

**FINAL INITIAL STUDY/
MITIGATED NEGATIVE DECLARATION**

10 MAY 2000

OAKLAND TELECOMMUNICATIONS ACCESS BUILDING

Oakland, California

Port of Oakland
Alameda County, California

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FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

INTRODUCTION

This document is Volume III of the Final Initial Study/Mitigated Negative Declaration for the proposed Oakland Telecommunication Access Building, prepared pursuant to the California Environmental Quality Act (CEQA). A proposed Draft Initial Study/Mitigated Negative Declaration (IS/MND) was circulated for public review from March 15th, 2000 to April 3rd, 2000. The Draft IS/MND document is now referred to as Volume I.

As a result of public comments made on the Draft IS/MND during the public review period regarding the calculation of the floor area ratio (FAR), which had been based on the Building Owner Management Association (BOMA) industry standards (and excluded non-rentable space such as parking and stairways), the project was modified by the project applicant to reduce the size of the building. A proposed Revised IS/MND was circulated for public review from April 5th, 2000 to April 25th, 2000. The Revised IS/MND document is now referred to as Volume II.

Volume III of the Final Initial Study/Mitigated Negative Declaration includes all comment letters received by the Port of Oakland, the lead agency, in response to the Draft IS/MND and the Revised IS/MND, and all responses to the comments. Pursuant to CEQA Guidelines, Volume III also includes a Mitigation Monitoring and Reporting Program.

The Final Mitigated Negative Declaration is comprised of the following elements:

Volume I – Draft Initial Study/Mitigated Negative Declaration (Port of Oakland, 3/14/2000)

Volume II – Revised Initial Study/Mitigated Negative Declaration (Port of Oakland, 4/5/2000)

Volume III – Final Mitigated Negative Declaration/Initial Study. Volume III comprises the following sections:

Section I - Modified Project Description and Errata. This section includes the Modified Project Description with additional changes to the project, in response to comments received on the Revised IS/MND. It also includes an Errata section with changes to the text of the Revised Initial Study.

Section II – Final Initial Study/Mitigated Negative Declaration and Responses to Comments. This section includes the signed Mitigated Negative Declaration, responses to comments, and the comment letters received. Comment letters A through C were received during the public review period for the Draft IS/MND (3/15/2000 – 4/3/2000) and comment letters D and E were received during the public review period on the Revised IS/MND (4/5/2000 – 4/25/2000).

Section III – Mitigation Monitoring and Reporting Program. The Mitigation Monitoring and Reporting Program (MMRP) includes the mitigation measures contained in the Revised Initial Study to ensure that the mitigation measures are implemented. For each potential impact, a mitigation measure, the party responsible for monitoring implementation, the monitoring method, and monitoring schedule is provided in the MMRP.

I. MODIFIED PROJECT DESCRIPTION AND ERRATA

I. MODIFIED PROJECT DESCRIPTION AND ERRATA

Although changes have been made to modify the project description for the proposed telecommunications access building, it is not necessary to recirculate the Initial Study/Mitigated Negative Declaration for a third public review and comment period. The California Environmental Quality Act (CEQA) Guidelines Section 15073.5 states that a Negative Declaration must be recirculated only if the document has been "substantially revised." A "substantial revision" occurs when a public agency identifies a new unavoidable significant impact and adds new mitigation measures; or when an agency adds new or revised mitigation measures to address a previously identified impact. An agency need not recirculate if the project is revised in response to comments on the project's effects but the effects "are not new avoidable significant effects" (Section 15073.5(b)(2)). Recirculation is not required if the new information presented "merely clarifies, amplifies or makes insignificant modifications to the negative declaration" (Section 15073.5(c)).

The issue of whether this Mitigated Negative Declaration should be recirculated for a third period of public review for the proposed telecommunications building depends on if "significant new information" has been added and, more importantly, if new potentially significant impacts have been identified and if new mitigation measures are required.

The proposed project has been modified to reduce identified potential impacts, and the modification has not created the potential for any new impacts. No new or revised mitigation measures are proposed or needed because of the project modifications.

The following text and figures are added to the "Project Description" on pages 3 and 4 of the Revised Mitigated Negative Declaration/Initial Study:

"The project applicant has modified the building design in response to public comments (Figures 1 through 8). The revised design meets the required floor area ratio of 2.0. The modified project would increase the building setback from Second Street from approximately 62 feet to 66 feet and reduce the building length by 40 feet. Parking was removed from the first floor of the building and relocated as surface parking along Second Street (Figure 2). The utility yard with the standby generators would be relocated from the Second Street frontage to the Brush Street side of the building (Figure 2). The increased setback of the building and the relocation of the standby generators away from the work/live structure on Second Street means that the potential noise impacts related to the periodic maintenance operation of the generators would be reduced (see Response B-1). The phasing of the project has also been eliminated and the project would be constructed in its entirety as one phase.

Visual impacts of the new building on the adjacent work/live structure would be further reduced by the inclusion of more landscaping proposed along Second Street (Figure 8). Approximately the same number of surface parking spaces for employees would be provided (61 spaces), as well as a truck loading dock, so no additional impacts related to circulation would be created. The height of the building would change to 68 feet to the roof plane and to 75 feet 8 inches to the top of the parapet screen (Figure 7). The height of the modified building would be slightly increased because the first

floor parking, with a ceiling height of 13 feet, as originally proposed, would be replaced with tenant space, which requires a ceiling height of 17 feet.

Landscaping plans include sidewalk trees around the entire block on Castro, Brush, Second, and Third streets, with greater density along Second Street (Figure 2).

The building footprint has been reduced by 40 feet in length and by 4 feet in width. The first floor of the building would be occupied by mechanical equipment and tenant space. Each of the four floors of the building would consist of 29,997 square feet of gross space. The building would have 119,990 gross square feet. Thus, the floor area ratio (FAR) of the building would be 2.0 (119,990 square feet divided by the lot size of 60,000 square feet)."

The following text is added to the first paragraph under (d) on page 25, and to the first paragraph under (a) on the bottom of page 47, of the Revised Mitigated Negative Declaration/Initial Study:

"However, due to the nature of this land use, where the residential use is only an accessory use to a "work" or light industrial use, a work-live structure is not typically considered a sensitive receptor."

The following text is revised under (a) on page 34 of the Revised Mitigated Negative Declaration/Initial Study:

"Up to 14 generators would be located in the ~~electrical room~~ utility yard adjacent to ~~the garage on the ground floor of the proposed building~~ Brush Street, adjacent to the loading dock."

The following text is revised under (d) on page 48 of the Revised Mitigated Negative Declaration/Initial Study:

"Up to 14 individual generators ~~located within the project building~~ would run for ~~40~~ 20 minutes once or twice per month. The generators would be installed in an ~~electrical room on the first floor of the building~~ the utility yard along Brush Street, adjacent to the loading dock parking garage."

"When the individual generators are installed, a condition of the building lease will require the tenant that is ordering the machine to meet a level of noise attenuation. The generators in the electrical room will be surrounded by noise attenuation walls that can lower the noise from the generators. ~~The generators would be situated so that the generator noise is directed into the garage. Noise caused by the standby generators would also be significantly attenuated by the hardened structure of the building and the lack of any windows. Outside noise levels at the building property line would comply with Oakland Planning Code performance standards of 85 dBA during normal business hours (Fey, 2000).~~"

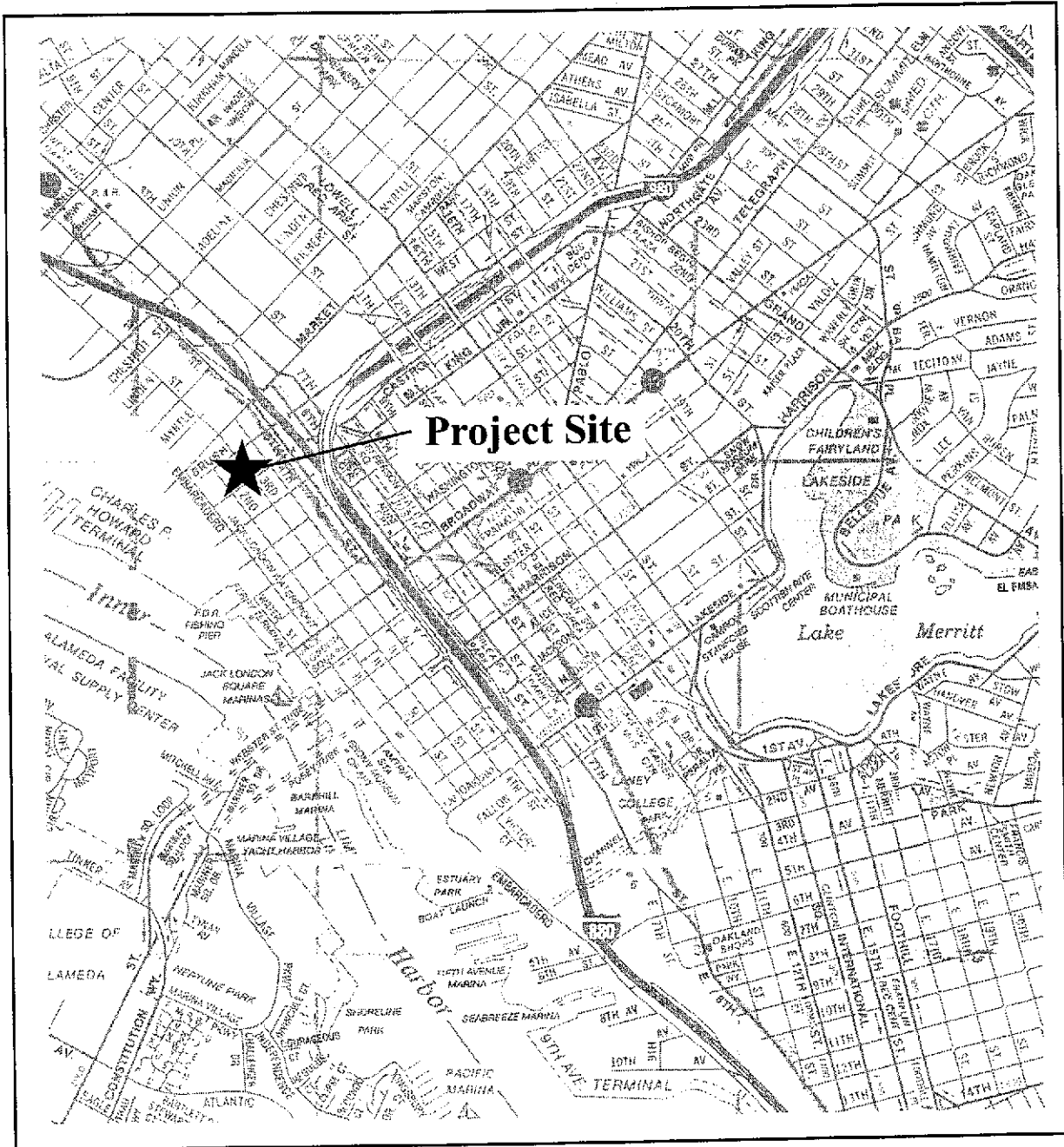
The following text is added under (d) on page 48 of the Revised Mitigated Negative Declaration/Initial Study:

“Project operations would include the periodic testing of generators located outdoors and adjacent to the telecommunications building. The testing of generators would be scheduled so as not to exceed the maximum noise level allowed under the Oakland Municipal Code. Design specifications limit the generator noise level to a maximum of 95 dBA at a distance of three feet. In addition, the generators would be prohibited from operating more than 20 minutes cumulatively in a one hour period and would only be operated between 10 am and 3 pm.

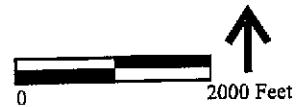
“Chapter 17.120, section 17.120.050 of the City of Oakland Planning Code limits the allowable receiving noise level for commercial facilities to 65 dBA for noise generated during the daytime (between 7am to 3 pm).¹ For the purpose of this analysis, the live-work structure is considered a commercial use. The nearby loft building would be exposed to noise created by the on-site generators. The loft building property line would be located approximately 200 feet from the nearest generator. This generator would create a noise level of 59 dBA at the loft building property line, not taking into account noise reduction due to the 17-foot generator screening wall. This would be below the commercial standard (as well as the residential performance standard of 60 dBA). The generator would create a noise level of 63 dBA at the Brush Street property line across from the utility yard, approximately 116 feet away, not taking into account the screening wall; this is below the commercial performance standard. Therefore, the generator noise would not exceed the City of Oakland noise performance standard of 65 dBA.

