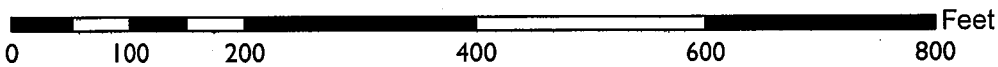


<b>Location:</b>	<b>2400 Filbert Street</b> <b>(APN: 005-0433-018-05; &amp;-018-06)</b>
<b>Proposal:</b>	Extension of entitlements to construct a new development consisting of 55 residential townhomes.
<b>Applicant:</b>	Janina Hoskins
<b>Phone Number:</b>	(707) 569-9508
<b>Owner:</b>	Janina Hoskins as Bankruptcy Trustee
<b>Case File Number:</b>	CU05116
<b>Planning Permits Required:</b>	Extension of the Interim Conditional Use Permit & Design Review.
<b>General Plan:</b>	Mixed Housing Type
<b>Zoning:</b>	Current Zoning: RM-4/RM-2, Mixed Housing Zones 4 & 2 Prior Zoning: M-20/R-50, Light Industrial Zone /Medium Density Residential Zone
<b>Environmental Determination:</b>	Infill Exemption (CEQA Guidelines Section 15332)
<b>Historic Status:</b>	Not Historic.
<b>Service Delivery District:</b>	1
<b>City Council district</b>	3
<b>Status:</b>	Planning Commission approval on November 16, 2005. The approved project was appealed to the City Council, and at the February 21, 2006 City Council hearing the appeal was denied. Entitlements were administratively extended through December 31, 2015, and extended by the Planning Commission to December 31, 2016.
<b>Staff Recommendation</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For further information:</b>	Contact case planner <b>Pete Vollmann</b> at 510 238-6167 or by e-mail at <a href="mailto:pvollmann@oaklandnet.com">pvollmann@oaklandnet.com</a> .

**SUMMARY**

The Project applicant for the residential project at 2400 Filbert Street has requested a six month extension of the entitlements originally approved by the Planning Commission in 2005 (*Attachment A*). The Project applicant has taken advantage of the ministerial options for extensions, including those authorized by the City Council during the economic downturn, up until December 31, 2015. The Condition of Approval #2a on the original approval allows for the Project applicant to request further extensions of the entitlements from the Planning Commission if an application is submitted prior to the expiration date. The Project applicant filed for an additional extension on December 16, 2015. The Project applicant at the time stated that they

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CD05116  
Applicant: Janina Hoskins  
Address: 2400 Filbert Street  
Zone: Current Zoning: RM-4/RM-2  
Prior Zoning: M-20/R-50

were having difficulty attracting investors and/or buyers for the project at the location even though the economy had been recovering and that they had been contacted by individuals that expressed interest but nothing had been executed. In addition, the applicant stated that the owner had not been able to pay as much attention to the potential sale of the land due to the passing of her mother. The extension request, while submitted in December, was brought before the Planning Commission in April of 2016 only after active Code Compliance actions had been resolved and abated. At the recommendation of staff, the Planning Commission extended the entitlements to December 31, 2016. The applicant is now seeking an additional six month extension.

## **BACKGROUND**

On November 13, 2005, the Planning Commission approved a Major Conditional Use Permit and Design Review for 55 new residential townhomes.

After approval by the Planning Commission the project was appealed to the City Council. The appeal was heard by the City Council at a public hearing on February 21, 2006. At that meeting the appeal was denied under City Council Resolution 79732 C.M.S. (*Attachment B*).

In 2008 the applicant took advantage of an administrative one year extension until 2009. From 2009 through 2015, the Oakland City Council passed Resolutions (81723, 83424, 83989, 84746 and 85305 C.M.S.) to allow extensions of active land use entitlements due to the economic recession. The Project applicant took advantage of the Resolutions to keep their entitlements active with the last one expiring on December 31, 2015. On December 16, 2015 the prior applicant requested an additional extension request as explained above, which was granted by the Planning Commission until December 31, 2016.

## **PROJECT DESCRIPTION**

### **Extension Request**

In conformance with adopted Condition of Approval #2a, the Project applicant submitted a letter on November 14, 2016 requesting an extension of the entitlements from the Planning Commission until March 31, 2017, further clarified in a follow up letter on December 13, 2016 as a request for an additional six months from the current expiration date until June 30, 2017. As noted above in the *Background* section, the Planning approval for this application is still active, but is set to expire on December 31, 2016. Unless the Planning Commission approves a time extension request, the approval will be deemed expired as of January 1, 2017, and the Project applicant will need to apply for a new development permit subject to current regulations.

**Approved Project Use and Design**

The proposed Project consists of 55 residential townhomes that line the street frontages of Myrtle, 24<sup>th</sup>, & Filbert Streets as well as small commercial spaces at the lower level of the units along 24<sup>th</sup> Street. Almost all of the parking, with the exception of four garages, is accessed off of an internal auto courtyard so that the garages are not visible from the public right of way. At the time of the decision, the Planning Commission supported the use and design character for the site.

**ZONING ANALYSIS**

The Project was approved under an Interim Conditional use permit since the Zoning of the property at the time was almost completely M-20 and did not allow for residential activities, although the General Plan classification of Mixed Housing Type Residential did permit such uses. The current RM-4/RM-2 Zoning allows residential activities as well as the density proposed, but larger setbacks would be required for any new development project.

**DISCUSSION**

In the past year since the last extension request no building permits were filed to proceed with the project and the property has fallen into bankruptcy receivership. The approved plans are out of date with the current zoning regulations and have not been acted upon for 11 years. Furthermore, there have been additional Code Compliance cases that have been opened and verified on the property since the last extension of the permit, which have still not been abated. It has been City policy to not grant extensions when a property is not in good standing due to active Code Compliance actions that have not been addressed appropriately. Currently the two Code Compliance actions are for blight on the property from graffiti which has been active since September of this year as well as a complaint of the warehouse facility being occupied by residential tenants, which has also been verified by Code Compliance staff (although the December 13, 2016 letter states that the tenant has been relocated from the property). Staff has also received recent comments that the site has also been used as big rig trailer storage, which appear to be verifiable by reviewing street view in Google Earth. Therefore, staff is not able to provide support for the extension request at this time.

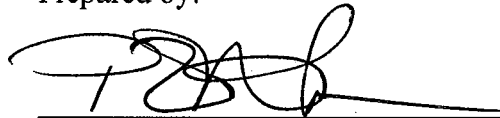
**CONCLUSION AND RECOMMENDATIONS**

As noted above, the Project entitlements have been in place for 11 years with no action on building permits, the zoning has been updated for a number of years, and there are active Code Violations.

Therefore, staff recommends that the Planning Commission:

1. Deny the extension of Project approvals and require any future applicant to submit a proposal that complies with the current zoning regulations.

Prepared by:



Pete Vollmann, Planner IV

Reviewed by:



Scott Miller, Zoning Manager  
Bureau of Planning

Approved for forwarding to the Planning Commission:



Darin Ranelletti, Interim Director  
Department of Planning & Building

**ATTACHMENTS:**

- A. Applicant's extension letter request, dated November 14, 2016 and follow up letter dated December 13, 2016.
- B. City Council Resolution 79732
- C. Planning Commission Staff Report from October 19, 2005.

**JANINA M. HOSKINS, CHAPTER 7 TRUSTEE**

P.O. Box 158

Middletown, California 95461

Telephone: (707) 569-9508 Facsimile: (707) 569-9518

E-Mail: [Jmelder7@aol.com](mailto:Jmelder7@aol.com)

November 14, 2016

VIA E-MAIL

[DRanelletti@oaklandnet.com](mailto:DRanelletti@oaklandnet.com)

[SMiller@oaklandnet.com](mailto:SMiller@oaklandnet.com)

[PVollmann@oaklandnet.com](mailto:PVollmann@oaklandnet.com)

City of Oakland

Zoning Division

ATTN: Darin Ranelletti, Scott Miller and Peterson Vollman

City of Oakland

Bureau of Planning

250 Frank H. Ogawa, Suite 2114

Oakland, CA 94612

Re: Case #CD05-116  
APN #005-0433-018-04  
2400 Filbert Street - Extension Request

In re Monica H. Hujazi, Case No. 13-30477 HLB  
United States Bankruptcy Court, Northern District of California,  
San Francisco Division

Gentlemen:

I am writing to request an extension concerning the above-stated property address and case number.

I am the bankruptcy trustee of the estate of Monica H. Hujazi. Pursuant to a Judgment of the Bankruptcy Court, on October 27, 2016, I formally became the owner of the above-referenced property. Prior to that time, the property was in the name of an exchange company.

