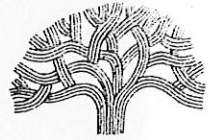


CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2031

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3911
FAX (510) 238-4730
TDD (510) 839-6451

March ~~23~~ 2012

Sent via U.S. Mail and Electronic Mail

Fuad Sweiss, Najeeb Shehadeh
c/o Al Saadeh
50 Vashell Way #320
Orinda, CA 94563

RE: Case File No: DV12-006, 1630 San Pablo Avenue (APN008-0620-014-04)

Gentlemen:

Your application for a Regular Design Review to construct a 3,760 square foot single-story retail space in a Downtown location, and Minor Variance to reduce the minimum required height from 45 feet to 18 feet tall (25 feet tall at the corner), on the subject property has been **APPROVED**. The application complies with the findings required for Minor Variance and Regular Design Review as set forth in the Oakland Zoning Regulations of the Oakland Planning Code. Attachment A contains the findings required for this approval and the reasons your proposal satisfies them. Attachment B contains the project Conditions of Approval. This project is effective ten (10) days after the date of this letter unless appealed as explained below.

Location:	1630 San Pablo Avenue (APN 008-0620-014-04)
Proposal:	Approve single-story commercial building where 45 foot tall building would otherwise be required
Contact Person/Phone Number:	Al Saadeh (925)451-2605 for Fuad Sweiss
Owner:	Najeeb Shehadeh
Case File Number:	DV12-006
Planning Permits Required:	Regular Design Review and Minor Variance to allow construction of a Commercial Facility (3760 square feet) 18 feet tall/25 feet tall at the corner where a minimum height of 45 feet would otherwise be required
General Plan:	Central Business District
Zoning:	CBD-C Central Business District- General Commercial Zoning District
Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15303
Historic Status:	Not Potential Designated Historic Property (vacant site)
Service Delivery District:	Metro
City Council District:	3
For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com

CURRENTLY APPROVED 1 STORY PROJECT UNDER CONSTRUCTION—

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days after the date of this letter, by 4:00 p.m. on March __, 2012. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **David Valeska, Planner II**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Administrator or wherein his/her decision is not supported by substantial evidence and must include payment of \$1,352.91 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

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

If you have any questions, please contact the case planner, **David Valeska, Planner II** at (510) 238-2075 or e-mail dvalueska@oaklandnet.com. However, this does not substitute for filing of an appeal as described above.

Sincerely,



SCOTT MILLER
Zoning Manager

Cc Public Works Agency
Building Services

Attachments:

- A. Findings of Approval
- B. Conditions of Approval

ATTACHMENT A

FINDINGS FOR APPROVAL:

This proposal meets all the required findings under Section 17.136.050(A) and Section 17.148.050(A) as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

17.136.050(B) FINDINGS FOR REGULAR DESIGN REVIEW (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 proposed facility would enhance the appearance of the site, which is currently a vacant lot, and would provide an aesthetically appealing street frontage for retail.

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 facility includes design features such as exterior walls and windows which would soften the appearance and would provide an aesthetically appealing street frontage compatible with neighboring retail and office spaces.

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.

The project includes General Retail Sales or other permitted activity in the CBD-C Central Business District-General Commercial District. Staff finds it to be consistent with the Oakland General Plan. In addition, the proposal includes features intended to provide an aesthetically pleasing frontage along the public Right-of-Way, consistent with the objectives of the Design Review criteria.

SECTION 17.148.050(a)—MINOR VARIANCE FINDINGS:

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

The applicant's proposal is an effective design solution improving livability, operational efficiency and community benefit of the structures, and accomplishes this without constructing the otherwise applicable 45 foot or taller building envelope. The size and skewed shape of the site prevent strict

compliance with height limitations. At one side, the planned building would be less than 20 feet wide, infeasible for a taller structure. This busy corner of 17th Street and San Pablo Avenue is best accented with a smaller retail building in order to contrast with nearby tall office/retail buildings, as an entry point toward Broadway. The additional small commercial unit, approved with Design Review, will be positioned in this location is optimal for neighbors, due to alignment of neighbor buildings and to the lot configuration.