“The applicant has indicated that the hours of operation of the standby generators would be restricted to 10 a.m. to 3 p.m., Monday through Friday. This hour restriction could be considered by the Port for inclusion as a condition of approval for the project, and could be included in tenant leases. The applicant has put this hour restriction in a letter drafted to the commentor.”

¹ This noise level standard is based on noise generated for 20 minutes occurring cumulatively within a one hour time period. The standard also accounts for a five dBA reduction for simple tone noise and a five dBA increase for legal nonconforming residential facilities.



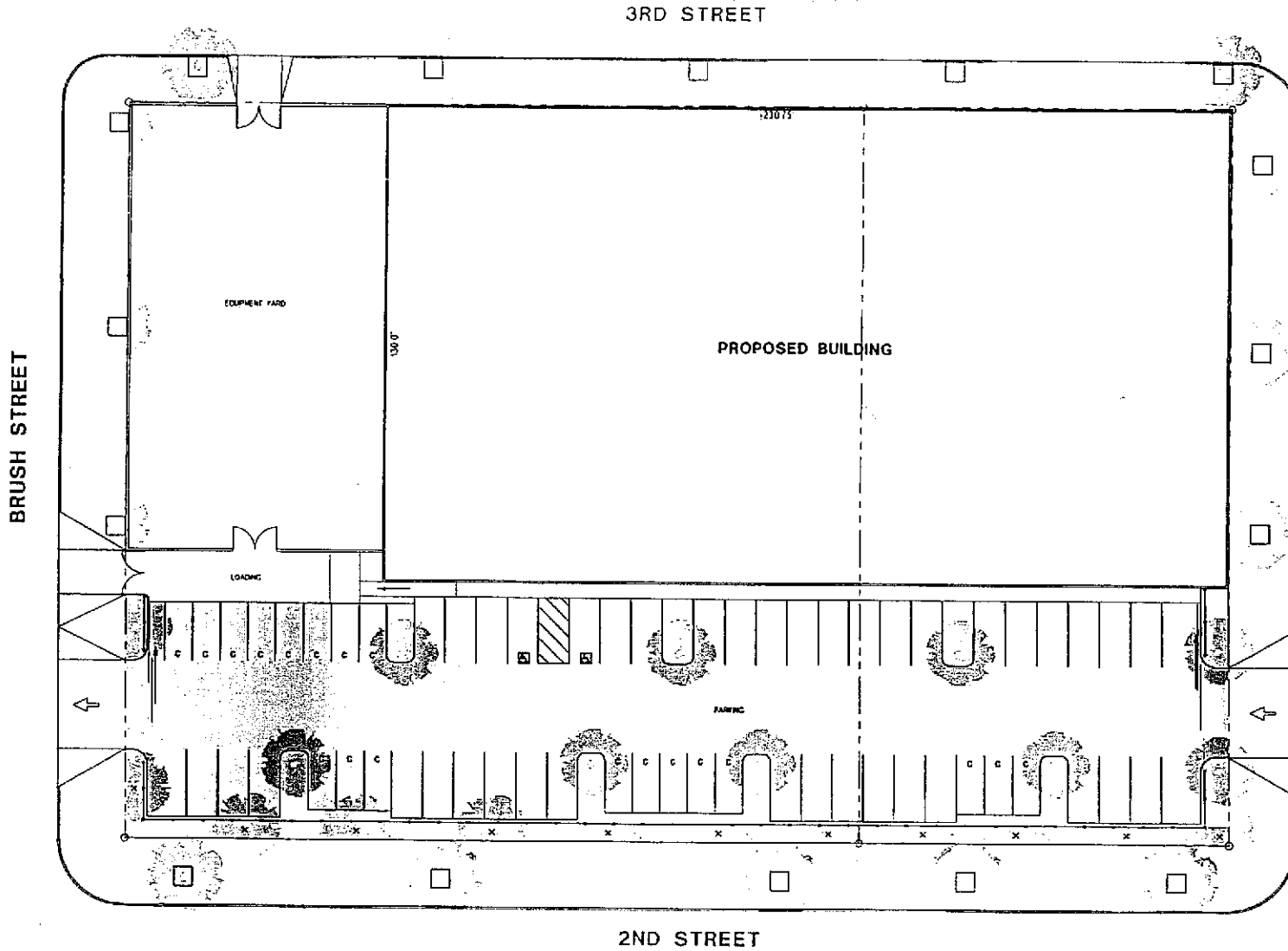
**Oakland Telecommunications Access Building
Oakland, California**



BASELINE

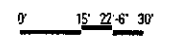
GROUND FLOOR PLAN

Figure 2



PROJECT F.A.R. STATISTICS

F.A.R. ALLOWABLE	60,000 SF LOT X 2	=	120,000 SF
4 FLOORS TELECOM TENANTS	29,997.5 SF X 4	=	119,990 SF
PARKING			
1 STALL PER 1,967 SF	=	61 SPACES	
STANDARD STALLS	=	40 SPACES	
COMPACT STALLS (31%)	=	19 SPACES	
ACCESSIBLE STALLS	=	2 SPACES	



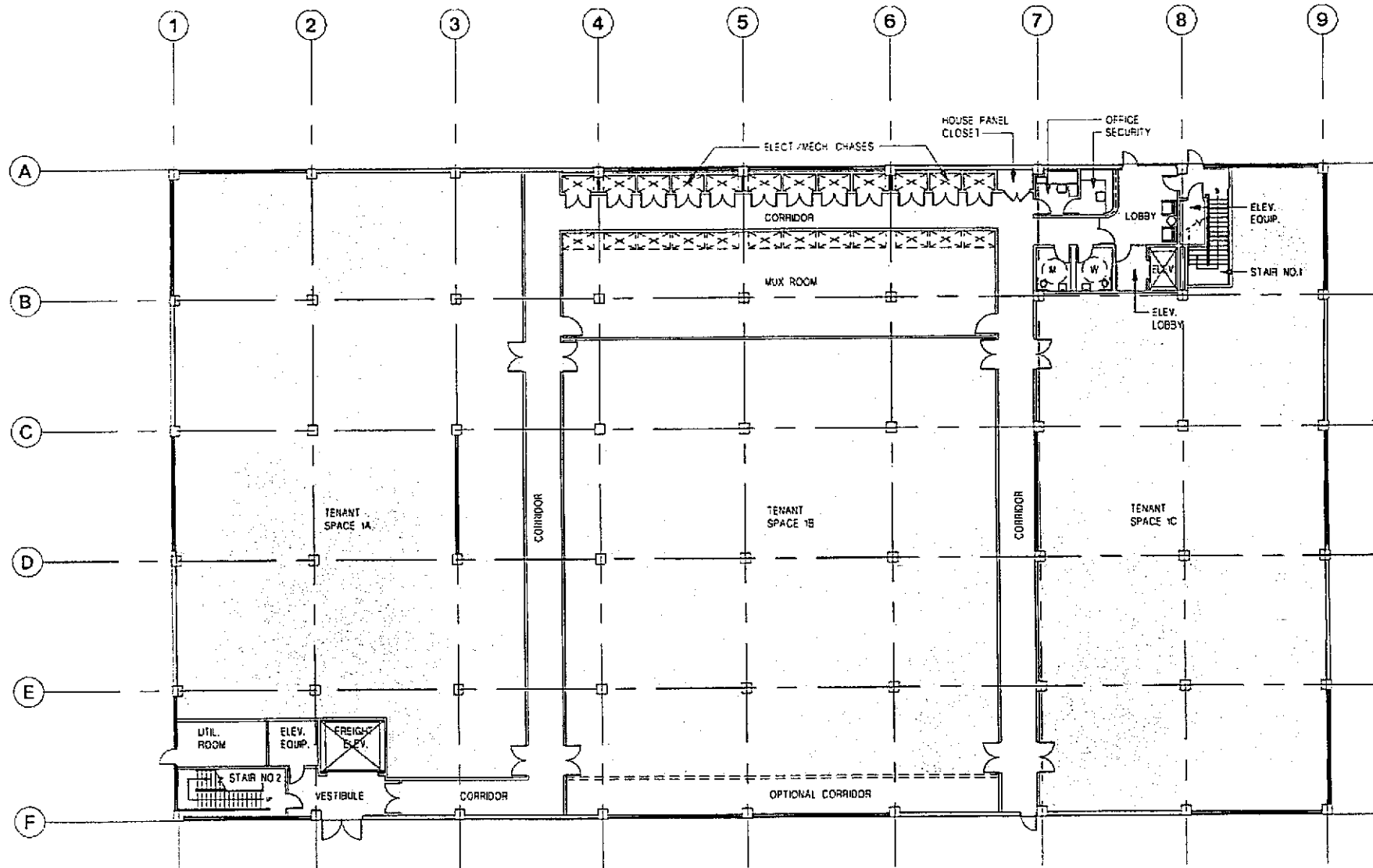
Oakland Telecommunications Access Building Oakland, California

Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.

BASELINE

FIRST FLOOR PLAN

Figure 3



Oakland Telecommunications Access Building Oakland, California

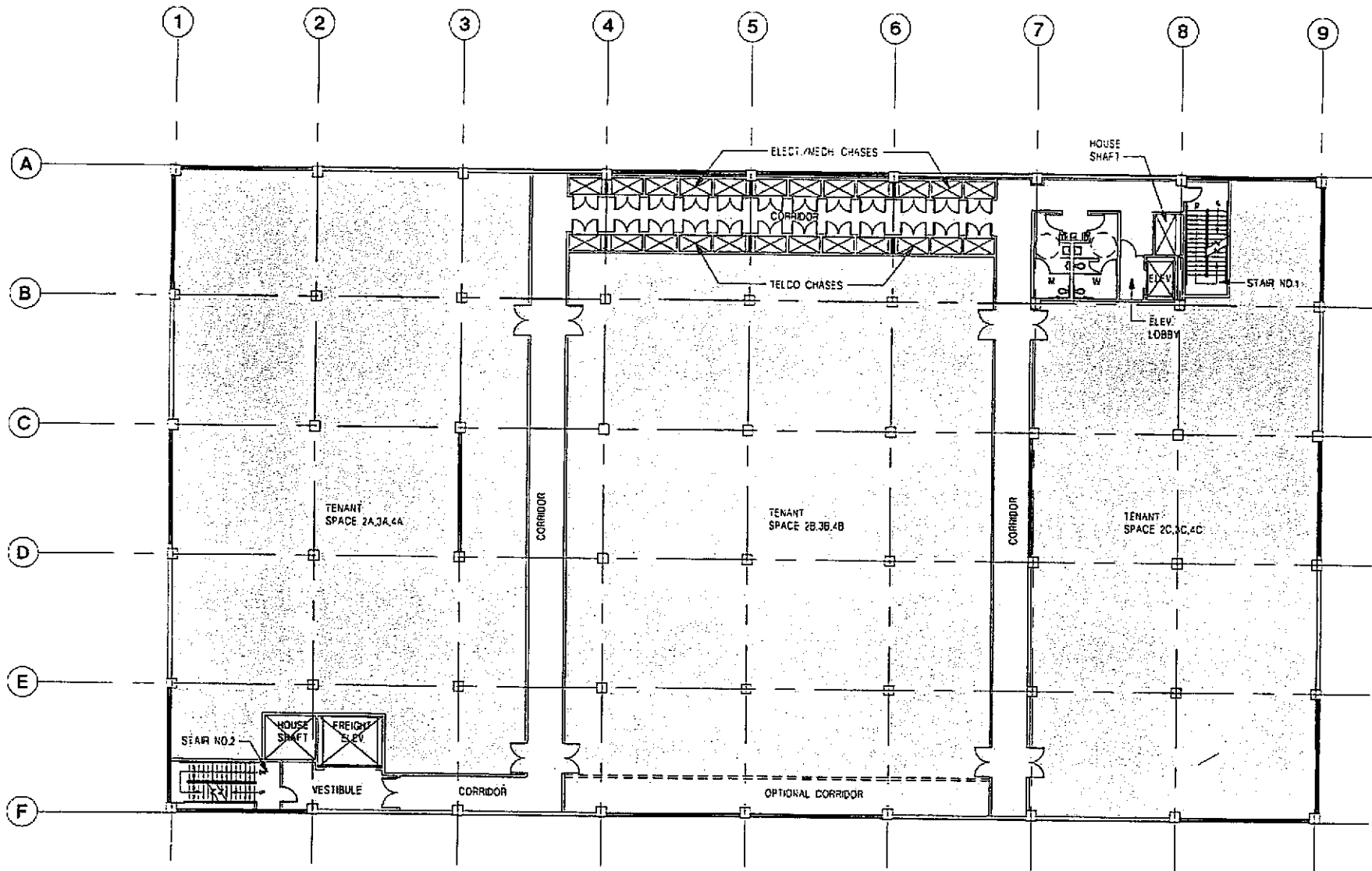
0' 15' 22'-6" 30'

BASELINE

Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.