**Attachment A**

ATTN: Darin Ranelletti, Scott Miller, and Peterson Vollman

November 14, 2016

Page 2

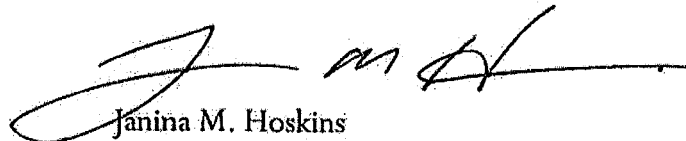
In my capacity as a bankruptcy trustee, I have listed this property for sale with Cushman & Wakefield, Oakland, California. I hope to have it sold soon. However, I request a project / permit extension until March 31, 2017 because the current extension expires December 31, 2016.

I will provide whatever extension fee is required. However, that must be done pursuant to Bankruptcy Court order, which I will apply for on an expedited basis.

Please do not hesitate to contact me with any questions or concerns. I would be pleased to meet with you at any convenient time to discuss my role and my capacity as bankruptcy trustee.

I have also included with this formal request for an extension a letter explaining the background of this case, my reasons for requesting the extension. Further, I have explained a unique provision of the Bankruptcy Code which I believe provides a bankruptcy trustee with a short extension of the time periods that would otherwise expire under state law.

Very truly yours,



Janina M. Hoskins

Enclosure

101901020V-1

**JANINA M. HOSKINS, CHAPTER 7 TRUSTEE**

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Telephone: (707) 569-9508 Facsimile: (707) 569-9518

E-Mail: [Jmelder7@aol.com](mailto:Jmelder7@aol.com)

November 14, 2016

VIA E-MAIL

[DRanelletti@oaklandnet.com](mailto:DRanelletti@oaklandnet.com)

[SMiller@oaklandnet.com](mailto:SMiller@oaklandnet.com)

[PVollmann@oaklandnet.com](mailto:PVollmann@oaklandnet.com)

City of Oakland

Zoning Division

ATTN: Darin Ranelletti, Scott Miller and Peterson Vollman

City of Oakland

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Re: Case #CD05-116  
APN #005-0433-018-04  
2400 Filbert Street - Extension Request

In re Monica H. Hujazi, Case No. 13-30477 HLB  
United States Bankruptcy Court, Northern District of California,  
San Francisco Division

Gentlemen:

The purpose of this correspondence is to comment on certain e-mails among my counsel and Peterson Vollmann, Planner IV, City of Oakland, and my brokers, Cushman & Wakefield, Joyce Cunningham and, I believe, Mr. Vollmann.

I am the Trustee in bankruptcy of the estate of Monica H. Hujazi, Case No. 13-30477 HLB, pending before the United States Bankruptcy Court for the Northern District of California (San Francisco Division).



ATTN: Darin Ranelletti, Scott Miller, and Peterson Vollman

November 14, 2016

Page 2

On March 1, 2013, an involuntary bankruptcy petition was filed against Ms. Hujazi by a group of her creditors, asserting that she was not paying her debts as they became due. Various contested hearings followed. Ultimately, November 30, 2015 an order for relief under Chapter 7 of the Bankruptcy Code was entered. At that time, I was appointed as Chapter 7 Trustee of Ms. Hujazi's estate. Under the terms of the Bankruptcy Code, I am charged with reducing the assets of this estate to money, paying creditors and closing the case as rapidly as I can.

Since this was an "involuntary" case, it occurred against Ms. Hujazi's will. She did not wish to be in a bankruptcy case and fought for a substantial period of time to avoid it. She also resisted filing schedules and statement of financial affairs, which are required to be filed. Thus, it took quite a while before I had what I will call the "bankruptcy road map:" a list of the assets and liabilities of the Debtor.

Notwithstanding Ms. Hujazi having numerous attorneys representing her (many of which were petitioners in the involuntary petition against her), she filed her schedules and statement of financial affairs on her own, in handwritten form. It was difficult to decipher and to make logical sense of the documents.

One possible asset that she scheduled was the real property at 2400 Filbert Street, Oakland, California (the "Property"). She listed numerous other properties that she did not own. It was very difficult to determine what properties she owned and did not own, based upon her schedules. In certain instances, we knew that a property had been sold, yet she still scheduled it as hers. Ultimately, we were able to obtain information about the Property. We learned that, while Ms. Hujazi scheduled the Property as part of her bankruptcy schedules, the Property was not in her name. Accordingly, I could not sell the Property or take other action with respect to the Property. Rather, I had to "quiet title" to the Property. Further to that point, I asked my counsel to file a Complaint to Quiet Title, commencing Adversary Proceeding No. 16-03084 HLB, Janina M. Hoskins v. Pacific American Property Exchange Corporation, a dissolved California corporation.

On October 27, 2016, the Court entered a Judgment in the Adversary Proceeding in my favor. I now own the Property on behalf of the bankruptcy estate.

Prior to entry of the Judgment, my attorney contacted the Alameda County taxing authorities to indicate that a tax sale should not go forward because, under the terms of Bankruptcy Code §541, the bankruptcy estate was claiming an interest in the Property, even though it was not in

ATTN: Darin Ranelletti, Scott Miller, and Peterson Vollman

November 14, 2016

Page 3

Ms. Hujazi's name. As noted, title has now been clarified. The Property is now in my name, as Trustee of Ms. Hujazi's bankruptcy estate.

Once title was in my name, I moved very rapidly to seek the employment of brokers Cushman & Wakefield. The Court also acted rapidly and entered an Order Authorizing Employment of Broker (Cushman & Wakefield 2400 Filbert Street, Oakland, CA) on November 9, 2016 as Docket No. 494 in the bankruptcy case.

There is a provision in the Bankruptcy Code, Section 108 (11 U.S.C. §108) which says, in relevant part that, "If applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of - (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or (2) two years after the order for relief."

That section goes on to provide, in §108(b) that if there is a time period within which any individual "may file any pleading, demand, notice, or proof of claim or loss, cure a default, or perform any other similar act, and such period has not expired before the date of the filing of the petition, the trustee may only file, cure, or perform, as the case may be, before the later of - (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or (2) 60 days after the order for relief."

Assuming I was limited to Section 108(b), I could not act within 60 days after the order for relief, in that, that order was entered on November 30, 2015. I could not act or have the authority to act concerning the Property until it was formally owned by the bankruptcy estate. I moved as rapidly as possible, once I obtained ownership of the Property.

### **Extension Request**

As noted in my short letter accompanying this letter, I am asking for an extension of time through the First Quarter 2017, i.e., March 31, 2017. My brokers, Cushman & Wakefield are marketing the Property. The procedure before the Bankruptcy Court, once an unconditional sale is agreed upon, requires 21 days' notice. Considering the Planning Department deadlines and other time limits discussed in your e-mail, although we hope to have an offer on the Property soon, I doubt that we could have a sale completed and closed by December 31, 2016. For example, if someone objects to the sale, there has to be a Court hearing; thus extending the

ATTN: Darin Ranelletti, Scott Miller, and Peterson Vollman

November 14, 2016

Page 4

21-day period to around 30 days, assuming the Court is available. Again, the time frame is just too short.

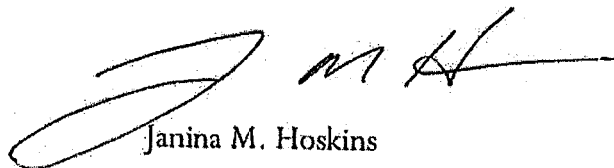
So you are aware, one of the goals of the bankruptcy system is to liquidate a debtor's assets and make a distribution to creditors, including taxing authorities (there are substantial tax arrearages owed on this Property). The reason for Section 108 above is to recognize that debtors can sometimes either not care or be dilatory in meeting deadlines. This section was designed to give trustees a chance to basically "cure" a debtor's dilatory activities. I do not want to lose value on this Property by losing the entitlements. At this point, I do not know if they will be important to a buyer or not. However, our ultimate goal is to find a buyer that will improve the Property and improve the area in West Oakland; thus ridding it of an eyesore. Accordingly, I would appreciate whatever accommodation you can provide.

If you wish your counsel to speak with my attorneys, please contact Michael Isaacs at [michael.isaacs@dentons.com](mailto:michael.isaacs@dentons.com) or Andrew Azarmi at [andrew.azarmi@dentons.com](mailto:andrew.azarmi@dentons.com). Mr. Azarmi has already spoken with Mr. Vollmann.

I am willing to meet with you and/or others at the Planning Department to explain the entire situation and confirm all of the above. Generally, Wednesdays work best for me. I appreciate your consideration.

Janina Hoskins, Trustee in Bankruptcy of the estate of Monica H. Hujazi

Very truly yours,



Janina M. Hoskins

**JANINA M. HOSKINS, CHAPTER 7 TRUSTEE**

P.O. Box 158

Middletown, California 95461

Telephone: (707) 569-9508 Facsimile: (707) 569-9518

E-Mail: [Jmelder7@aol.com](mailto:Jmelder7@aol.com)

December 13, 2016

VIA E-MAIL

[PVollmann@oaklandnet.com](mailto:PVollmann@oaklandnet.com)

City of Oakland

Zoning Division

ATTN: Peterson Vollmann

City of Oakland

Bureau of Planning

250 Frank H. Ogawa, Suite 2114

Oakland, CA 94612

Re: Case #CD05-116  
APN #005-0433-018-04  
2400 Filbert Street - Extension Request

Public Notice - Planning Commission

In re Monica H. Hujazi, Case No. 13-30477 HLB  
United States Bankruptcy Court, Northern District of California,  
San Francisco Division

Dear Mr. Vollmann,

As you are aware, I am the Trustee in Bankruptcy of the estate of Monica H. Hujazi, pending as Case No. 13-30477 HLB before the United States Bankruptcy Court, Northern District of California, San Francisco Division.