2. 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.

Locating commercial facades along streets is a requirement of City zoning and design guidelines for this area and present common features in buildings in this Central Business District neighborhood. Sites of this small size and unique shape would commonly be considered for a Variance. This property should not be prevented from the optimal retail area by the need for a small reduction in minimum building height at such a corner, which is already bracketed with taller office and garage buildings as a backdrop.

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

Adding a commercial space in this location of shorter height would not be detrimental to or adversely affect neighbors, due to the design context of building forms and materials in a one-story form from nearby towers to the new structure. The site is small and has a unique shape which prevents a taller design due to a limited lot depth. The public at large will not experience any impacts from the changes to code standards because the new building provides human-scale additional retail space to be used by the public, framed by a backdrop of existing larger buildings.

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

Other buildings and parcels in the vicinity also have reduced height below the 45 foot level (e.g. Piedmont Piano, New Parish nightclub, Saigon restaurant) and allowing this applicant to have similar adjustments is not granting a special privilege to this site, factoring in the small lot size and the unique triangular shape.

5. 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 criteria set forth in the design review procedure at Section 17.136.050.

As demonstrated by design review findings contained herewith, the proposal conforms with design review criteria and is the optimal design review solution. The design has been sensitive to the site.

6. 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 to 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 to a degree greater than that which would be possible if the residence were built according to the applicable regulation and for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by additional height.

Not Applicable. This finding is fulfilled and met because the Variance is to a minimum height, not a maximum height, and hence the finding does not apply.

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

ATTACHMENT B

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

STANDARD CONDITIONS:

1. **Approved Use.**

Ongoing.

a. The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **January 6, 2012** and submitted **January 18, 2012**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, conditions of approval or use shall required prior written approval from the Director of City Planning or designee.

b. This action by the Director of City Planning ("this Approval") includes the approval set forth as follows: DV12-006, Regular Design Review to install a 3,760 square foot retail space in a single level commercial facility, and Minor Variance to reduce the required minimum height from 45 feet to 18 feet (25 feet at the corner).

2. **Effective Date, Expiration, Extensions and Extinguishment**

Ongoing.

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits have been issued, or 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 permit, 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 valid building permit for this project may invalidate this approval if the said extension period has also expired.

3. **Scope of This Approval; Major and Minor Changes**

Ongoing.

The project is approved pursuant to the Planning Code only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. **Conformance with Other Requirements.**

Prior to issuance of a demolition, grading, P-job or other construction related permit.

a. The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines; including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshall, and the City's Public Works Agency. 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 of Approval 3.

**5. Conformance to Approved Plans; Modification of Conditions or Revocation
*Ongoing.***

a. Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.

b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.

c. Violation of any term, Conditions or project description relating to the Approvals 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 Approvals 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 Conditions of Approval.

**6. Signed Copy of the Conditions
*With submittal of a demolition, grading and building permit.***

A copy of the approval letter and Conditions shall be signed by the property owner and submitted with each set of permit plans submitted for this project.

**7. Indemnification
*Ongoing***

a. To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the 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 applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the

Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. Compliance with Conditions of Approval

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions and if any 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 Management

Prior to issuance of a demolition, grading, and/or construction permit

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

11. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the approved plans, along with the Approval Letter and Conditions of Approval shall be available for review at the job site at all times.

12. Recycling Space Allocation Requirements

Prior to issuance of a building permit

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to new commercial and industrial development that requires a building permit. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

Ongoing.

No deviation shall be made from the approved drawings or conditions of approval that alters the project's siting, height, exterior appearance, and/or required new landscaping without prior written approval from the Oakland Planning & Zoning Department.

13. Construction Practices.

During construction.

All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.

14. Days/Hours of Construction Operation

Ongoing throughout demolition, grading and/or construction.

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 AM and 4:00 PM Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 AM to 7:00 PM Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i) Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii) After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction shall take place on Sundays or Federal holidays.
- f) 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.