TYPICAL UPPER FLOOR PLAN

Figure 4



Oakland Telecommunications Access Building Oakland, California

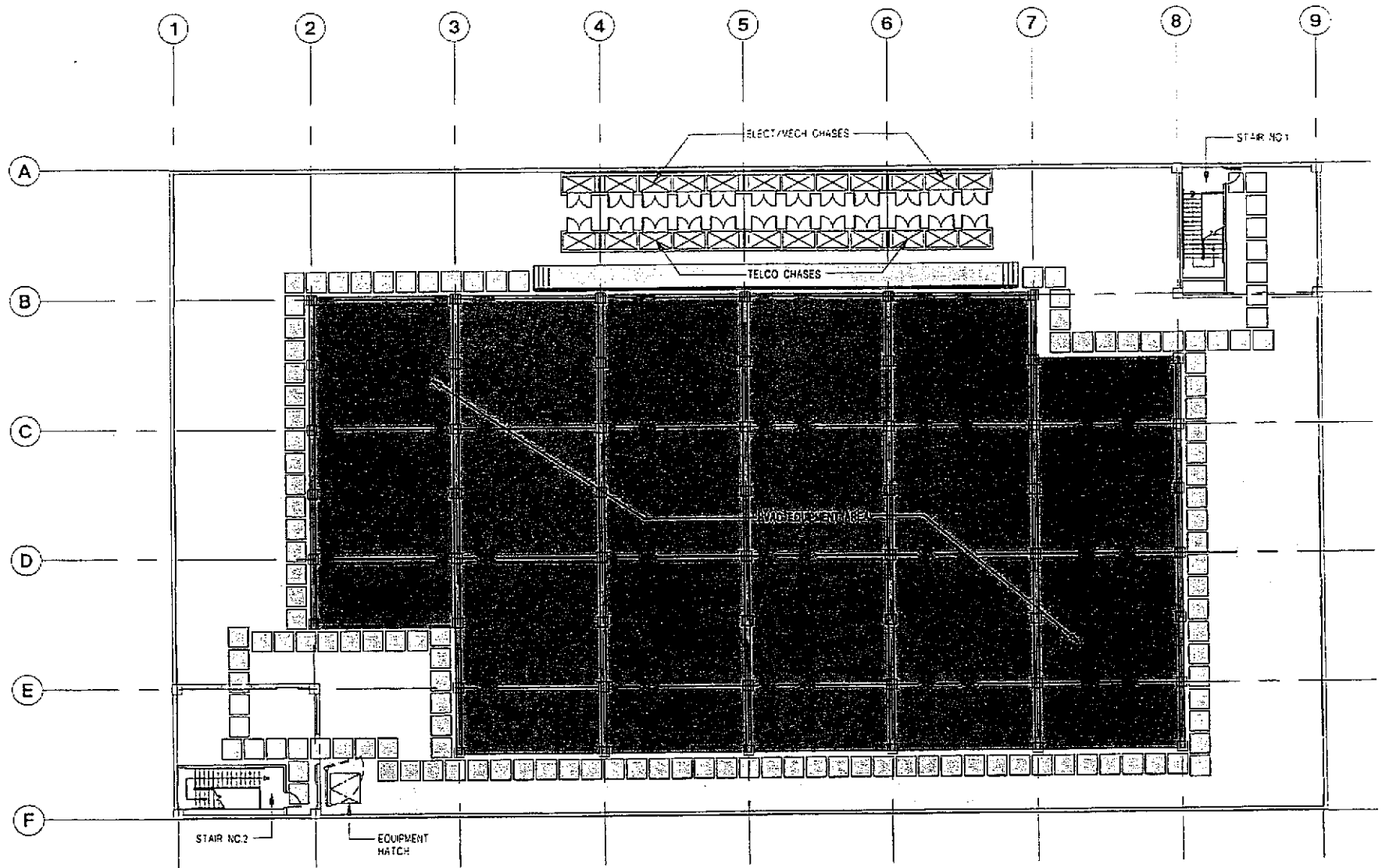
Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.

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BASELINE
E

ROOF PLAN

Figure 5



Oakland Telecommunications Access Building Oakland, California

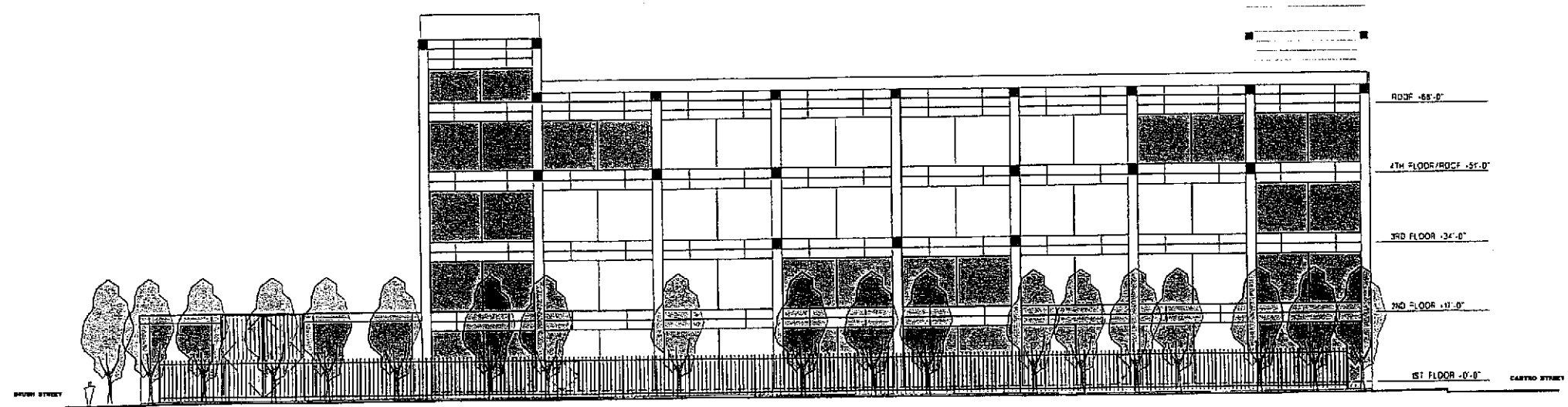
Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.

0' 15' 22'-6" 30'

BASELINE

SECOND STREET ELEVATION

Figure 6



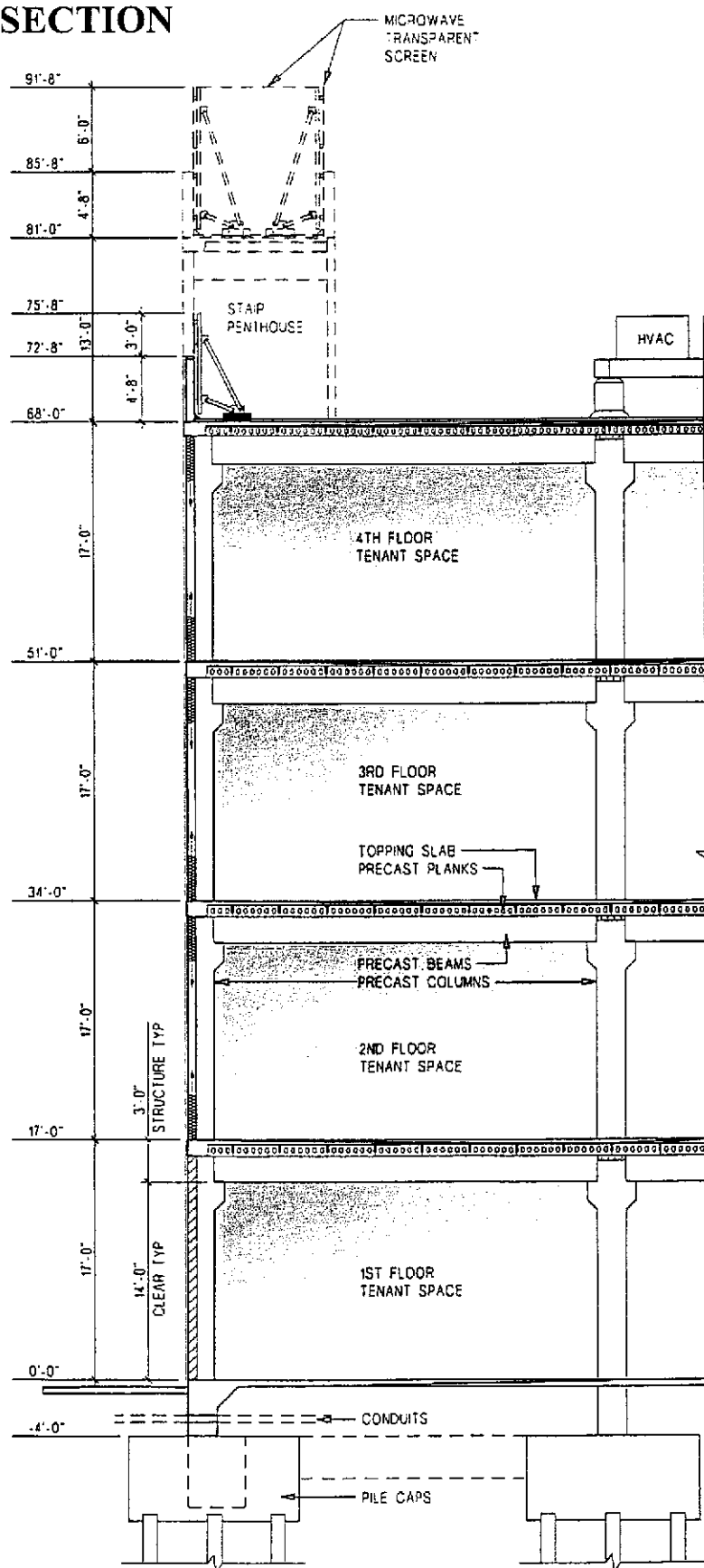
Oakland Telecommunications Access Building Oakland, California

Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.

BASELINE E

TYPICAL SECTION

Figure 7



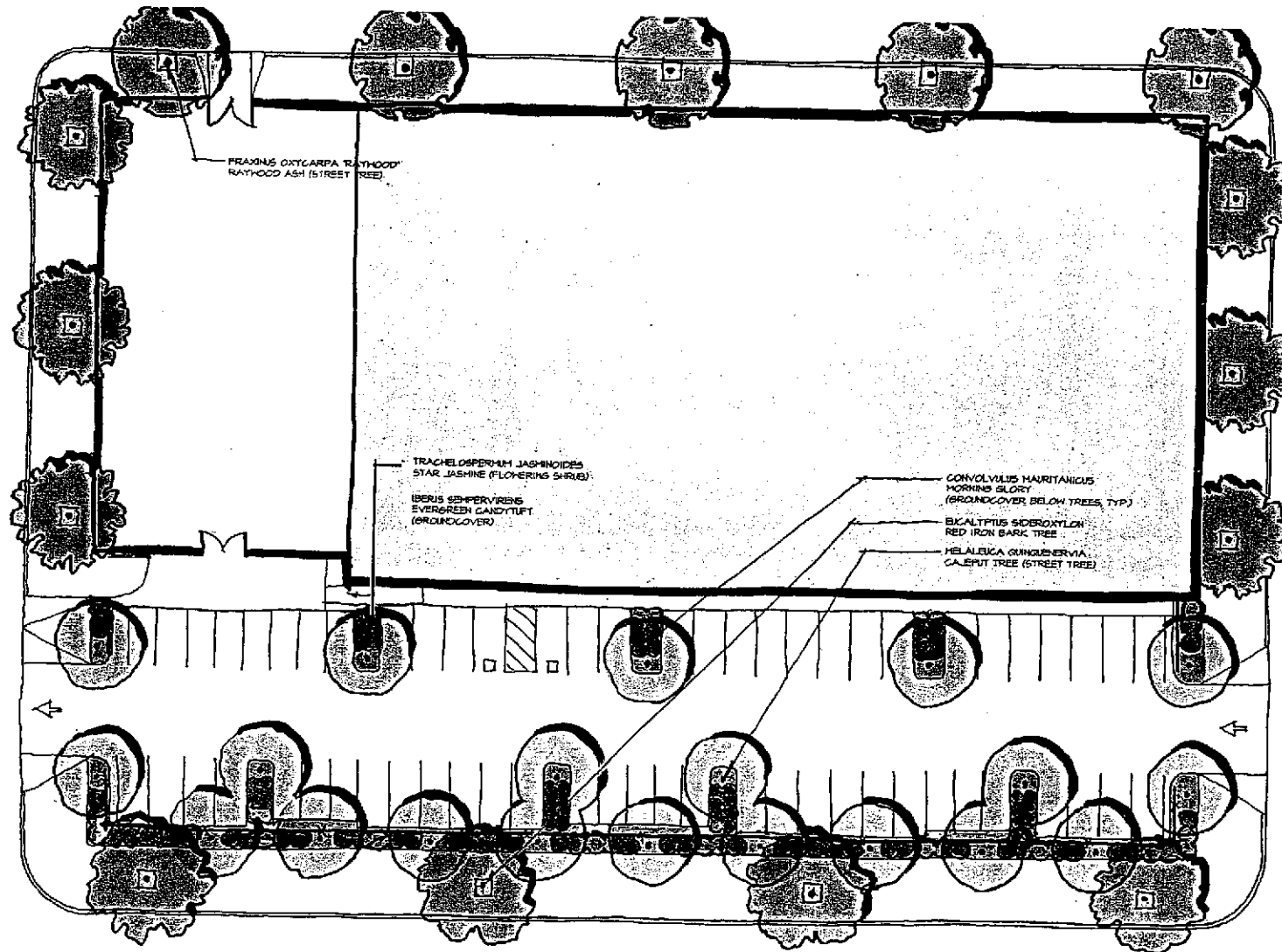
Oakland Telecommunications Access Building Oakland, California

Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.