**Summary of Request**

By way of my prior e-mail and letter sent on November 14, 2016, I requested an extension of the entitlements applicable to the real property at 2400 Filbert Street, Oakland,

Mr. Peterson Vollmann

December 13, 2016

Page 2

California (the "Property") until March 31, 2017. By this correspondence, I am requesting that the extension run through June 30, 2017, i.e., a 6-month extension.

### **Court Authority**

As I believe I explained, I act with Court authority. I mentioned that payment of the \$1,678.31 to the Planning Department would be made, but I needed to obtain Court authority for that payment. Accordingly, I have included a copy of the Order Authorizing Payment to Planning Department, City of Oakland (2400 Filbert Street, Oakland, California) entered December 7, 2016. Also, when a Trustee in Bankruptcy obtains real property, that Trustee cannot "operate," i.e., deal with tenants and collect rents, without authority from the Bankruptcy Court. Chapter 7 is designed to be a liquidation where properties are liquidated as quickly as possible. Sometimes, that is impracticable and, in unusual circumstances, I obtain what is called an "operating order." I have obtained an operating order and an amendment to that order specifically referring to the Property. I have enclosed a copy of that amended order. Once such an order is obtained and assuming there is money available, I can then pay to change locks, secure a building and/or address any "tenants" that may be at a building.

### **Tenant Issue**

I was quite displeased to learn that Ms. Hujazi had a tenant at the Property, even though there were no utilities available. I met with the tenant, learned her circumstances, and asked my counsel to obtain the amended order, which authorizes me to pay relocation expenses to that particular tenant. That was accomplished. The tenant has vacated the Property. Further we have placed a chain and lock on the gate at the Property, so that access will be restricted.

The only other occupant is a moving company that parks vehicles at the Property. I have not directed that tenant to leave the premises, as yet. My conclusion is that it is safer to have someone parking vehicles at the Property and securing it than it is to leave it completely empty. The trucks are in the internal parking lot, not inside the building.

### **Code Violations**

With respect to any code violations, as with other properties I have sold, this sale will require the buyer to address any unresolved code violations. The bankruptcy estate does not have the financial resources to cure the code violations.

### **Sale Negotiations and Timing**

I have been negotiating with two separate buyers, both of which have experience developing property in Oakland. I expect to have a signed contract for the purchase of the Property today; however, due diligence will not be completed until December 27, 2016. I believe it is unrealistic to think we could accomplish a sale and obtain Bankruptcy Court approval for that sale, with an expectation that the buyer could complete whatever they need to complete by March 31, 2017.

While, initially, we were working on an extremely tight time frame to try to close a sale by December 31, 2016, that simply was unrealistic. It put tremendous pressure on any buyer to act very rapidly and close the sale by December 31, 2016.

I now more fully understand the process and the architect's planning designs to date, which will require the full six-month timely. Even that would be tight, but I am informed it can be accomplished.

### **Background**

As I explained previously, Ms. Hujazi left this property in the name of a property exchange company for many years. She did not pay any property taxes on the property, I believe dating back to 2003. When we learned of this property and its condition, we went to the Bankruptcy Court and sought and obtained a judgment so that the record owner of the property could be changed from a property exchange company into my name, as Trustee for the Monica H. Hujazi Chapter 7 bankruptcy case. Prior to that being accomplished, we contacted the taxing authorities to indicate that we were asserting an interest in the Property and would "quiet title" in the near future. Unfortunately, the property exchange company went out of business and was dissolved. Therefore, there was no way to have that company execute a deed to me. Once I obtained title to the Property, I immediately contacted Cushman & Wakefield to market the Property; thus we began trying to solicit buyers and get a sale closed by December 31, 2016. As we now know, that was a very unrealistic time frame. Part of our pressure was

Mr. Peterson Vollmann

December 13, 2016

Page 4

that the last Court hearing scheduled by the judge is December 22, 2016; therefore, we were trying to get a sale accomplished and approved by December 22, 2016. Again, this turned out to be an unrealistic expectation, especially since buyers want adequate time to conduct due diligence.

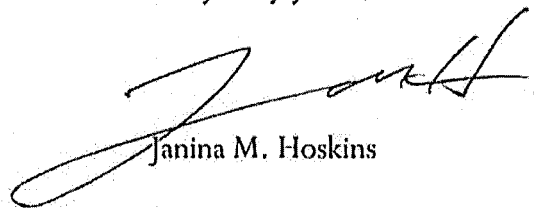
Buyer

We received roughly six offers to purchase the Property. Initially, I accepted an offer; however, concerns over the timing, that we did not have a six-month time period for a buyer to address entitlements and other matters resulted in that buyer withdrawing its offer to purchase (we believe temporarily). However, as indicated above, I expect to accept an offer today. I will provide a copy of that offer to you prior to the Planning Commission meeting, assuming you wish to see it.

Summary

As indicated, the purpose of this correspondence is to request a six-month extension, through and including June 30, 2017. As I mentioned, considering the constraints I have in needing Bankruptcy Court authority to act, I believe I have acted as rapidly as possible under the circumstances. Therefore, whatever accommodation we can obtain from the Planning Commission would be greatly appreciated.

Very truly yours,



Janina M. Hoskins

Enclosures

101901020V-1



1 MICHAEL A. ISAACS (SBN 99782)  
2 michael.isaacs@dentons.com  
3 DENTONS US LLP  
4 One Market Plaza,  
5 Spear Tower, 24th Floor  
6 San Francisco, CA 94105  
7 Tel: (415) 267-4000  
8 Fax: (415) 267-4198

Signed and Filed: December 7, 2016

A handwritten signature in black ink, appearing to read "Hannah L. Blumenstiel".

HANNAH L. BLUMENSTIEL  
U.S. Bankruptcy Judge

9 Attorneys for  
10 JANINA M. HOSKINS,  
11 Chapter 7 Trustee

12 UNITED STATES BANKRUPTCY COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 In re

16 MONICA H. HUJAZI,

17 Debtor.

18 Case No: 13-30477 HLB  
19 Chapter 7  
20 Hon. Hannah L. Blumenstiel

21 ORDER AUTHORIZING PAYMENT TO  
22 PLANNING DEPARTMENT, CITY OF  
23 OAKLAND  
24 (2400 Filbert Street, Oakland, California)

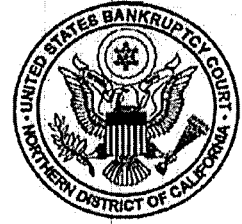
25 Based on the Request for Entry of Order Authorizing Payment to Planning Department,  
26 City of Oakland (2400 Filbert Street, Oakland, California) (the "Request") and the supporting  
27 declaration of counsel and it appearing from the documents that notice has been appropriate, that  
28 no objections were filed with the Court or served on the Trustee and that good cause exists, it is

ORDERED as follows:

1. The Trustee's Request is granted in its entirety.
2. The Trustee is authorized to pay the sum of \$1,678.31 to the Planning Department, City of Oakland.

**\*\*END OF ORDER\*\***





1 MICHAEL A. ISAACS, SBN 99782  
2 Michael.Isaacs@dentons.com  
3 DENTONS US LLP  
4 One Market Plaza,  
5 Spear Tower, 24<sup>th</sup> Floor  
6 San Francisco, CA 94105  
7 Tel: 415.267.4000  
8 Fax: 415.267.4198

Signed and Filed: December 7, 2016

A handwritten signature in black ink, appearing to read "Hannah L. Blumenstiel", written over a horizontal line.

HANNAH L. BLUMENSTIEL  
U.S. Bankruptcy Judge

9 Attorneys for  
10 JANINA M. HOSKINS,  
11 Trustee in Bankruptcy

12 UNITED STATES BANKRUPTCY COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 In re  
16 MONICA H. HUJZAI,  
17 Debtor.

18 Case No: 13-30477 HLB  
19 Chapter 7

20 AMENDED FOURTH ORDER  
21 AUTHORIZING LIMITED OPERATION  
22 OF ENTITIES AND MATTERS  
23 RELATED TO OWNERSHIP THEREOF  
24 (11 U.S.C. § 721)

25 Based on the *Ex Parte* Application for Amended Fourth Order Authorizing Limited  
26 Operation of Entities and Matters Related to Ownership Thereof (11 U.S.C. §721) (the  
27 "Application") filed December 6, 2016 as Docket Entry No. 505, and good cause appearing  
28 therefor, the Court hereby orders as follows:

1. The Application is approved.
2. The Trustee is authorized to operate property of this estate, in addition to those referenced in the Fourth Order Authorizing Limited Operation of Entities and Matters Related to Ownership Thereof (11 U.S.C. §721). Specifically, the Trustee is authorized to operate the real property located at 2400 Filbert Street, Oakland, California, if and to the extent necessary, and to operate any other properties acquired that are currently unknown to the Trustee.
3. All other provisions of the Fourth Order Authorizing Limited Operation of Entities and Matters Related to Ownership Thereof (11 U.S.C. §721) remain in full force and effect.