15. Engineering, Building and Fire Services Requirements

Prior to occupancy

The project shall comply with all the requirements from the City Engineering and Building Services Division and the Fire Marshall.

- a) Fire Marshall: An additional on-site hydrant of approved specifications may be required at the property. Exit discharges and window openings close to adjacent property lines may be required to provided fire rating protection. Property addresses for all buildings shall be provided at the street frontage.

16. Compliance with the Green Point Rating Implementation, OMC Chapter 18.2

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

The applicant shall comply with any applicable requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the Green Building Ordinance, OMC Chapter 18.02.

- a) The following information may be required to be submitted to the Building Services Division for review and approval with the application for a building permit: The set of plans in subsection (a) shall demonstrate compliance with the CALGreen mandatory measures and Title 24 of the 2008 California Building Energy Standards.

17. Landscape Requirements for Street Frontages

Prior to issuance of a final inspection of the building permit

On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet and does not interfere with access requirements, a minimum of one (1) twenty-four (24) inch box tree shall be provided for every twenty-five (25) feet of street frontage, unless a smaller size or larger spacing is recommended by the City arborist or waived. The trees to be provided shall include species acceptable to the Tree Services Division.

18. Improvements in the Public Right-of-Way (General)

Approved prior to the issuance of a P-job or building permit

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.

- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition.

- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.

- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

19. Improvements in the Public Right-of Way (Specific)

Approved prior to the issuance of a grading or building permit

Final building and public improvement plans submitted to the Building Services Division shall include the following components:

- a) Remove and replace any existing driveway that will not be used for access to the property with new concrete sidewalk, curb and gutter.
- b) Reconstruct drainage facility to current City standard.
- c) Provide separation between sanitary sewer and water lines to comply with current City of Oakland and Alameda Health Department standards.
- d) Construct wheelchair ramps that comply with Americans with Disability Act requirements and current City Standards as directed.
- e) Remove and replace deficient concrete sidewalk, curb and gutter within property frontage.
- f) Provide adequate fire department access and water supply, including, but not limited to currently adopted fire codes and standards.

20. Payment for Public Improvements

Prior to issuance of a final inspection of the building permit.

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

21. Compliance Matrix

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

The project applicant shall submit to the Planning and Zoning Division and the Building Services compliance matrix that lists each condition of approval, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

22. Dust Control

Prior to issuance of a demolition, grading or building permit

During construction, the project applicant shall require the construction contractor to implement the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures required for construction sites. These include:

- a. Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- 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. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.

- e. Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- f. Limit the amount of the disturbed area at any one time, where feasible.
- g. Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
- h. Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- i. Replant vegetation in disturbed areas as quickly as feasible.
- j. Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- k. Limit traffic speeds on unpaved roads to 15 miles per hour.
- l. Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.

23. Construction Emissions

Prior to issuance of a demolition, grading or building permit

To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:

- a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
- b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.

24. Noise Control

Ongoing throughout demolition, grading, and/or construction

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- 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) 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.

- b) Stationary noise sources shall be located as far from adjacent receptors 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.
- c) 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.

25. Noise Complaint Procedures

Ongoing throughout demolition, grading, and/or construction

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and
- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

26. Construction Waste Reduction and Recycling

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency.

Prior to issuance of demolition, grading, or building permit

Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at www.oaklandpw.com/Page39.aspx or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

Ongoing

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

27. Lighting Plan

Prior to the issuance of an electrical or building permit

The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

28. Corner Door and Roofline Enhancements

Prior to the issuance of building permits

The applicant shall submit to the Zoning Manager modified plans showing a person-access door for the public at the corner, which provides principle access to the corner tenant, and which may or may not be framed with Art Deco style glass block. The applicant shall submit for Zoning Manager approval a decorative roofline enhancement above the door which provides a visual arrival/architectural statement welcoming visitors to this corner, such as a curved cornice or tower. This corner element shall be a minimum of 25 feet in height.