LANDSCAPE PLAN

Figure 8



Oakland Telecommunications Access Building Oakland, California

Source: M.A. Mortenson Development Company; Carrillo Architectural Group Inc., 05-08-00.

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BASELINE

**II. FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
AND RESPONSES TO COMMENTS**



PORT OF OAKLAND

FINAL MITIGATED NEGATIVE DECLARATION

PROJECT PROPONENT: M.A. Mortenson Development Company, Minneapolis, Minnesota

PROJECT TITLE: Oakland Telecommunications Access Building

PROJECT LOCATION: Block bounded by Second, Third, Brush, and Castro streets, Oakland

LEAD AGENCY: Port of Oakland, Oakland, California

BRIEF DESCRIPTION: The site is being proposed for the construction and operation of a 120,000-square foot telecommunication facility. The structure would consist of four stories of leasable tenant space with ground-level surface parking fronting on Second Street. The telecommunication facility has been sited to specifically take advantage of the existing fiber optic infrastructure in Brush, Second, and Third streets and the PG&E substation located at Second and Castro streets, as well as the potential for direct line-of-sight microwave link between the Oakland waterfront and nearby cities such as San Francisco. The facility would receive electricity from the nearby Pacific Gas & Electric substation. The applicant, M. A. Mortenson Development Co. of Minneapolis, intends to lease out space within the building to multiple fiber optic, telephony, and cable and Internet service providers.

MITIGATION MEASURES: The project has been modified to include mitigation measures which will reduce potentially significant adverse impacts to a non-significant level. These mitigation measures include:

- measures to reduce, minimize and control dust emissions during construction activities;
- a measure to require an archaeologist to monitor initial ground clearing;
- measures to ensure that the building is designed and constructed to minimize seismic groundshaking and liquefaction;
- measures to ensure that impacts from possible subsurface soil contamination, and potential hazardous materials on the site (e.g., asbestos and lead in buildings to be demolished), are reduced to acceptable levels;
- a measure to ensure that the Federal Communications Commission authorizes radio frequency telecommunications equipment, as required by law;
- a measure to require the characterization of any groundwater before it is discharged into the sanitary sewer during construction; and
- a measure to require that the West Oakland Truck Circulation Plan is distributed to all building contractors and suppliers.

DETERMINATION Although the proposed project could have a significant impact on the environment, there will not be a significant impact in this case because mitigation measures have been recommended in the Initial Study and agreed by the project proponent. A MITIGATED NEGATIVE DECLARATION has been prepared.

FINDING OF NO SIGNIFICANT EFFECT The project will not have a significant effect on the environment for the reasons documented in the attached Initial Study.

Date: 5-11-00

By: James McGrath
James McGrath, Manager
Environmental Department, Port of Oakland.

II. FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND RESPONSES TO COMMENTS

COMMENTS RECEIVED ON INITIAL STUDY DATED 14 MARCH 2000

Letter A: Wilda White, Jack London Neighborhood Association (3/20/00)

Response A-1:

The commentor states that the project is not in conformance with the Oakland General Plan and therefore has the potential to create a significant environmental impact that requires preparation of an environmental impact report. The project has been found to be in conformance with the Oakland General Plan, according to the City of Oakland Director of Planning (see letter of April 4, 2000 from Leslie Gould to Port of Oakland, in Appendix D of the Revised Initial Study). Because the project is in conformance with the General Plan, an environmental impact report is not required. Also see Response to Comment A-2 below.

Response A-2:

The commentor states that the proposed project's floor area ratio (FAR) exceeds the maximum 2.0 FAR permitted in the Light Industrial District. The commentor cites a section of the City of Oakland's "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations."

As noted above in Section I, Modified Project Description and Errata, the architectural plans for the telecommunications building have been modified.

The Revised Initial Study/Mitigated Negative Declaration discusses the project's consistency with the Oakland General Plan and *Estuary Policy Plan* on pages 45-46. The Revised Initial Study notes that the project is required to comply with the Oakland General Plan and *Estuary Policy Plan*, but is not required to comply with zoning and related regulations of the Oakland Municipal Code, since the property is within the Port of Oakland's jurisdiction. The *Estuary Policy Plan* designates the project site for Light Industrial (LI-1) uses and limits the building floor area ratio (FAR) in LI-1 districts to 2.0.

The proposed building is located on a 60,000-square foot lot, and has been designed to comply with the FAR limit of 2.0. The proposed structure, as described in the Modified Project Description, consists of 119,990 gross square feet. Thus, the floor area ratio (FAR) of the building would be 2.0 (119,990 square feet divided by the lot size of 60,000 square feet). Each typical floor of the building consists of 29,997 gross square feet (see "Project FAR Statistics" table in Figure 2 of the Modified Project Description, above).

Response A-3:

The first Initial Study that was circulated (dated 14 March 2000) included architectural drawings and a Project Description that relied on Building Owner Management Association (BOMA) industry standards to calculate FAR. BOMA standards allow non-leasable square footage to be excluded from the FAR calculation. The Revised Initial Study, and the Modified Project Description, above, do not rely on BOMA standards in calculating the FAR of the proposed building.

Letter B: Robert Laverne, New Horizon Properties (4/3/00)

Response B-1:

The commentor states that because the building will be staffed around the clock, the full-time activity will have noise and traffic impacts directly related to the night time and weekend usage. The Project Description in the Revised Initial Study notes that one-third of the 80 to 100 employees working in the building would be there during evenings and weekends. The Project Description also noted that the building would not be open to the general public, that truck traffic and use of the loading dock would be expected during daytime hours, and that the building would not generate any noise, except for periodic testing of diesel generators.

The Revised Initial Study analyzed noise impacts of the building on pages 47 through 50, and traffic impacts on pages 52 through 58. The commentor acknowledges that the area already experiences 24-hour, seven days per week operations by the Port of Oakland. In addition, the railroads already operate 24 hours per day. The only potentially significant noise impacts related to the building would be construction noise, noise from the periodic operation of standby generators, and noise from the deflection of railroad whistles and other noise from the nearby railroad tracks. The analysis states that the project would not generate any substantial permanent noise, since all permanent operations would be enclosed in the structure. As noted in Response E-6 below, the applicant has indicated that the hours of operation for the periodic testing of standby generators would be restricted to 10 a.m. to 3 p.m., Monday through Friday. This hour restriction would be included as a condition of approval for the project, and would be included in tenant leases. In addition, the utility yard with the standby generators has been relocated from the Second Street frontage to the Brush Street frontage, which is about 200 feet away from the work/live structure.

The only permanent noise increase would be caused by the increase in traffic to the site. The addition of employee and truck traffic to nearby roads is estimated to be 196 daily one-way employee trips and six to ten daily truck trips (see Table 4 on page 54). The addition of approximately 200 daily trips to the existing low traffic levels in the project area (6,500 daily vehicles on Third Street) will not cause any significant increase in traffic or ambient noise levels.

If one third of the auto trips were generated by night time employees, approximately 65 additional daily trips would be added to roads in the project area each day, which is an insignificant increase. This is a worst-case estimate of trip generation which does not take into account non-auto commuting. A portion of the employees would be expected to use nearby BART, bus, and ferry transit service.

As indicated in the conditions of approval for the Phoenix loft project, a work-live use in an industrial area is subject to noise, light and glare from surrounding businesses. The residential use in the loft project is an accessory use in a work-live unit, and the work that is conducted within a work-live building could result in noisy conditions inside the building itself. The permit conditions for the Phoenix loft project indicated that the existing and future businesses surrounding the property must be allowed to continue to operate in the area.

Response B-2:

The commentor states that the Project Description is misleading in referring to the proposed building as a four-story building, because a 76-foot building is equivalent to a seven story building like the Port Building at 530 Water Street.

As noted above in Section I, Modified Project Description and Errata, the telecommunications building was originally proposed as a four-story structure, with parking to be located on the first floor. In response to comments received, the architectural plans have been modified to remove the parking from the first floor and replace it as surface parking along Second Street. The building footprint has been reduced by 40 feet in length. Instead of parking, the first floor of the building would be occupied by electrical equipment and tenant space. The height of the modified building would be slightly increased because the first floor parking, with a ceiling height of 13 feet, would be replaced with tenant space, which requires a ceiling height of 17 feet. The height of the building, measured from ground elevation to the top of roof plane is 68 feet and the top of the parapet screen is 75 feet 8 inches (Figure 7).

The commentor is correct in noting that this four-story building is higher than most typical four-story buildings; it should be noted that there are no height limits in the M-30 zoning district and the light industrial district. The four floors of leasable space have been designed to the specifications of the telecommunications industry. The installation of tall racks of computerized telecommunications switching equipment requires higher than normal ceilings (17 feet).

Response B-3:

The commentor has raised issues regarding potential impacts of the new building on views from the proposed Phoenix Loft work-live project now under construction across Second Street. In response to the comments, which were submitted based on the original Initial Study dated March 14, 2000, additional visual/aesthetic analysis was included in the Revised Initial Study.

Page 21 of the Revised Initial Study notes that the *Estuary Policy Plan* does not identify any scenic vistas or corridors in the area, and that views from the project site eastward are of an elevated freeway (I-880), with views of downtown Oakland high rise office buildings and the East Bay hills in the far distance. The analysis states that new building would have a "less-than-significant" impact on scenic vistas. The revised proposed building would not block any protected scenic views, although the new building could alter some existing views experienced by neighboring uses such as future occupants of the new work-live building across Second Street. It should be noted that there

are no policies in the *Estuary Plan* identifying scenic views or scenic view corridors for the project area.

As shown in the Modified Project Description, the developer of the proposed project has augmented the landscaping plans along Second Street by installing more trees, which would help to soften the visual treatment of the building seen from the work-live units (Figure 8).

Response B-4:

The commentor notes that the air quality analysis in the Initial Study does not include a study of wind impacts on the Phoenix Loft residents, including air intake for fresh air to the lofts. The air quality analysis did not discuss wind issues, since the project site is in a topographically flat industrial area, surrounded by buildings. There is no pattern of strong winds in the area, and so no wind analysis is warranted.

Regarding air intake for fresh air to the loft units, the modified telecommunications building is located approximately 194 feet away from the closest Second Street frontage of the work-live building. The original architectural drawings have been modified significantly to decrease the overall footprint of the building and install surface parking along Second Street, which has resulted in a 66-foot setback of the building from the Second Street frontage property line (60 feet of surface parking and six feet of landscaping to the sidewalk). The building would conform to all City requirement for FAR and setbacks. The building would be about 194 feet from the lofts, currently under construction, and there are no known air circulation limitations for the lofts as a result of implementation of the proposed building.

Response B-5:

The commentor notes that the use of BOMA standards in calculating floor area ratio for the building is not appropriate. See Response A-3 above.

Response B-6:

The commentor states that the noise analysis is inadequate, that future residents of the live-work building are not identified as "sensitive receptors," and that deflected train noise is not analyzed.