\*\*\* END OF ORDER \*\*\*

F. Faiz

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

OAKLAND CITY COUNCIL  
2006 FEB -6 AM 11:29

RESOLUTION No. 79782 C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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**RESOLUTION DENYING THE APPEAL AND SUSTAINING THE  
DECISION OF THE CITY PLANNING COMMISSION IN  
APPROVING THE APPLICATION FOR A CONDITIONAL USE  
PERMIT AND DESIGN REVIEW TO CONSTRUCT A 55 UNIT  
RESIDENTIAL PROJECT AT 2400 FILBERT STREET, OAKLAND**

**WHEREAS**, the project applicant, Tom Dolan, filed an application on March 14, 2005 on behalf of the property owner, Monica Hujazi, to construct a 55 unit residential project at 2400 Filbert Street; and

**WHEREAS**, The City Planning Commission took testimony and considered the matter at its meeting held October 19, 2005. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted to continue the item to the November 16, 2005 Planning Commission Hearing, so that the project applicant could meet with concerned parties; and

**WHEREAS**, The applicant met with the concerned neighbors on November 10, 2005, and as a result of the meeting modified the proposed project by relocating the entry and exit points for the internal driveway from Myrtle and Filbert Streets onto 24<sup>th</sup> Street only; and

**WHEREAS**, The City Planning Commission took testimony and considered the revised plans at its meeting held November 16, 2005. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted. The project was approved, 6-0-0; and

**WHEREAS** on November 28, 2005, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was received; and

**WHEREAS**, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on February 21, 2006; and

**WHEREAS**, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

**ATTACHMENT B**

**WHEREAS**, the public hearing on the Appeal was closed by the City Council on February 21, 2006;

**Now, Therefore, Be It**

**RESOLVED:** The requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution is exempt from CEQA under Section 15332 "In-Fill Development" of the State CEQA Guidelines; and be it

**FURTHER RESOLVED:** That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Application, the City Planning Commission's decision, and the Appeal, finds that the Appellant has not shown, by reliance on evidence already contained in the record before the City Planning Commission that the City Planning Commission's decision on November 16, 2005 was made in error, that there was an abuse of discretion by the Commission or that the Commission's decision on November 16, 2005 was not supported by substantial evidence in the record based on the October 19, 2005 Staff Report to the City Planning Commission (attached as Exhibit "A") and the February 21, 2006, City Council Agenda Report (attached as Exhibit "B") hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's CEQA findings and decision are upheld, and the Project is approved (Conditional Use Permit, and Design Review), subject to the findings and conditions of approval contained in Exhibits "B" in the Staff Report for this item prepared for the City Council meeting of February 21, 2006; and be it

**FURTHER RESOLVED:** That, in support of the City Council's decision on November 16, 2005 to approve the Project, the City Council affirms and adopts the October 19, 2005 Staff Report to the City Planning Commission (including without limitation the discussion, findings, conclusions and conditions of approval) all attached as Exhibit "A", as well as the February 21, 2006, City Council Agenda Report, attached hereto as Exhibit "B," (including without limitation the discussion, findings, and conclusions) except where otherwise expressly stated in this Resolution; and be it

**FURTHER RESOLVED:** That, the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies; and be it

**FURTHER RESOLVED:** That, the record before this Council relating to this application and appeal includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;

3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the application and appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal;
6. all matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; and be it

**FURTHER RESOLVED:** That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3<sup>rd</sup> Floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA; and be it

**FURTHER RESOLVED:** That, the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, **FEB 21 2006**, 2006

**PASSED BY THE FOLLOWING VOTE:**

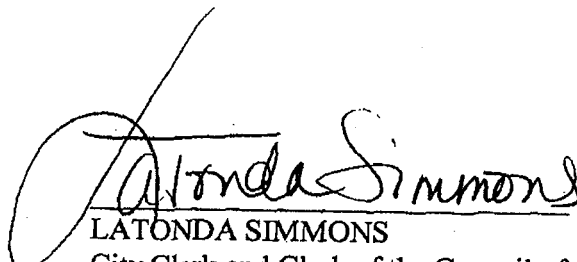
AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, KERNIGHAN, AND 7  
 PRESIDENT DE LA FUENTE

NOES- 1 - De la Fuente

ABSENT- 0

ABSTENTION- 0

ATTEST:

  
 LATONDA SIMMONS  
 City Clerk and Clerk of the Council of  
 the City of Oakland, California

## Oakland City Planning Commission

## STAFF REPORT

Case File Number CD05-116

October 19, 2005

<b>Location:</b>	2400 Filbert Street (See map on reverse)
<b>Assessors Parcel Numbers:</b>	005-0433-018-04
<b>Proposal:</b>	Construct 55 new townhouse style condominiums units on a 66,250 square foot parcel.
<b>Applicant:</b>	Tom Dolan - (510) 839-7200
<b>Owner:</b>	Monica Hujazi
<b>Planning Permits Required:</b>	Interim Conditional Use Permit to allow residential uses within the M-20 Zone, and Regular Design review.
<b>General Plan:</b>	Mixed Housing Type Residential
<b>Zoning:</b>	M-20, Light Industrial Zone/ R-50, Medium Density Residential Zone
<b>Environmental Determination:</b>	Exempt, Section 15332 of the State CEQA Guidelines; in-fill development projects
<b>Historic Status:</b>	Not a Historic Property
<b>Service Delivery District:</b>	I - West Oakland
<b>City Council District:</b>	3
<b>Date Filed:</b>	3/14/05
<b>Action to be Taken:</b>	Decision on Application
<b>Staff Recommendation:</b>	Approve with the attached conditions.
<b>Finality of Decision:</b>	Appealable to City Council
<b>For Further Information:</b>	Contact case planner Peterson Z. Vollmann at 510-238-6167 or by e-mail at pvollman@oaklandnet.com.

## PROJECT DESCRIPTION

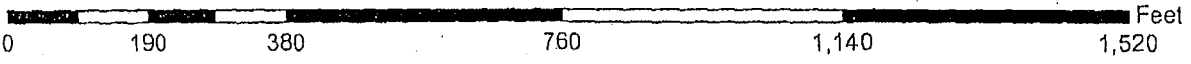
The proposal is to demolish the existing industrial warehouse building and construct 55 new townhouse style condominiums units that will be developed around an internal driveway and open space. The proposed townhouses will face both out toward the public streets on Filbert, Myrtle, and 24<sup>th</sup> Streets with smaller units on the backside facing in towards the open space and driveway of the development site. The project will include five small commercial spaces facing out onto 24<sup>th</sup> Street that may be used for small neighborhood serving businesses, one of which is currently proposed as a café.

The proposal consists of three building styles. The units that will front onto Filbert and Myrtle Streets will be two stories tall with two bedrooms each and contain ground floor entry stoops. The exterior materials will consist of a mix of horizontal siding and board and batten siding.

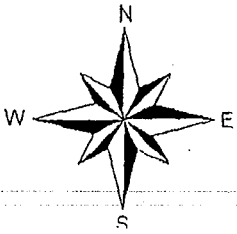
The 24<sup>th</sup> Street buildings will be three stories tall with two bedroom dwellings above a garage or small commercial spaces. The proposed garage doors will contain high quality finishes with glazing at the top three lites. The entry porches at this elevation will be located at grade to fit in with the ground floor commercial spaces. The upper levels at this elevation will contain horizontal siding and the ground floor will contain stucco with a tile bulkhead.

The third building style is the units that will face the interior of the development site. They will be small one bedroom two story units located above a garage that is served off of the interior driveway.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CD05-116  
Applicant: Tom Dolan  
Address: 2400 Filbert St.  
Zone: M-20 / R-50



No building on the site will be more than 30 feet tall so that the site is consistent with the adjacent R-50 Zone height limit of 30 feet above grade.

#### PROPERTY DESCRIPTION

The subject site is a 63,375 square foot site containing an industrial warehouse structure. The property is located on the north side of 24<sup>th</sup> Street between Filbert and Myrtle Streets.

#### GENERAL PLAN ANALYSIS

The subject property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The proposed development is consistent with the General Plan by removing an incompatible Industrial/Commercial use with a new residential use that transitions from the higher intensity area out toward West Grand Avenue in towards the smaller scale residential neighborhood. The Mixed Housing type residential General Plan Area generally allows for a residential intensity of at least one unit per 1,089 square feet of lot area, which would allow for a total of 58 dwelling units on the subject site.

