND FILING OF THIS MAP.

THIS MAP SHOWS ALL EASEMENTS ON THE PREMISES, OR OF RECORD.

OWNER:
ENIGMAL 14TH STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: HALL ENIGMAL, INC., A CALIFORNIA CORPORATION

ITS MANAGER
BY: Mark D. Hall
ITS PRESIDENT

OWNER'S ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF Alameda) SS

ON September 3, 2008 BEFORE ME,
Mark D. Hall A

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED

Mark D. Hall

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT/ THEY EXECUTED THE SAME IN HIS/HER/ITS/ THEIR AUTHORIZED CAPACITIES) AND THAT BY HIS/HER/ITS/ THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

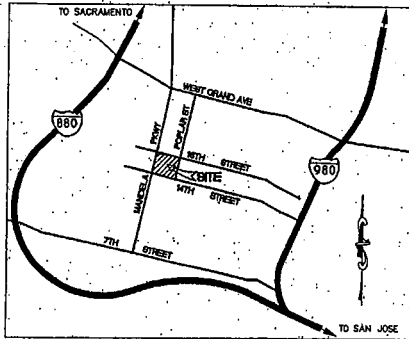
SIGNATURE: Mark D. Hall
NAME (TYPED OR PRINTED), NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE.

PRINCIPAL COUNTY OF BUSINESS: Contra Costa
COMMISSION EXPIRES: Oct 22, 2011
COMMISSION # OF NOTARY: 17-15024

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE ENIGMAL 14TH STREET, LLC IN JULY OF 2008. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE PARCEL MAP, IF ANY. I HEREBY STATE THAT THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATE: 08/29/08
VINCENT J. D'ALDO
L.S. 4210
EXPIRATION DATE: 6-30-10



VICINITY MAP
NTS

CITY ENGINEER'S STATEMENT

I, RAYMOND M. DERANIA, INTERIM CITY ENGINEER, HAVING BEEN AUTHORIZED TO PERFORM THE FUNCTIONS OF THE CITY ENGINEER OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, FOR THE PURPOSE OF REVIEWING SUBDIVISION MAPS, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 9733, CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA" THAT THE SUBDIVISION AS SHOWN UPON SAID PARCEL MAP IS SUBSTANTIALLY THE SAME AS THAT APPEARING ON THE TENTATIVE PARCEL MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT SAID PARCEL MAP COMPLIES WITH ALL PROVISIONS OF THE SUBDIVISION MAP ACT OF THE GOVERNMENT CODE AND THE LOCAL ORDINANCES APPLICABLE AT THE TIME OF THE TENTATIVE MAP; AND THAT I AM SATISFIED THAT THE PARCEL MAP IS TECHNICALLY CORRECT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 15th DAY OF September, 2008

RM Derania
RAYMOND M. DERANIA, RCE 27815
INTERIM CITY ENGINEER
ALAMEDA COUNTY, STATE OF CALIFORNIA
LICENSE EXPIRES: 03-31-10



SEISMIC HAZARD DISCLOSURE NOTE:

THIS REAL PROPERTY LIES WITHIN A SEISMIC HAZARD ZONE—LIQUEFACTION ZONE PURSUANT TO SECTION 2606 OF THE STATE OF CALIFORNIA PUBLIC RESOURCES CODE. THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER. THE MAPS PREPARED BY THE STATE GEOLOGIST ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL DISASTERS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. FUTURE INVESTIGATIONS AND TRANSFERORS MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

PARCEL MAP 9733

ALL OF LOTS 7, 8, 9, 10, 11, 12, 13, AND 14 AND PORTIONS OF LOTS 5, 6, AND 15, BLOCK 583, FILED APRIL 25, 1891 (10 M 68); ALL OF LOTS 7, 8, 19, 30, 31, AND 32 AND A PORTION OF LOT 29, BLOCK 583, MAP NO. 1 OF A PORTION OF THE SCOTCHLER TRACT AND VICINITY FILED DECEMBER 10, 1874 (7 M 21); ALL OF LOTS 9, 9, 10, 11, 14, 16, 17, 18, 20 AND 21 AND PORTIONS OF LOTS 4, 5, 12, 13, 16, AND 22, BLOCK 583, MAP OF THE SCOTCHLER TRACT FILED NOVEMBER 3, 1870 (2 M 10); A PORTION OF 15TH STREET (2 M 10); A PORTION OF KIRKHAM STREET (2 M 10); ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 19, 20, 21, 22, 23 AND PORTIONS OF LOTS 13, 16, 17, 18, 24, AND 25, BLOCK 584, REDIVISION OF BLOCKS 584, 585, 601, 153, AND 580A FILED MAY 1, 1885 (4 M 25) ALL IN ALAMEDA COUNTY RECORDS.

CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AUGUST 2008

CLERK OF THE BOARD OF SUPERVISORS STATEMENT

I, Joseph H. Goff, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT CERTIFICATES HAVE BEEN FILED AND DEPOSITS HAVE BEEN MADE IN CONFORMANCE WITH THE REQUIREMENTS OF SECTIONS 86492 AND 86493 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

DATE: August 15, 2008

CLERK OF THE BOARD OF SUPERVISORS, COUNTY OF ALAMEDA, STATE OF CALIFORNIA

Joseph H. Goff
CLERK



RECORDER'S CERTIFICATE

FILED AT THE REQUEST OF FIRST AMERICAN TITLE INSURANCE COMPANY AT 2510 B ST. ON THE 15th DAY OF September, 2008. RECORDERS SERIAL NO. 2008027976 IN BOOK 318 OF MAPS AT PAGES 172-12 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA. Fee \$11.00

COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: Cheryl Kins



Parcel Map 9733

Map Bk 310 pp 171a

NOTES

- ① SUBJECT TO ANY RIGHTS RESERVED PER 431 M 521 AND SERIES 83-212906.
- ② RIGHTS OF INGRESS/EGRESS TO ANY PROPOSED STATE OF CALIFORNIA FREEWAY ARE RESERVED BY 7804 OR 225 AND 7749 OR 447.

PARCEL MAP 9733

ALL OF LOTS 7, 8, 9, 10, 11, 12, 13, AND 14 AND PORTIONS OF LOTS 5, 6, AND 15; BLOCK 583, FILED APRIL 25, 1891 (10 M 56); ALL OF LOTS 7, 8, 19, 30, 31, AND 32 AND A PORTION OF LOT 29, BLOCK 583, MAP NO. 1 OF A PORTION OF THE SCOTCHLER TRACT AND VICINITY FILED DECEMBER 10, 1874 (7 M 21); ALL OF LOTS 6, 9, 10, 11, 14, 16, 17, 18, 20 AND 21 AND PORTIONS OF LOTS 4, 5, 12, 13, 15, AND 22, BLOCK 583, MAP OF THE SCOTCHLER TRACT FILED NOVEMBER 3, 1870 (2 M 10); A PORTION OF 16TH STREET (2 M 10); A PORTION OF KIRKHAM STREET (2 M 10); ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 19, 20, 21, 22, 23 AND PORTIONS OF LOTS 13, 18, 17, 18, 24, AND 25, BLOCK 584, REDIVISION OF BLOCKS 584, 585, 601, 153, AND 580A FILED MAY 1, 1885 (4 M 25) ALL IN ALAMEDA COUNTY RECORDS.

CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

AUGUST 2008 1"=50'



ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS

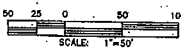
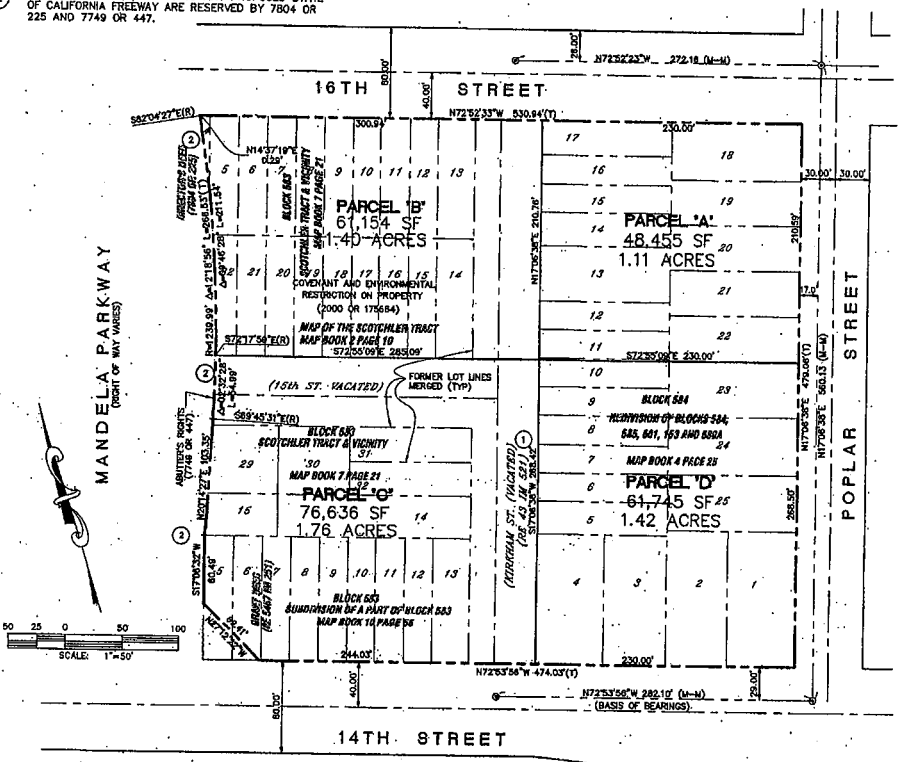
1350 SOUTH MAIN STREET, SUITE 310
WALNUT CREEK, CA. 94598

LEGEND

- ⊙ FOUND STANDARD STREET MONUMENT
- (M-M) MONUMENT TO MONUMENT
- BOUNDARY
- LOT LINE
- MONUMENT LINE
- CENTER LINE
- SF SQUARE FEET
- (T) TOTAL

REFERENCES:

- R1: BLOCK 583, APRIL 25, 1891, (10, M 56)
- R2: BLOCK 583, MAP NUMBER 1 OF A PORTION OF THE SCOTCHLER TRACT AND VICINITY, DECEMBER 10, 1874 (7 M 21)
- R3: BLOCK 583, MAP OF THE SCOTCHLER TRACT NOVEMBER 3, 1870 (2 M 10)
- R4: BLOCK 584, REDIVISION OF BLOCKS 584, 585, 601, 153 AND 580A MAY 1, 1885 (4 M 25)



88/12