The Revised Initial Study analyzes noise impacts on pages 47 through 50. The scope of the analysis has been augmented in the Revised Initial Study to address the commentor's concerns. The revised Initial Study analyzed the noise impacts on future residents of the work-live building. The potential noise impact of train whistles and other railroad noise to be reflected off the Second Street facade of the new building, and to be reflected onto the front of the work-live building across the street is analyzed on pages 49-50. The analysis concludes that, under a worst-case situation, deflected train noise could increase ambient noise levels by less than five decibels when trains are passing, which is considered a less-than-significant impact.

Response B-7:

The commentor proposes that the height of the building be reduced by spreading more of the building over the lot. See Response A-2 above. The building footprint has been reduced while it remains a four-story building to provide sufficient on-site parking. The building has been modified to replace the first floor parking with surface parking adjacent to the building. If the building is spread over a larger portion of the lot, the required amount of parking could not be fit onto the surface parking area.

Response B-8:

The commentor proposes that adequate landscaping be provided along Second Street. See the final paragraph of Response B-3 above.

Response B-9:

The commentor proposes that a more sensitive and less hard-edged building design be adopted.

The developer has added landscaping along Second Street to soften that edge of the building (Figure 8 in the Modified Project Description).

Response B-10:

The commentor proposes that people living and working nearby not be assaulted by excessive sound from the new building.

See Response B-1 above.

Response B-11:

The commentor proposes that deflected train noise impacts be softened with sound absorbing facade materials and by petitioning the railroad for a "no bell/whistle-zone."

The impacts of deflected train noise have been determined to be less than significant. The developer has proposed additional landscaping and building setback along Second Street.

Letter C: George M. Vlazakis (4/3/00)

Response C-1:

The commentor states that he is concerned about radiation that is emitted from the building and any equipment generating microwaves, radio waves, or electromagnetic waves or fields. He states that the health risks and risks to the environment have not been fully studied in having these emissions so close to populated areas.

The Revised Initial Study analyzed potential impacts related to electromagnetic frequency waves (EMF) generated by equipment on the roof of the building on pages 39 through 40 (Impact VII-3).

The analysis of EMF on page 39 indicates that extensive Federal guidelines have been developed by the Federal Communications Commission (FCC) to minimize potential adverse human health impacts related to radio frequency (RF) emissions. The FCC guidelines establish limits for Maximum Permissible Exposure (expressed in terms of electric and magnetic field strength and power density) for transmitters operating at frequencies between 300 kilohertz (kHz) and 100 gigahertz (Ghz). The applicant of the project has indicated that the expected RF sources on the roof or sides of the proposed building would potentially be relatively low power transmitters operating within this range of frequencies, so Federal review of the telecommunications equipment would be required.

The FCC guidelines and permitting requirements are based on research that has been conducted to assess any potential health risks related to radio frequency and electromagnetic frequency. The Revised Initial Study cites two FCC reports which summarize the results of the scientific studies (Cleveland, Sylar, and Uleck, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio-frequency Electromagnetic Fields," and "Questions and answers about Biological Effects and Potential Hazards of Radio-frequency Electromagnetic Fields").

Mitigation Measure VII-3 states that "Installation of any telecommunications equipment that emits radio frequency electromagnetic energy shall be permitted only after authorization by the Federal Communications Commission, if required, and submittal of documentation to the City of Oakland that demonstrates compliance with FCC guidelines."

The FCC licensing procedures require that applications to construct regulated RF sources must comply with guidelines and must demonstrate (with submittal of an environmental/engineering statement) that no significant environmental impacts, including human exposure, would be caused by the proposed RF source. If a significant impact is indicated, the application must submit an Environmental Assessment (EA) or possibly an Environmental Impact Statement (EIS) prepared in compliance with the National Environmental Protection Act (NEPA).

Response C-2:

The commentor expresses concern that the proposed building will reduce light and air and will cause overcrowding in the area. He states there should be wider setbacks from existing structures and sidewalks.

As noted above in Response B-4, the original building design has been significantly modified from the first Initial Study to decrease the footprint of the building, which has resulted in a 66-foot setback of the building from the Second Street property line. The development standards for the Light Industrial (LI) land use classification contained in the *Estuary Policy Plan* do not require any setbacks for buildings in that district. The project site is surrounded by existing industrial buildings which are constructed to the edge of the property line and sidewalk, and do not have any setback. The intent of the LI land use classification for the area is to "Maintain light industrial and manufacturing uses that provide support to the adjacent maritime area and the downtown, but are

compatible with the adjacent West Oakland neighborhood." Building setbacks are not required to maintain the primarily industrial and manufacturing character of the area and could detract from it.

Response C-3:

The commentor is concerned about emissions from backup generators and trucks serving the new project.

The Revised Initial Study analyzes air quality emissions on pages 22 through 25, and traffic circulation on pages 52 through 58. Nitrogen oxide (NOx) emissions from the standby diesel generators are calculated to be in the range of 305 to 607 kilograms per year, or 672 to 1,339 pounds per year, which is well below the Bay Area Air Quality Management District (BAAQMD) thresholds of significance for NOx of 15 tons (30,000 pounds) per year.

Similarly, the emissions from traffic generated by the employee autos and delivery trucks are below the significance standards adopted by the BAAQMD for key pollutants. Combined auto and truck trips generated by the project would result in emissions of 33.2 pounds per day of carbon monoxide, 2.45 pounds of reactive organic gases, 3.25 pounds of NOx, and 2.9 pounds of particulate matter. These estimated emissions are well below the significance thresholds adopted by the BAAQMD of 80 pounds of emissions per day of ROG, NOx, and PM₁₀, and 20 parts per million (ppm) (for 1 hour), or 9 ppm (for 8 hours) for CO.

Response C-4:

The commentor states that a "no project" alternative should be seriously considered or, if the project is built, it should be placed in an isolated area in order to mitigate health risks.

The Revised Initial Study does not include a discussion of alternatives to the project, including consideration of a "no project" alternative, since the California Environmental Quality Act does not require discussion of alternatives in a Mitigated Negative Declaration.

The Revised Initial Study analyzed potential health risks related to electromagnetic frequency waves and determined that any potential impacts would be mitigated by the requirements of the Federal Communications Commission. See Response C-1 above.

COMMENTS RECEIVED ON REVISED INITIAL STUDY DATED 5 APRIL 2000

Letter D: **Wilda White, Jack London Neighborhood Association (4/25/00)**

Response D-1:

The commentor states that the project exceeds the maximum floor area ratio (FAR) permitted under the *Estuary Policy Plan*. The commentor states that the City of Oakland Land Use and Transportation Element (LUTE) and "Guidelines for Determining Conformity with the General Plan and Zoning Ordinance" do not include an exemption for off-street parking in calculating FAR. The

commentor states that the Director of Planning must look to the LUTE and the Guidelines, and not the City's Zoning Ordinance to determine whether a project conforms to the General Plan.

With the design modifications to the building, including elimination of the first floor covered parking, the building FAR is 2.0, which is consistent with the *Estuary Policy Plan's* requirement.

Response D-2:

The commentor asks what the appeal process is for the project approval.

"Policy W1.1 of the Land Use and Transportation element of the General Plan sets forth policy direction with respect to General Plan conformity of projects within Port jurisdiction, and also includes text regarding the appeal process for such conformity determinations. Specifically, the policy states the following:

"Port Makes Determination and Reports to City The Port shall make a written determination of conformity for each project, plan, and/or land use guideline it approves in the Port area. Prior to making such determination the Port will forward its proposed determination to the Director of City Planning, who may provide the Port with written comments within a specified time period. Any comments so provided shall be considered and responded to in writing by the Port in its conformity determination.

For projects in the Port Area outside the seaport and airport areas, the Port's determination of General Plan conformity may be appealed to the City council within 10 days. If not appealed within 10 days, the Port's determination shall be deemed final. If appealed, the City Council, by a vote of at least 6 members, shall make a final determination on the appeal within 30 days. The City Planning commission shall provide recommendations to the City Council for consideration in hearing an appeal of the Port's conformity determination.

For purposes of this policy, the Airport area shall be considered that portion of the Port area west of Doolittle Drive, and the Seaport area shall be considered that portion of the Port Area generally lying west of Maritime Street and northwest of the Estuary Plan area.

Projects appealable to the city Council under this policy are those for which an Environmental Impact Report or Mitigated Negative Declaration has been prepared pursuant to the California Environmental Quality Act; new construction, additions, changes in use, or expansion of use involving 20,000 square feet or more in floor area; and public improvements in transportation or public access valued at \$250,000 or more.

Additional detail regarding more specific steps of the appeal process for General Plan conformity determinations in the Port Area are also provided in Table 3 of the Guidelines and Procedures for General Plan Conformity Determinations of Projects in the Port of Oakland Area, which was adopted by the City Planning Commission on February 3, 1999."

The statute of limitations for filing a court challenge to approval of projects under the California Environmental Quality Act is governed by Guidelines Section 15112(c) which states:

"The statute of limitations periods under CEQA are as follows:

- (1) Where the public agency filed a notice of determination in compliance with Section 15075 or 15094, 30 days after the filing of the notice and posting on a list of such notices.
- (2) where the public agency filed a notice of exemption in compliance with Section 15062, 35 days after the filing of the notice and the posting on a list of such notices.
- (3) Where a certified state regulatory agency files a notice of decision in compliance with Public Resources Code Section 21080.5(d)(2)(v), 30 days after the filing of the notice.
- (4) Where the Secretary for Resources certifies a state environmental regulatory agency under Public Resources Code Section 21080.5, the certification may be challenged only during the 30 days following the certification decision.
- (5) Where none of the other statute of limitations periods in this section apply, 180 days after either:
 - (A) The public agency's decision to carry out or approve the project, or
 - (B) Commencement of the project if the project is undertaken without a formal decision by the public agency."

The Board of Port Commissioners has not adopted a formal procedure for appeal of project approvals.

Letter E: Robert Laverne, New Horizon Properties (4/25/00)

Response E-1:

The commentor states that the elevation drawing indicates a height of 67 ½ feet for the building and the text indicates 70 feet.

As noted above in Response B-2, the final revised architectural drawings for the proposed telecommunications building indicates a height of 68 feet to the roof plane and 75 feet 8 inches to the top of the parapet screen (Figure 7). There are no height limitations associated with this project.

Response E-2:

The commentor states that the building has been decreased by 21,000 square feet but the text continues to refer to a 120,000 square-foot building.

As noted above in Section I, Modified Project Description and Errata, the gross square footage of the proposed building is 119,990 square feet. The building footprint has been reduced by reducing the building length by 40 feet and the width by 4 feet.

Jack London Neighborhood Association

247 Fourth Street • Loft 201 • Oakland, CA 94607
tel: 510-452-3355 • fax: 510-452-3800 • www.jlna.org

RECEIVED

MAR 22 AM 9:16

ENVIR. PLANNING DEPT.

March 20, 2000

Port of Oakland
Environmental Planning Department
Attn: Marucia Britto
530 Water Street
Oakland, CA 94604

Re: *Proposed Mitigated Negative Declaration and Initial Study
Oakland Telecommunications Access Building, Oakland, CA*

Dear Environmental Planning Department:

Jack London Neighborhood Association supports and welcomes the type of development envisioned by the above-referenced project. Unfortunately the project does not conform to Oakland's General Plan and therefore has the potential to create a significant environmental impact that requires the preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.

A-1

The proposed project's floor area ratio (FAR) exceeds the maximum 2.0 FAR permitted in the Light Industrial District. The City of Oakland's "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (hereafter "Guidelines") states at page 8:

A-2

The calculation of floor area ratio for nonresidential projects is straightforward. Simply calculate the total gross floor area of the project and divide by the lot area. If the result exceeds the FAR allowed in the relevant Land Use Classification, the project clearly does not conform. If it is equal or less, the project clearly does conform.

The proposed telecommunications building would be located on a 60,000 square foot lot and built to 60 percent of the lot perimeter with three stories of tenant spaces totaling 120,000 square feet and one level of ground floor parking. While the Proposed Mitigated Negative Declaration and Initial Study do not disclose the total gross floor area for this four story building, from the

A-3

Environmental Planning Department

Re: *Proposed Mitigated Negative Declaration and Initial Study*
Oakland Telecommunications Access Building, Oakland CA

March 20, 2000

Page 2

foregoing information it can be estimated that the proposed project has a gross floor area between 144,000 to 160,000 square feet.