#### ZONING ANALYSIS

The subject property is located within an M-20, Light Industrial Zone and a small portion of the north end of the site is located within the R-50, Medium Density Residential Zone. The M-20 zone is intended to create, preserve, and enhance areas containing manufacturing and related establishments with limited external impact within an open and attractive setting, and is typically appropriate to locations adjacent to residential communities. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development.

#### Interim Conditional Use Permit

Given that the M-20 Zone does not permit residential uses, the applicant has requested an Interim Conditional Use permit to invoke the General Plan of Mixed Housing Type Residential, which specifically allows residential uses.

The subject property is located at the end of a residential neighborhood and the conversion of the property from an industrial/commercial use to a residential development is appropriate and fully supported by Planning Staff.

## KEY ISSUES

### Parking

The parking for the project will be provided in a number of different ways. The proposal calls for 56 off-street parking spaces to serve the 55 proposed dwellings units. The sum of the small commercial spaces is less than 3,000 square feet and does not require any off-street parking. The majority of the parking will be provided for from an internal driveway system for the site. There will be off street parking located within garages below the smaller one bedroom units that face into the site, parallel spaces will be provided between bulb outs on the interior driveway, and a structure at the north end of the site will provide parking in an accessory structure that will be pit style parking lifts for 20 independently accessible parking stalls. Seven spaces will be provided directly off the street off of five curb cuts on or close to 24<sup>th</sup> Street. The site will contain two driveways that will serve the internal parking area. The driveway onto Filbert Street will be 19 feet wide to accommodate two way traffic since it is close to the pit parking garage, and another driveway will be provided on Myrtle Street that will serve a one-way driveway through half of the subject site. Both gates for the driveways will be recessed back to allow cars to queue within the driveway while the gate opens and to provide high visibility of oncoming cars for pedestrian safety.

Staff feels that the parking configuration provided allows for the best pedestrian scale development towards the street and surrounding neighborhood by limiting driveways and curb cuts for the site, especially along Filbert and Myrtle Streets which are predominantly residential streets. The majority of the proposed elevations will contain stoops and porches at the ground floor pedestrian level.

### Open Space

Open space will be provided in the form of balconies and courtyards for each of the dwelling units as a private usable open space as well as a large 6,500 square foot group usable open space within the internal courtyard of the site. The site will be providing roughly 347 square feet per unit where 200 square feet per unit is required.

### Design

The proposal will consist of two story townhouse style homes fronting onto Filbert and Myrtle Streets to be consistent with the scale of the residential neighborhood along those streets. The units will contain entry stoops to add to the pedestrian scale of the neighborhood. The bulk of the proposal is broken down by the townhouse form of the units, breaks in the façade of the individual units, and gabled roofs. The exterior elevations will include a mix of horizontal siding, which is prevalent throughout the neighborhood and board and batten siding to add verticality to the buildings. All of the proposed windows will be true divided lite windows with a factory powder coated finish, which will add depth and detail to the façade of the buildings. The elevations on 24<sup>th</sup> Street will increase to a three story structure, but will not exceed 30 feet which is the maximum height allowed in the adjacent R-50 zone. The 24<sup>th</sup> Street units will be two stories above ground floor garages and commercial spaces. The proposed garage doors will contain high quality finishes with glazing at the top three lites. The entry porches at this elevation will be located at grade to fit in with the ground floor commercial spaces. The upper levels at this elevation will contain horizontal siding and the ground floor will contain stucco with a tile bulkhead.

### Commercial Uses

Given that the property is located within the Mixed Housing Type Residential General Plan Area, the proposed commercial spaces will be very limited in what type of uses will be allowed to operate. Based



upon the General Plan Conformity guidelines the following uses would be permitted within the five proposed commercial spaces for this development:

- General Food Sales
- General Retail Sales
- Administrative Office
- Convenience Sales and Service
- Consultative and Financial Services
- General Personal Service
- Business and Communication Services
- Medical Services
- Research Services

Given the small size of the proposed commercial spaces the most likely uses would be Food sales, such as the proposed café, small administrative or consultative offices such as an architect or tax preparer, or small neighborhood serving convenience sales such as beauty salons. Staff feels that these types of uses would be appropriate along the 24<sup>th</sup> Street side of the development given the property across the street as an industrial/commercial property.

#### Fire Access

The project site does not contain an internal driveway that could accommodate a fire truck in case of an emergency. Based upon discussion with the Fire Department, they did not feel that an internal driveway for fire access would be the most desirable means for access given that the rears of the building walls do not exceed 150 feet in depth from the public right of way. The Fire Department stated that they would prefer to access the site from the three adjacent streets and that the plan provides access routes throughout the property so that Fire Fighters would be able to enter the site at multiple points.

#### ENVIRONMENTAL DETERMINATION

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15332 of the CEQA Guidelines. The criteria for a Categorical Exemption under Section 15332 of the CEQA guidelines are as follows:

- 1) The project is consistent with the applicable general plan designation and all general plan policies as well as with applicable zoning designation and regulations.

The proposed project is consistent with the Mixed Housing Type General Plan designation.

- 2) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The development site is located within the Oakland City limits, is less than five acres and is completely surrounded by urban uses.

- 3) The project site has no value as habitat for endangered, rare, or threatened species.

The project site has been previously developed and does not contain any habitat for endangered, rare, or threatened species.

- 4) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The traffic analysis prepared for the project determined that the project would not result in any significant impacts to the existing level of service (LOS) of local intersections. With implementation of standard conditions of approval related to construction management and noise reduction measures, the project would not result in any significant impacts on traffic, noise, air quality, or water quality. The applicant has provided a "Remedial Action Completion Certificate" from the Alameda County Department of Environmental Health indicating the completion of the gasoline tank removal and remediation completed in 1991.

- 5) The site can be adequately served by all required utilities and public services.

All required utilities are readily accessible on the surrounding streets, and the site will be adequately served by public services in the area.

**CONCLUSION**

Staff feels that the proposed project is a good reuse of the site that contains an industrial/commercial warehousing use that has long been incompatible with the surrounding residential neighborhood to the north of the site. The proposed project is implementing the land use as envisioned by the Oakland General Plan by returning the neighborhood to a residential setting.

The proposal will create townhouse style homes that will fill out the end of the block and be developed to a pedestrian friendly scale. Due to the large size of the site the applicant has been able to develop an internal driveway system to serve off street parking so that the neighborhood impact is minimized by reducing curb cuts. The exterior finishes for the building will be of a high quality to include horizontal siding consistent with the predominant material in the neighborhood, trim details, high quality garage doors with glazing on the top three divisions, and true divided lite windows to add further depth and detail to the buildings. The proposed commercial spaces along 24<sup>th</sup> Street will be very small and contain neighborhood serving uses and/or offices for local small businesses.

**RECOMMENDATIONS:**

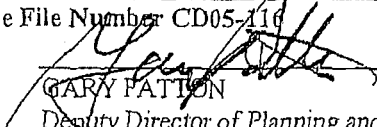
- 1. Affirm staff's environmental determination.
- 2. Approve the Interim Conditional Use Permit and Design Review subject to the attached findings and conditions.

Prepared by:



PETERSON Z. VOLLMANN  
Planner III

Approved by:




---

GARY PATTON

Deputy Director of Planning and Zoning

Approved for forwarding to the  
City Planning Commission:



---

CLAUDIA CAPPIO

Director of Development

ATTACHMENTS:

- A. Plans and Elevations
- B. Findings for Approval
- C. Conditions of Approval



Thomas Daley  
Architect  
1100 California Street  
San Francisco, CA 94109  
415.774.1100  
www.thomasdaley.com



MONICA HUNZI  
REGISTERED ARCHITECT  
SAN FRANCISCO, CA 94109  
415.774.1100  
www.thomasdaley.com