Dividing 144,000 and 160,000 square feet by 60,000 square feet results in a FAR between 2.4 and 2.67, respectively. Because the maximum permitted FAR is 2.0, the project clearly does not conform.

The Initial Study's reliance on Building Owner Management Association (BOMA) industry standards to calculate FAR is improper because the BOMA standards exclude certain types of space. Under the Guidelines, FAR calculations should be based on *gross*, not net, floor area.

Please notify Jack London Neighborhood Association of any and all determinations on this project.

Very truly yours,

JACK LONDON NEIGHBORHOOD ASSOCIATION

By 
Wilda L. White, *President*

Enclosure: Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations, amended November 3, 1999, Oakland, CA 100-31

cc: Leslie Gould, Director of City Planning

1
A-3
Cont.

1
A-4

1
A-5

RECEIVED

00 APR -3 AM 10:15

**NEW HORIZONS PROPERTIES, LLC
PHOENIX LOFT PROJECT**

ENVIR. PLANNING DEPT., PO BOX 20468
OAKLAND
CALIFORNIA 94620
USA

PHONE: 925 937-4461
FAX: 925 937-6168
E-MAIL: feenixdrmr@prodigy.net

April 3 2000

Port of Oakland
Environmental Planning Department
530 Water Street,
Oakland, California 94604

Re: Oakland Telecommunications Access Building

Port Commissioners,

This letter is a summary of my comments on the proposed Initial Study and Negative Declaration of the Oakland Telecommunications Access Building.

I am the General Partner of New Horizon's Properties, L.L.C. which owns and is developing a mixed -use work/live project in what was a derelict four story warehouse at 737 2nd. Street in the LI-1 area of the Jack London District.

Our project, the Phoenix Lofts, consists of 30 high-end live/work condominiums, ground floor commercial spaces and indoor parking. Completion will be in April 2000. We recognize and fully accept the industrial nature of this area. Since our project began we have noticed increased interest in this area, both by individuals interested in living and working here and by developers recognizing the future potential, and this interest is beneficial and desirable. We do not object to the proposed telecommunication use directly across 2nd. Street from us, and in fact, we welcome this technology development to the area.

However, the Negative Declaration of the proposed Oakland Telecommunication Access Building, dated March 14, 2000, is inadequate, misleading and incomplete in assessment of its impact on the surrounding area in the following ways:

1. The proposed facility will function and be staffed 24 hours/day, 7 days/week, year round. No other facility in the area except the Port has such intensity of use, and this impact has not been fully assessed. The full-time activity will have noise and traffic impacts directly related to the night time and weekend usage.
2. The Project Description is misleading (B, p.2) in referring to the building as a four story building. While the height is disclosed (though the equipment is often excluded), the description never says that a 76ft. building is equivalent to a seven story building, not a four story building. It is described as being comparable to our four story building across the street, but our building is 50ft. in height, not 76ft. in height. The Telecommunications Building should be compared to the Port Building at 530 Water Street, which is very close in height. Accordingly, using "four stories" in this Report rather than 76ft. is misleading, especially when the Report states that this new project is the same size as other four story buildings in the area, which it is not. (D-I c p.20)

B-1

B-2

3. In section D-I (Acsthetics) there is no discussion of the very large visual and aesthetic impact of the new project on Phoenix Loft Building occupants. Moreover, there is no discussion of the blocking of the occupants view of downtown Oakland, especially at night. Scenic views include views of the Urban Core and the East Bay Hills beyond, not just The Bay, and loft owners' views are advcrsely affected because of the height of the new buildings. B-3
4. In section D-III (Air Quality) there is no discussion or study of wind impacts on Phoenix Loft residents and the building, including air intake for fresh air to the lofts. B-4
5. In section D-IX p.44 (Land Use Planning) the discussion of FAR is totally wrong, for several reasons: The use of BOMA Standards for FAR is totally wrong, inappropriate and misleading, since excluding parking would mean that a five story parking garage would have a ZERO FAR, and the purpose of FAR is to evaluate the bulk and height of a building. While the BOMA Standard may be appropriate from a building owner's perspective, it is wholly inappropriate from a land use perspective. In addition, while the existing Oakland Zoning Regulations do exclude parking areas, they do not exclude the other areas excluded under this BOMA analysis. Most critically, the Oakland General Plan supersedes the Zoning Regulations. In the Plan Conformance Guidelines adopted by the Oakland Planning Commission, there is a common sense statement that FAR includes gross square footage, with no exclusions. This Guideline is binding here and must be used. Moreover, the purpose of FAR is to limit bulk and height, and here there is a building 76ft. in height, including mechanical equipment. Stating that a building of this height conforms to a 2-1 FAR makes a mockery out of these rules, since a 76ft. high building would normally have a 7-1 FAR. We chose to develop in a mixed use area, and in so doing we relied on the 2-1 FAR and other limits. It is troubling that these limits are being ignored. Indeed, the General Plan Conformance letters between the Port and the City totally ignore this issue, and simply defer to the applicants use of the BOMA standard. This is not valid or appropriate. B-5
6. In section D-XI p.46 (Noise), the discussion of the noise impacts on the Phoenix Loft building are inadequate and incomplete. While the residents are mentioned, they are dismissed as insignificant, and they are not listed as "sensitive receptors". Evaluation of noise impacts must include reflected sound from the new building facade to the front of Phoenix Loft building, especially the Union Pacific train whistle (canyon effect). Even though the residents are Live-Work occupants, they still will be living in the building, a legal use, and some recognition of these impacts is essential. B-6

I understand that the Negative Declaration is to be amended, and I reserve the right to amend this letter after receipt of the amended Negative Declaration.

Proposed Improvements to the Project

There are many ways to make the new structure conform with and even enhance the surrounding area. A non-exhaustive list would include:

1. Reduce the height of the building by observing the intent of the FAR, by sprcading the building over more of the 60,000sq.ft. lot, decreasing the floor to floor height (while still being adequate for the intended fiberoptic switch use - (13ft.), and placing parking and generators below surface level. B-7
2. Provide for adequate landscaping to soften the facade impact, i.e., street trees along 2nd. Street from Brush to Castro. B-8
3. Develop a more sensitive and less hard-edged building design. B-9
4. Recognize that people are living and working nearby 24 hours /day and should not be assaulted by B-10

excessive sound, particularly at night and weekends (generator operating schedule, trucks, construction noise).

5. Soften reflected noise impact by adding sound absorbing facade materials or petition Union Pacific for a "no bell/whistle-zone" along the Jack London District right-of-way (a benefit for the whole District).

Thankyou for providing us the opportunity to comment.

Sincerely,



Robert Lavrac,
Managing Member
New Horizons Properties, L.L.C.

B-10
Cont.
B-11

Letter C

RECEIVED
00 APR -3 AM 10:12
ENVIR. PLANNING DEPT.

4/3/00

My name is
George Vlazakis. I have a
small law office located
across the street from the
proposed project identified as
the Oakland Telecommunication
Access Building.

My concerns to the
proposed project are as follows:

(1) I am concerned of
the amount of radiation and
types which will be

c-1

(2)

emitted from the building and any equipment or towers located on or in the building resulting from micro waves, radio waves, electromagnetic waves and fields and other proposed emissions. The health risks and risks to the environment have not been fully studied in having these emissions so close to populated areas.

C-1
Cont.

③

② I am concerned that the buildings, equipment and any proposed towers will reduce the amount of light and air and will cause overcrowding in the area. There should be wider set backs from existing streets and sidewalks.

C-2

3. I am concerned about emissions from the back up generators and trucks.

C-3

(4)

which will service the buildings

This will effect traffic

circulation and air emissions

C-3
Cont.

4. I believe that a

no project alternative

should be seriously

considered or if the

project is built it is

placed in an area

that is isolated from the

population since the health

risks will be mitigated

C-4

(5)

Thank you for your time
and consideration in reviewing
my letter and the concerns
contained in it. If other
issues are raised, I will
submit them in writing.

Very truly
yours

Gene Waples

GEORGE M. VLAZAKIS

**ATTORNEY AT LAW
325 BRUSH STREET
OAKLAND, CALIFORNIA 94607**

**TELEPHONE: (510) 836-4437
FACSIMILE: (510) 836-4464**

Jack London Neighborhood Association247 Fourth Street • Loft 201 • Oakland, CA 94607
tel: 510-452-3355 • fax: 510-452-3800 • www.jlna.org

Letter D

April 25, 2000

Port of Oakland
 Environmental Planning Department
 Attn: Marucia Britto
 530 Water Street
 Oakland, CA 94607

Re: Revised Proposed Mitigated Negative Declaration and Initial Study
 Oakland Telecommunications Access Building, Oakland, California

Dear Environmental Planning Department:

This letter is submitted by both Jack London Neighborhood Association and Urban Village, a newly formed regional organization whose mission includes, among other things, development, research, and education about livable and sustainable high-density urban communities.

The above-referenced project's floor area ratio (FAR) exceeds the maximum permitted under the Estuary Policy Plan, an amendment to Oakland's General Plan. The project must therefore be revised or the application must be rejected.

We hereby incorporate by reference as if fully set out herein Jack London Neighborhood Association's earlier response to the above-referenced project's original proposed Mitigated Negative Declaration and Initial Study.

According to the project's revised Initial Study/Mitigated Negative Declaration (IS/MND), the project proposes to construct the following square footage:

	Phase I	Phase I & II
First floor parking	10,620	34,796
First floor common area	1,846	3,768
Second floor	12,466	38,744
Third floor	12,466	38,744
Fourth floor	12,466	38,744

D-1

Port of Oakland Environmental Planning Department

Re: Revised Proposed Mitigated Negative Declaration and Initial Study, Oakland Telecommunications Access Building, Oakland, California

April 25, 2000

Page 2

Total Square Footage	49,864	154,796
Lot Size	20,000	60,000
Maximum Permitted FAR	2.0	2.0
Proposed FAR	2.49	2.58

With a FAR of 2.49 to 2.58, the project exceeds the maximum 2.0 FAR.

According to your determination, the maximum FAR is not exceeded because under the City of Oakland's zoning regulation, on-site parking is excluded in calculating FAR. Your reliance on the City's zoning regulation, however, is misplaced.

The Land Use and Transportation Element's glossary defines floor area ratio as the "ratio of the useable square footage of a building to the area of the site on which it is located." The Land Use and Transportation Element's glossary also directs the reader to Appendix E, entitled "Understanding Floor Area Ratio (FAR)." According to Appendix E,

D-1

FAR is a ratio expressing the relationship between the amount of gross floor area of a building to the area of the project site. For example, a maximum FAR of 2 on a 20,000 sq ft (100 x 200) site means that a building with a maximum gross floor area that is twice the lot area (2 times 20,000 = 40,000 sq ft) can be constructed on it.

However, while a given FAR indicates the allowable intensity of development, it does not specify the preferred type of building. Different interpretations of a given FAR can result in buildings of very different character. The following sketches show four ways in which an FAR of 2 on a lot measuring 100' x 200' may be translated into a building.

Appendix E also includes four illustrations. Referring to the illustrations, Appendix E states:

While all these options represent an FAR of 2, other regulations may preclude some of these as real possibilities.

For example, a height limit of 50' (approximately 5 stories) would rule out Option 4.

A design guideline that requires a building line to be maintained along the main street would leave a choice of Options 1 and 2.

Port of Oakland Environmental Planning Department
Re: Revised Proposed Mitigated Negative Declaration and Initial Study, Oakland Telecommunications Access
Building, Oakland, California

April 25, 2000

Page 3

If it is required that a buffer be maintained between the new building and an adjacent use, Option 2 may be more feasible.

These illustrations only serve as guidance as to how an FAR may be interpreted. FAR implementation regulations will be provided in the City's Zoning Ordinance.

The LUTE's definition and illustration of floor area ratio are notable for several reasons. First, in its definition and illustration of floor area ratio, the LUTE does not exclude on-site parking from the calculation of floor area ratio. In fact, the LUTE refers to "gross floor area" and "useable square footage."

Second, in the LUTE's description of the various ways floor area ratio may be implemented, there is no reference to excluding on-site parking from the calculation of floor area ratio.

Third, in the LUTE's Appendix E, there is a reference that "FAR implementation regulations *will be provided* in the City's Zoning Ordinance." The use of the future tense evidences a decision not to rely on any existing FAR implementation regulations but to create new regulations consistent with the LUTE's definition and illustration of floor area ratio.

The LUTE had every opportunity to exclude on-site parking in its definition of floor area ratio but never did so. The only reasonable inference from this omission is that the LUTE did not intend to exclude on-site parking from the calculation of floor area ratio.

This intention is further evidenced by the City of Oakland's May 6, 1998 "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (amended November 3, 1999). The "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" were adopted pursuant to Planning Code Section 17.01.060. Section 17.01.060 orders the City Planning Commission to adopt guidelines for determining the General Plan conformity of any specific proposal. According to section 17.01.060, such guidelines:

... shall address activity and facility types, density and intensity of development, and relevant General Plan policies. They shall also identify the "best fit" zones of the Zoning Regulations, and other possible zones, corresponding to the land use classifications of the General Plan.

Under the Guidelines,

D-1

Port of Oakland Environmental Planning Department

Re: Revised Proposed Mitigated Negative Declaration and Initial Study, Oakland Telecommunications Access Building, Oakland, California

April 25, 2000

Page 4

The calculation of floor area ratio for nonresidential projects is straightforward. Simply calculate the total gross floor area of the project and divide by the lot area.¹

Like the LUTE, the Guidelines refer to "gross floor area" and never indicate any intention to exclude on-site parking from the calculation of FAR.

The Director of City Planning must look to the LUTE and these Guidelines and not the City's zoning regulations to determine whether a project conforms to the General Plan. Planning Code section 17.01.070 clearly states

The Director of City Planning shall determine whether any specific proposal conforms with the General Plan. *The Director shall use the guidelines adopted pursuant to Section 17.01.060 in making this determination.* (emphasis supplied)

Using the guidelines and the LUTE, the proposed telecommunications access facility clearly does not conform to the General Plan. Under the Guidelines, a project that clearly does not conform "must be modified accordingly or rejected."²

Rather than provide support for excluding on-site parking from the FAR calculation, the City's zoning regulations are further evidence that on-site parking should not be excluded. For example, I-3 at page 419 of the City's zoning regulations provides an illustration of floor area ratio. The illustration is noteworthy for three reasons. First, the illustration never uses the words "gross floor area." Rather, the zoning regulation illustration refers to "floor area." Second, the illustration includes an express exclusion of off-street parking from the calculation of floor area ratio. And third, the illustration demonstrates that the City is fully capable of clearly excluding floor area ratio from the definition of floor area ratio when it is its intention to do so. The City's failure in the LUTE and Guidelines to exclude on-site parking from the FAR calculation leads to no conclusion other than it was not the City's intention to exclude on-site parking from the calculation of FAR.

Based on the applicable policies and guidelines, the proposed Oakland Telecom Access Building clearly does not conform to the General Plan and it must be modified or rejected.

¹Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations, adopted by the Oakland Planning Commission on May 6, 1998, amended November 3, 1999, Oakland, California, 100-31 at p. 8.

²"Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" at p. 8.

Port of Oakland Environmental Planning Department

Re: Revised Proposed Mitigated Negative Declaration and Initial Study, Oakland Telecommunications Access Building, Oakland, California

April 25, 2000

Page 5


Please inform us of your decision on this project. Should you approve this project over our objections we shall pursue an appeal. Please let us know what the applicable appeal procedures are.

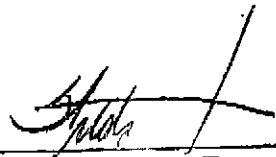
D-2

Very truly yours,

JACK LONDON
NEIGHBORHOOD ASSOCIATION

URBAN VILLAGE

By 
Wilda L. White, *President*

By 
Wilda L. White, *Executive Director*

Enclosures: Land Use and Transportation Element Appendix A, pp. 217-218
Land Use and Transportation Element Appendix E, p. 228
Planning Code page I-3

APPENDIX A: GLOSSARY OF TERMS AND ABBREVIATIONS

Accessory Unit

A housing unit which is attached to or on the same lot as a principal housing unit.

ADP

Port of Oakland 2002 Airport Development Program

Alternative Transportation

All modes of travel other than the single-occupant automobile. Alternative transportation includes shared rides, such as carpools and vanpools where each vehicle carries more than one occupant; public transit, such as BART, AC Transit, and the Alameda/Oakland ferries; and non-motorized travel by bike or foot.

BART

Bay Area Rapid Transit District

BCDC

Bay Conservation and Development Commission

Caltrans

State of California Department of Transportation

CBD

Central Business District

CEDA

Community and Economic Development Agency, City of Oakland

CEQA

California Environmental Quality Act, State of California Public Resources Code Sections 21000-21178.1

Commercial

Activity involving the sale of goods or services

Community Facilities

Includes child care centers, adult day care, public and private primary and secondary schools, police substations, places of religious worship, parks, recreation centers and community centers, and other facilities serving Oakland residents.

Compatible

Capable of existing together without conflict or ill effects

Consistency

Absence of conflict, or presence of conformity

Corridor

Streets having a mixed-use urban environment with important circulation and access functions and concentrations of commercial and civic uses linked by segments of urban density housing

Current

Current at the time of adoption of the Land Use and Transportation Element, (month), 1997.

Existing

Existing at the time of adoption of the Land Use and Transportation Element, (month), 1997

FAR

See Floor Area Ratio below, and Appendix E

FISCO

Fleet Industrial Supply Center, Oakland

Floor Area Ratio

...to the area of the site on which it is located.

See Appendix E, "Understanding FAR"

General Plan

All adopted elements of the Oakland General Plan, including the Land Use and Transportation Element, the Open Space, Conservation and Recreation element, the Historic Preservation Element, the Housing Element, the Noise Element; the Environmental Hazards Element and any additional required or optional elements that may be adopted in the future

APPENDIX E UNDERSTANDING FLOOR AREA RATIO (FAR)

FAR is a ratio expressing the relationship between the amount of gross floor area of a building to the area of the project site. For example, a maximum FAR of 2 on a 20,000 sq ft (100' X 200') site means that a building with a maximum gross floor area that is twice the lot area (2 times 20,000 = 40,000 sq ft) can be constructed on it.

However, while a given FAR indicates the allowable intensity of development, it does not specify the preferred type of building. Different interpretations of a given FAR can result in buildings of very different character. The following sketches show four ways in which an FAR of 2 on a lot measuring 100' X 200' may be translated into a building.

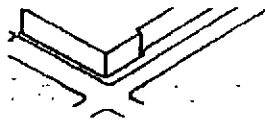
While all these options represent an FAR of 2, other regulations may preclude some of these as real possibilities.

For example, a height limit of 50' (approximately 5 stories) would rule out Option 4.

A design guideline that requires a building line to be maintained along the main street would leave

If it is required that a buffer be maintained between the new building and an adjacent use, Option 2 may be more feasible.

These illustrations only serve as guidance as to how an FAR may be interpreted. FAR implementation regulations will be provided in the City's Zoning Ordinance.



Option 1

Gross Floor Area: 40,000 sq ft
Ground Coverage: 100%
of Floors: 2
FAR: 2



Option 2

Gross Floor Area: 40,000 sq ft
Ground Coverage: 50%
of Floors: 4
FAR: 2



Option 3

Gross Floor Area: 40,000 sq ft
Ground Coverage: 50%
of Floors: 4
FAR: 2



Option 4

Gross Floor Area: 40,000 sq ft
Ground Coverage: 25%
of Floors: 8
FAR: 2

This page is illustrative only and is not part of the zoning regulations.

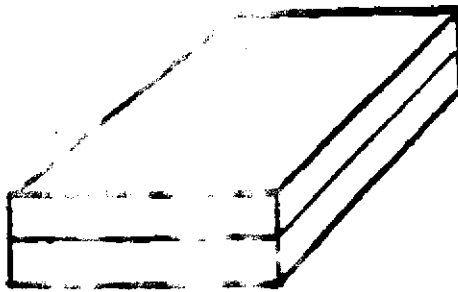
I-3

FLOOR-AREA RATIO (FAR)

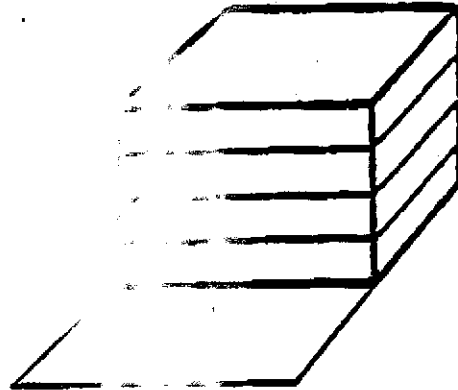
$$FAR = \frac{\text{Floor area}^*}{\text{lot area}}$$

See Sec. 17.09.040

EXAMPLE: Four of these buildings have a floor-area ratio of 2.00**:



2 stories covering
the lot



4 stories covering
the lot

*Off-street parking is not counted as "floor area." See Section 17.09.040 for other exceptions.

** (Assuming that none of Section 17.09.040's exceptions apply, and that neither building has basement or cellar space within that definition would call "floor area.")

Letter E

**NEW HORIZONS PROPERTIES, LLC
PHOENIX LOFT PROJECT**

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ENVIR. PLANNING DEPT.

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April 24, 2000

Port of Oakland
Environmental Planning Department
530 Water Street,
Oakland, California 94604

Re: Oakland Telecommunications Access Building

Port Commissioners,

This letter is a summary of my comments on the Revised Initial Study and Negative Declaration of the Oakland Telecommunications Access Building.

Please refer to my letter of April 3, 2000 for comments regarding the original Negative declaration.

The Revised Negative Declaration contains new ambiguities:

- 1. The elevation drawing now indicates a 67 1/2 ft. tall building but the verbal description indicates a 70ft. building.
- 2. The size of the proposed building is stated to have been decreased by 21,300 sq. ft. (D-IX,b,pg.45) but the text throughout continues to state a 120,000 sq.ft. building.
- 3. The noise from 14 diesel generators would be mitigated because they are located "within the project building", "installed in an electrical room on the first floor" (D-XI,d,pg.48), but the plan view drawing (pg.13) no longer indicates an electrical room on the first floor.

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The objections stated in my letter of April 3, remain:

- 1. The new report continues to be misleading by referring to the building as a typical four story building. With a total height of over 90 ft. it is not, and cannot be considered "generally consistent with the bulk and scale of nearby structures" (D-I,c,pg.21). Phoenix Loft building across the street is a 50 ft. tall four story building. The Report states there is a "massive storage facility to the South". The storage facility is 40 ft. in height. The proposed Telecommunications building, then, must be considered *gargantuan* at 90 ft. in height. If the Telecommunications building followed the Storage facility example and covered it's entire lot with a two story structure, then our objections would vanish.
- 2. We continue to object to the exclusion of indoor parking when calculating FAR. The City of Oakland staff letter of April 4, 2000 (Appendix D) skirts the issue by confusing "off-street parking" and "enclosed floor areas". Again, let me reiterate, in the General Plan Conformance

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Guidelines there is a common sense statement that FAR includes gross square footage with no exclusions. I believe common sense should be followed here.

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- 3. Noise mitigation, both generated by the new building, and reflected from it have not been adequately addressed. I have been told by a representative of Mortensen Development Company that they can control the tenants operation of generators but that is not stated in the report.

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In my April 4th. letter there were several suggestions for improvement to the project. The only one Mortensen Company incorporated in their revised design is to increase landscaping along 2nd. Street, but this was a private verbal communication and is not included in the Revised Negative Declaration.

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Thankyou for providing the opportunity to comment.

Sincerely,

Robert Laverne
Managing Member
New Horizon Properties, L.L.C.

**III. MITIGATION MONITORING AND
REPORTING PROGRAM**

OAKLAND TELECOMMUNICATION ACCESS BUILDING MITIGATION MONITORING AND REPORTING PROGRAM MITIGATION MONITORING CHECKLIST					
Potential Impact	Mitigation Measures	Responsible Party	Monitoring Method	Monitoring Schedule	Verification Signature and Date
I. AESTHETICS					
No impacts associated with aesthetics were identified.					
II. AGRICULTURAL RESOURCES					
No impacts associated with agricultural resources were identified.					
III. AIR QUALITY					
Impact III-1: Increased pollutant emissions from project traffic and construction activities.	Mitigation Measure III-1 The bid specifications for the project shall incorporate the following measures established by BAAQMD to minimize and control dust emissions generated during construction activities: <ul style="list-style-type: none"> All active construction areas shall be watered at least twice daily. All trucks hauling soil, sand, and other loose materials shall be covered with tarpaulins or other effective covers. Water or non-toxic soil stabilizers shall be applied on all unpaved access roads, parking areas, and staging areas at the construction site. In addition, paved access roads, parking areas, and staging areas shall be swept daily with a water sweeper. Streets shall be swept daily with a water sweeper in areas where visible soil material is carried onto adjacent public streets. 	Port of Oakland and Contractor/ Developer	(a) Require in plans and specifications (b) Oversee compliance during construction	(a) Before demolition and construction contract is signed (b) During demolition and construction	
IV. BIOLOGICAL RESOURCES					
No impacts associated with biological resources were identified.					
V. CULTURAL RESOURCES					
Impact V-1: Potential disturbance of historic resources.	Mitigation Measure V-1 None required.				