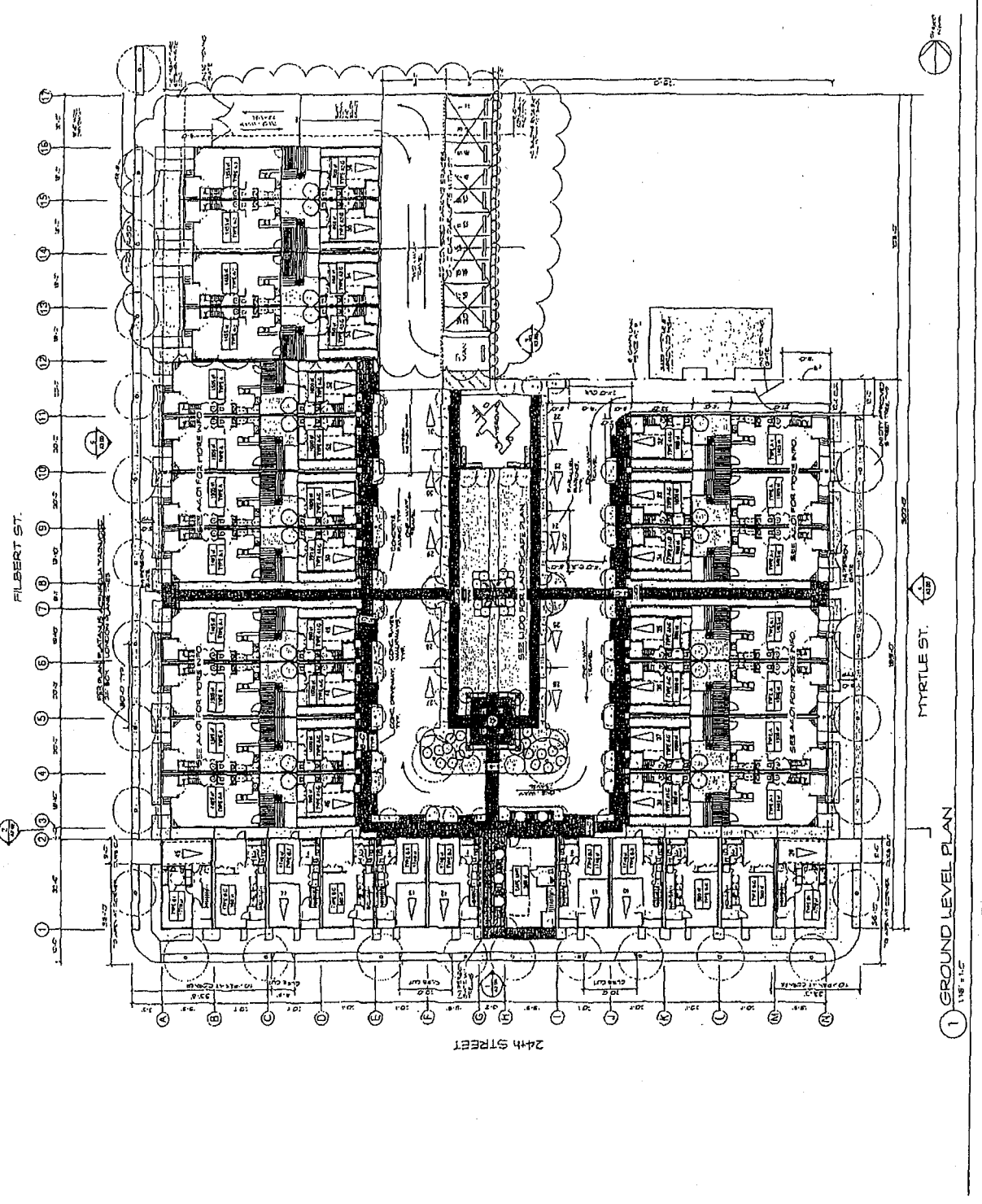
EMERALD  
PARC  
FLEXHOUSES  
2400 FILBERT ST.  
OAKLAND, CA

GROUND FLOOR  
PLAN

NO.	DESCRIPTION	DATE
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9	ISSUED FOR PERMITTING	11/11/11
10	ISSUED FOR PERMITTING	11/11/11

SCALE: 1/8" = 1'-0"  
DATE: 11/11/11  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
PROJECT NO.: [Number]

A2.10



ATTACHMENT A

**TDA**  
 Thomas Dale  
 Architect  
 1400 Broadway  
 Oakland, CA 94612  
 (415) 778-1000  
 www.thomasdale.com



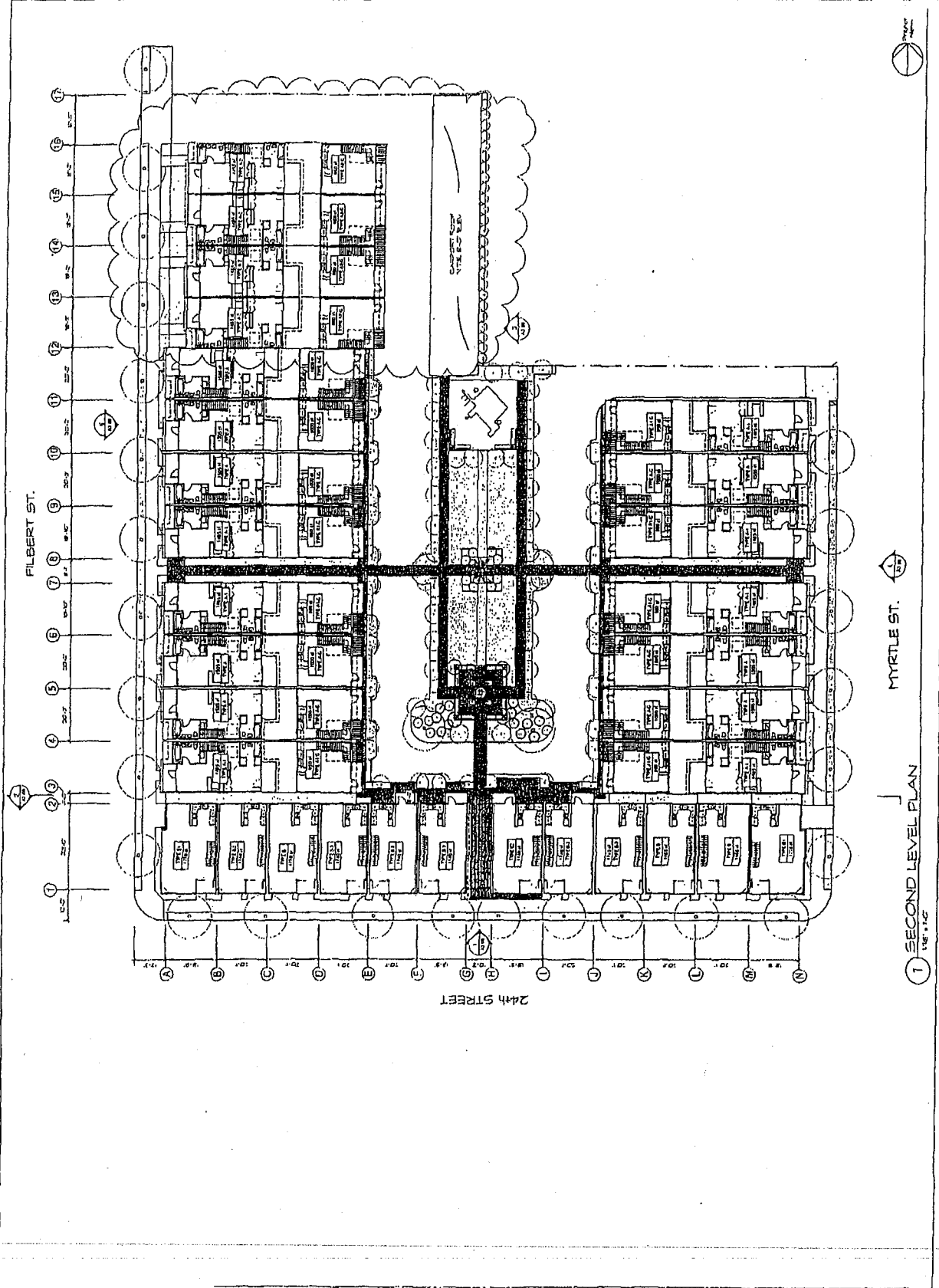
PROJECT  
**MONICA HUIJAZI**  
 3701 HORTON AVENUE  
 SAN RAFAEL, CA 94901  
 (415) 456-1234  
 608.445.5544 FAX

**EMERALD  
 PARK  
 FLEXHOUSES**  
 2400 FILBERT ST.  
 OAKLAND, CA

**SECOND FLOOR  
 PLAN**

DATE	DESCRIPTION	BY

DATE:  /  /    
 DRAWN BY:    
 CHECKED BY:    
 SCALE:    
 SHEET NO. **A2.20**  
 TOTAL SHEETS:  

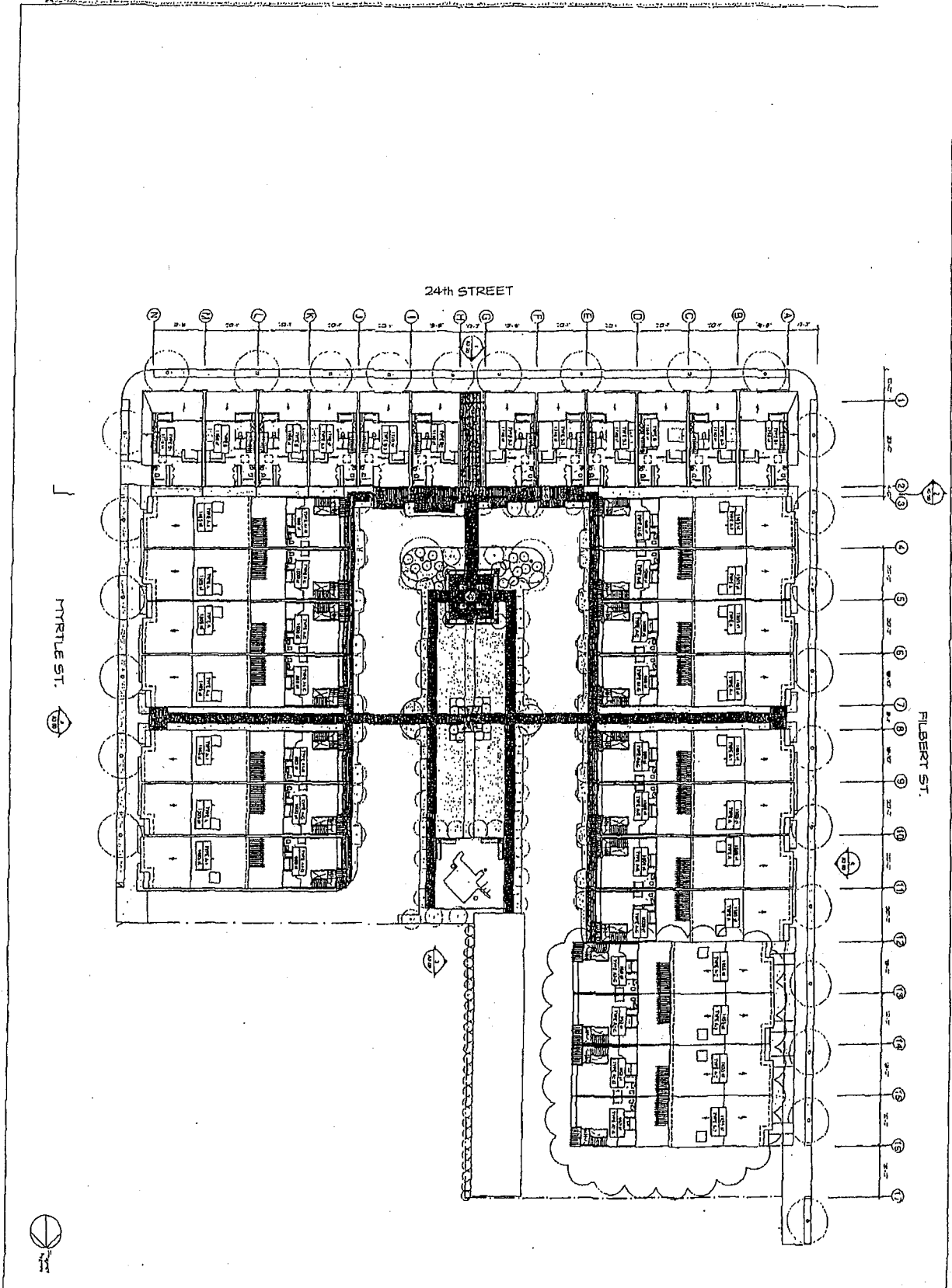


MYRTLE ST.

1 SECOND LEVEL PLAN  
 1/8" = 1'-0"

24th STREET

FILBERT ST.



**IDA**  
 Insurance Data  
 Administration  
 1000 California Street  
 San Francisco, CA 94108  
 (415) 774-2000



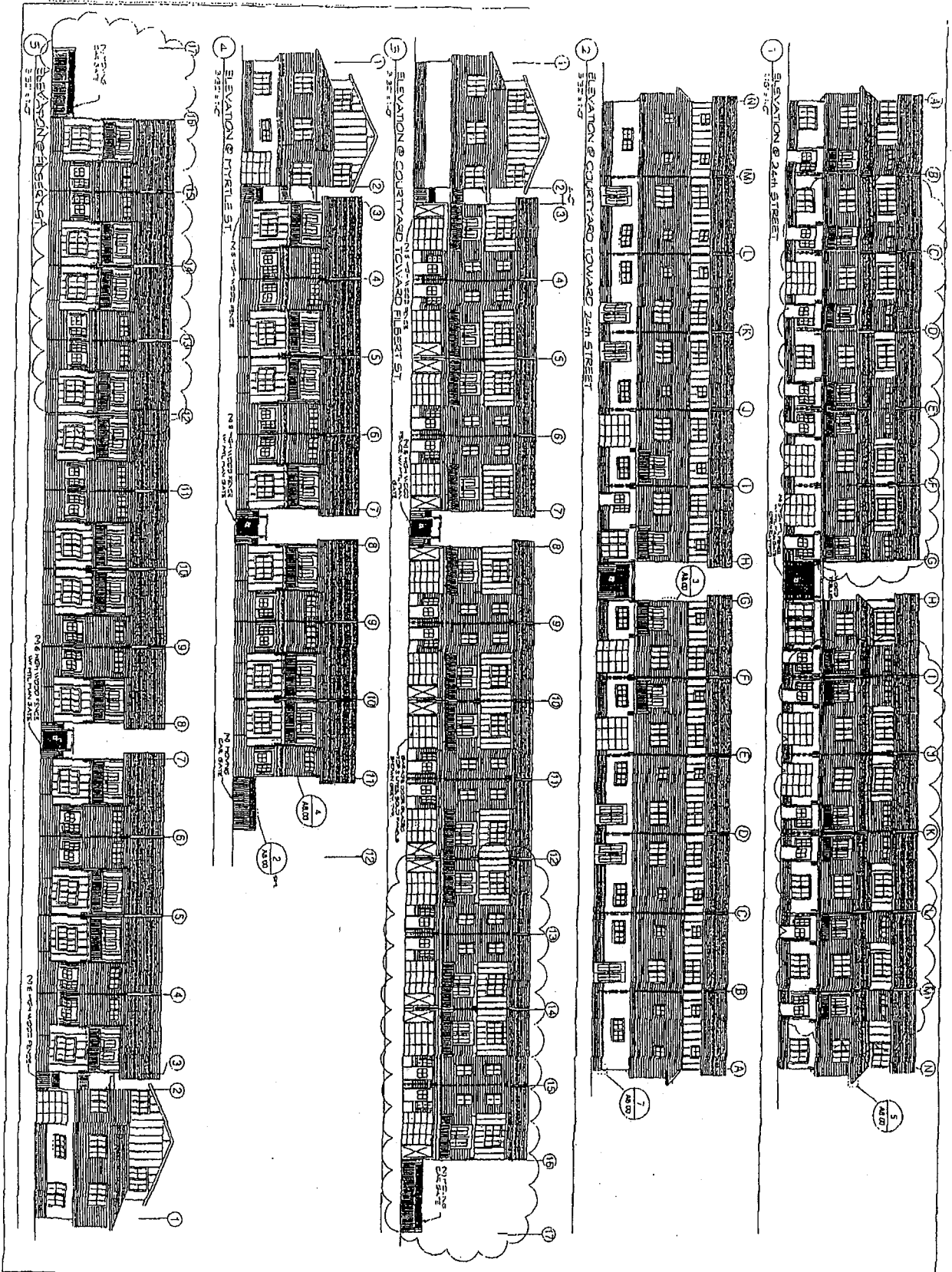
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 MOUNICA HUNZAI  
 ARCHITECTURE  
 5000 ROSELAND AVENUE  
 SAN LATEO CA 94801  
 (415) 665-8888  
 4600 BAYVIEW BL  
 SAN FRANCISCO CA 94134

**EMERALD  
 PARC  
 FLEXHOUSES**  
 3400 FILBERT ST.  
 OAKLAND, CA

NO.	DESCRIPTION	DATE
1	PRELIMINARY DEVELOPMENT	10/10/10
2	CONCEPT DESIGN	11/10/10
3	SCHEMATIC DESIGN	12/10/10
4	PRELIMINARY ENGINEERING	01/10/11
5	FINAL ENGINEERING	02/10/11
6	CONSTRUCTION ADMINISTRATION	03/10/11
7	AS-BUILT	04/10/11

DATE: 10/10/10  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 PROJECT NO: A2.30





**TDA**  
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 1000 Broadway  
 Oakland, CA 94612  
 Tel: 415.778.1100  
 Fax: 415.778.1101  
 www.tda.com



PROJECT:  
**EMERALD PARC FLEXHOUSES**  
 3400 FILBERT ST.  
 OAKLAND, CA 94612  
 DATE: 08/15/00  
 DRAWN BY: J. B. [unreadable]

**EMERALD PARC FLEXHOUSES**  
 3400 FILBERT ST.  
 OAKLAND, CA

ELEVATIONS

NO.	DESCRIPTION	DATE
1	PRELIMINARY ELEVATIONS	08/15/00
2	REVISED ELEVATIONS	08/15/00
3	REVISED ELEVATIONS	08/15/00
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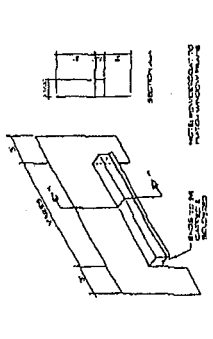
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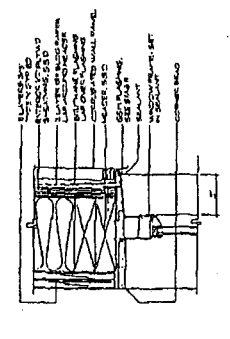