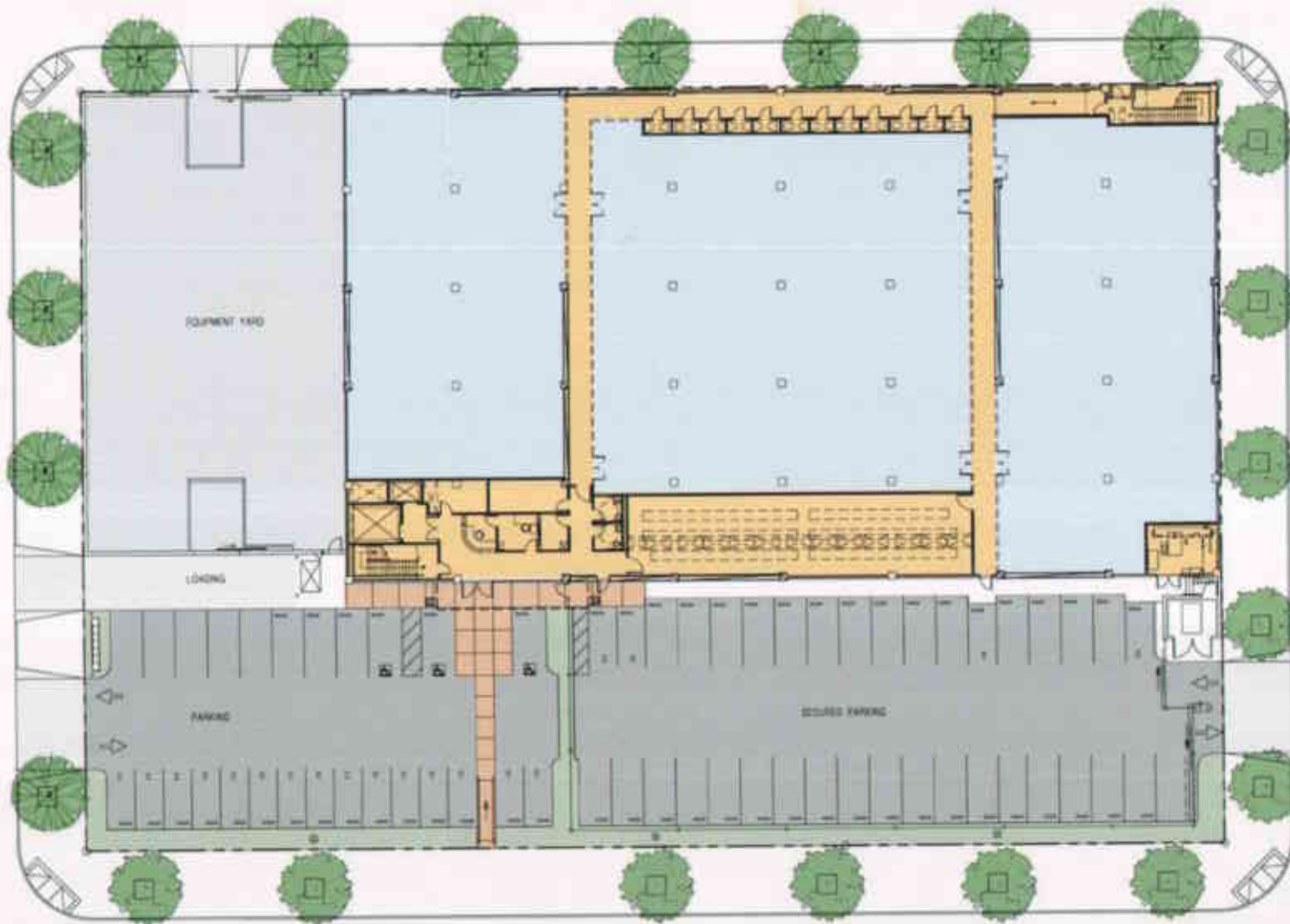
OAKLAND TELECOMMUNICATION ACCESS BUILDING MITIGATION MONITORING AND REPORTING PROGRAM MITIGATION MONITORING CHECKLIST					
Potential Impact	Mitigation Measures	Responsible Party	Monitoring Method	Monitoring Schedule	Verification Signature and Date
Impact V-2: Potential disturbance of archaeological resources.	<i>Mitigation Measure V-2</i> A qualified archaeologist shall be hired to monitor initial ground clearing at the project location to inspect it for evidence of buried prehistoric resource deposits. If any such material is uncovered, work should be halted within 50 feet of the discovery until the archaeologist has had the opportunity to assess the discovery for significance. If an intact and potentially significant resource deposit is located inside areas where further impacts will occur, the project applicant shall develop a program of archaeological mitigation for those portions of the project that will be further impacted by earth-moving activities associated with construction.	Port of Oakland and Contractor/ Developer	(a) Require in plans and specifications (b) Oversee compliance during construction	(a) Before demolition and construction contract is signed (b) During demolition and construction	
VI. GEOLOGY AND SOILS					
Impact VI-1: Project site structures may be subject to anticipated strong groundshaking from regional active faults.	<i>Mitigation Measure VI-1</i> (a) The new office buildings and parking structure at the site would be constructed to 1997 Uniform Building Code (UBC) standards (ICBO, 1997). The UBC requires the determination of expected seismic shaking at the specific location of the project site. The design engineers for the on-site structures would design the structure and foundations based on the results of the site-specific geotechnical study and the determination of the expected seismic shaking. Appropriate grading, shoring, and construction practices would be implemented during construction to ensure safety of workers and/or equipment.	Port of Oakland, Contractor/ Developer, and City of Oakland Building Inspection	(a) Require in plans and specifications (b) Oversee compliance during construction	(a) Before demolition and construction contract is signed (b) During demolition and construction	
	(b) Preparation of a site-specific earthquake preparedness plan for the project shall be made a condition of approval for issuance of a Building Permit for construction activities at the project site. The plan shall include requirements for securing non-structural features of the facility and an emergency response program, including evacuation procedures.	Port of Oakland, Contractor/ Developer, and City of Oakland Building Inspection	Require in plans and specifications	Before demolition and construction contract is signed	
Impact VI-2: Project site structures may be subject to settlement or displacement caused by liquefaction during anticipated strong groundshaking.	<i>Mitigation Measure VI-2</i> (a) The proposed building shall be designed and constructed in compliance with recommendations prepared by a qualified Geotechnical Engineer that minimize the potential for structural deformation caused during liquefaction. Design of the new structures shall also incorporate recommendations in the geotechnical investigation to minimize the impacts of total and differential settlement at the project site. The recommendations shall be submitted to and reviewed by the City of Oakland Public Works Department prior to issuance of a Building Permit.	Port of Oakland and Contractor/ Developer and City of Oakland Public Works	Require in plans and specifications	Before construction contract is signed	

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	(b) Following any strong groundshaking event, the building and pavement at the project site shall be inspected by a qualified engineer to determine if significant damage has occurred. The results of the inspection and any recommendations for repairs shall be submitted to the City of Oakland Public Works Department.	Port of Oakland and Contractor/ Developer and City of Oakland Public Works	Require inspection and report	After any strong ground shaking	
VII. HAZARDS AND HAZARDOUS MATERIALS					
Impact VII-1: Subsurface contaminants	<i>Mitigation Measure VII-1</i> (a) Prior to construction of the proposed project, a human health risk assessment shall be prepared. The risk assessment shall evaluate any excess cancer and non-cancer risks that could result from the residual chemical compounds present in the fill underlying the site. If risks are found to exceed Department of Toxic Substances Control guidelines of 10^{-4} to 10^{-6} , risk management measures must be included in the project. Such risk management measures must eliminate exposure pathways that cause the excess cancer and non-cancer risks to exceed established thresholds and could include capping the site (i.e., complete coverage with concrete foundations), installation of vapor barriers, or removal of contaminated materials. The human health risk assessment and risk management plan (if applicable) must be prepared by a trained professional and submitted to the Port of Oakland Real Estate Department prior to construction.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	
	(b) All construction at the site shall be undertaken in accordance with a site-specific health and safety plan by trained workers. Prior to start of construction, the health and safety plan shall be submitted for review to the Port of Oakland Real Estate Department.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	
	(c) A site-specific health and safety plan must be prepared by a trained professional and must include action levels for dust at the site boundary and air monitoring provisions at the site boundary to ensure that contaminated dust does not move off-site at concentrations that could affect the environment and off-site populations. The air monitoring results must be submitted to the Port of Oakland Real Estate Department on a weekly basis during construction for review and demonstration that the action levels have not been exceeded. If action levels are exceeded, mitigation must be implemented that will reduce contaminated dust generation at the project boundary. Such measures could include more frequent watering, reducing the size of excavated areas, or covering excavated areas on an interim basis.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	

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	(d) The identified UST along Third Street shall be removed in accordance with local and State requirements. Following removal and any required remediation, a copy of the tank closure report shall be submitted to the Port of Oakland Real Estate Department.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	
	(e) Any soil excavated from the site must be classified and disposed of off-site if found to be a hazardous waste. The material must be managed in accordance with applicable local, State, and Federal statutes and regulations.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	
Impact VII-2: Contaminants in structures	<i>Mitigation Measure VII-2</i> (a) Inventory and dispose of all hazardous materials present on the site prior to initiation of construction.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	
	(b) Perform a lead and asbestos survey of structures on the site prior to demolition. Prior to demolition work, all asbestos and lead paint shall be removed in accordance with Federal, State, and local requirements for lead and asbestos abatement. Submit documentation of lead and asbestos survey and abatement activities to the Port of Oakland Real Estate Department.	Port of Oakland and Contractor/ Developer	Require in plans and specifications	Before demolition and construction contract is signed	
Impact VII-3: Electromagnetic frequency (EMF) waves	<i>Mitigation Measure VII-3</i> Installation of any telecommunications equipment that emits radio frequency electromagnetic energy shall be permitted only after authorization by the Federal Communications Commission, if required, and submittal of documentation to the City of Oakland that demonstrates compliance with FCC guidelines.	Port of Oakland and Contractor/ Developer and City of Oakland	Require in plans and specifications	Before any telecommunications equipment is installed	
VIII. HYDROLOGY AND WATER QUALITY					
Impact VIII-1: Contaminated groundwater may exceed discharge requirements to the sanitary sewer.	<i>Mitigation Measure VIII-1</i> If groundwater were to be discharged to the sanitary sewer from the site during construction, it should be characterized to ensure that it meets East Bay Municipal Utility District discharge requirements. A permit must be obtained from EBMUD prior to discharge of dewatered groundwater to the sanitary sewer.	Port of Oakland and Contractor/ Developer and City of Oakland and EBMUD	Require in plans and specifications	Prior to any discharge	
IX. LAND USE AND PLANNING					
No impacts associated with land use and planning were identified.					

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MITIGATION MONITORING CHECKLIST**

Potential Impact	Mitigation Measures	Responsible Party	Monitoring Method	Monitoring Schedule	Verification Signature and Date
X. MINERAL RESOURCES					
No impacts associated with mineral resources were identified.					
XI. NOISE					
No impacts associated with noise were identified.					
XII. POPULATION AND HOUSING					
No impacts associated with population and housing were identified.					
XIII. PUBLIC SERVICES					
No impacts associated with public services were identified.					
XIV. RECREATION					
No impacts associated with recreation were identified.					
XV. TRANSPORTATION/TRAFFIC					
Impact XV-1: Construction activities could affect local intersections and parking.	<i>Mitigation Measure XV-1</i> The applicant shall provide copies of the West Oakland Truck Circulation Program that identifies preferred truck routes and parking areas to all contractors and suppliers.	Port of Oakland and Contractor/ Developer and City of Oakland and EBMUD	Require in plans and specifications	Before demolition and construction contract is signed	
XVI. UTILITIES AND SERVICE SYSTEMS					
No impacts associated with utilities and service systems were identified.					



GROUND FLOOR PLAN

TELECOM ACCESS BUILDING

OAKLAND, CA

MORTENSON DEVELOPMENT COMPANY

CARRILLO ARCHITECTURAL GROUP INC.

06-30-00