**GENERAL NOTES**

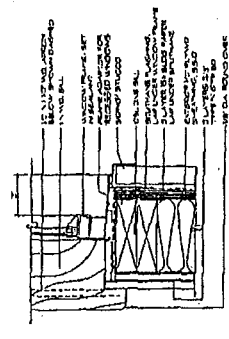
1. ALL WINDOW AND DOOR TYPES SHALL BE MANUFACTURED BY AN APPROVED MANUFACTURER.
2. ALL WINDOW AND DOOR TYPES SHALL BE FINISHED WITH AN INTERIOR FINISH TO MATCH THE FINISH OF THE ADJACENT WALLS.
3. ALL WINDOW AND DOOR TYPES SHALL BE FINISHED WITH AN EXTERIOR FINISH TO MATCH THE FINISH OF THE ADJACENT WALLS.
4. ALL WINDOW AND DOOR TYPES SHALL BE FINISHED WITH AN INTERIOR FINISH TO MATCH THE FINISH OF THE ADJACENT WALLS.
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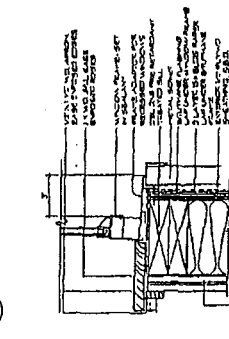
**○ TYP. G.S.M. HEAD FLASHING**  
3.110



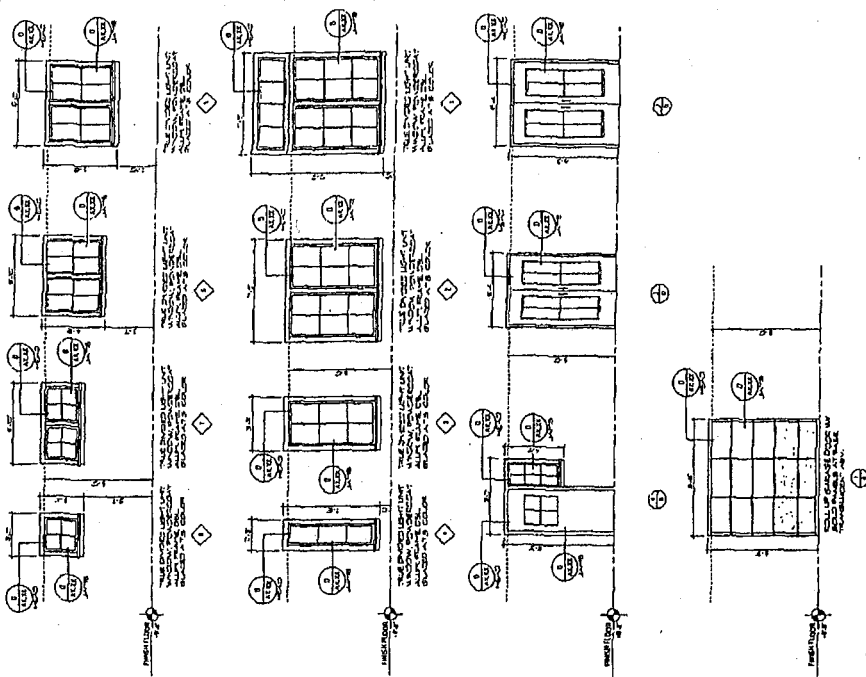
**○ RECESSED WINDOW HEAD**  
3.110



**○ RECESSED WINDOW JAMB**  
3.110



**○ RECESSED WINDOW SILL**  
3.110



**○ DOOR/WINDOW TYPES**  
3.110

**TDA**  
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Architect  
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New York, NY 10003  
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Fax: (212) 691-1001  
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OWNER  
**MONICA HUIJZI**  
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650.948.8852 FAX

**EMERALD  
PARC  
FLEXHOUSES**  
2400 FILBERT ST.  
OAKLAND, CA

**WINDOW & DOOR  
TYPES  
& WINDOW  
DETAILS**

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS (1/14)	
2	ISSUED FOR PERMITS (1/14)	
3	ISSUED FOR PERMITS (1/14)	
4	ISSUED FOR PERMITS (1/14)	
5	ISSUED FOR PERMITS (1/14)	
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10	ISSUED FOR PERMITS (1/14)	

DATE: 1/14/14  
SCALE: AS SHOWN  
PROJECT: A8.10  
DRAWN BY: TDA

Thomas Dulin  
 Architect  
 1000 Broadway  
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 Tel: 415 774 2200  
 Fax: 415 774 2201  
 www.thomasdulin.com  
 TDA



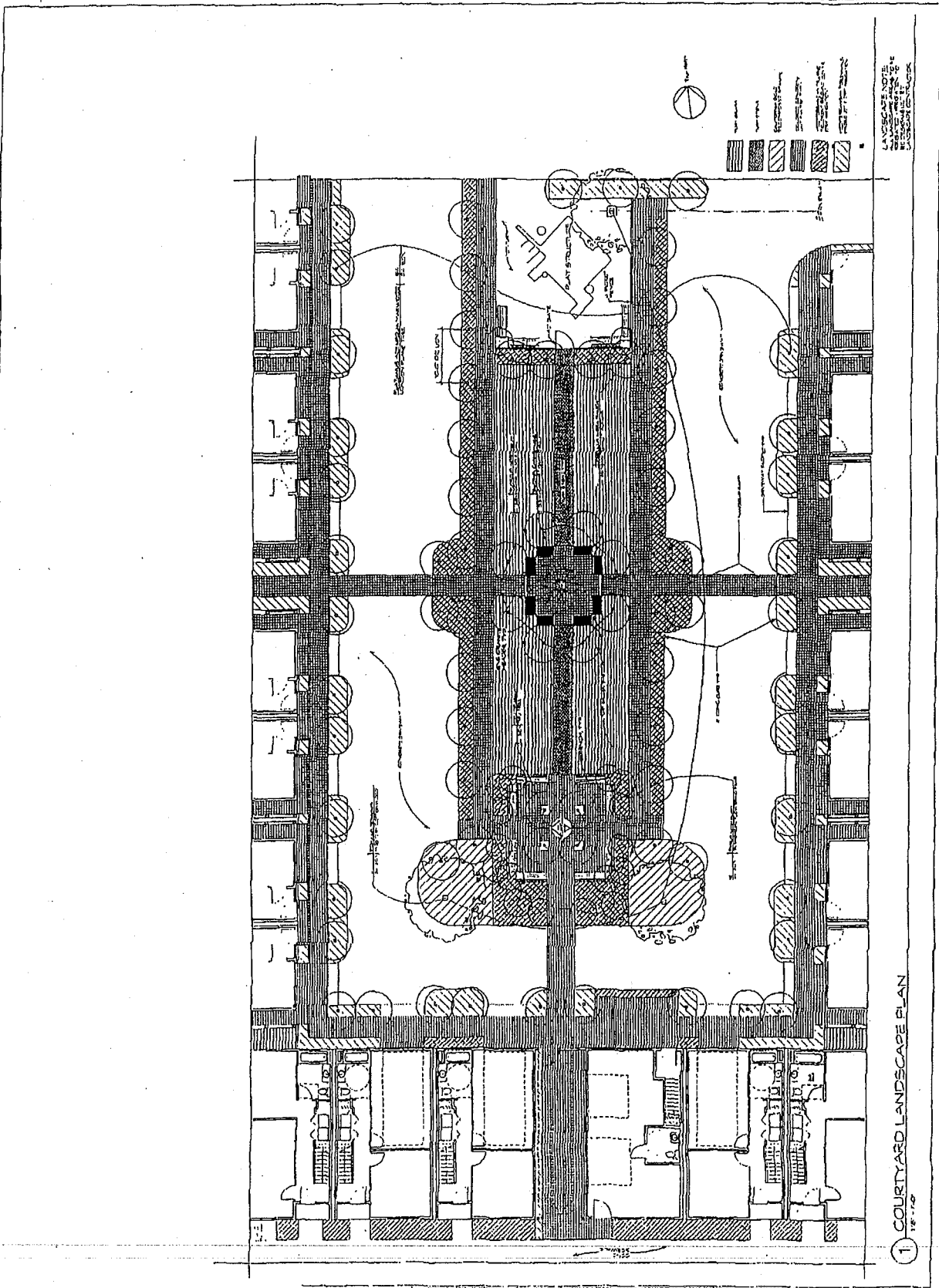
MONICA HAJAZI  
 701 RICHMOND STREET  
 SAN MATEO, CA 94401  
 650 554 4471  
 650 554 4474

EMERALD  
 PARC  
 FLEXHOUSES  
 2400 FILBERT ST.  
 OAKLAND, CA

DATE	DESCRIPTION	BY
	PRELIMINARY LAYOUT	
	REVISIONS	

SCALE: 1/8" = 1'-0"  
 DATE: 11/11/05  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]

LI.00



- Trees
- Shrubs
- Lawn
- Walkways
- Other Landscaping

LANDSCAPE NOTE:  
 ALL PLANTING TO BE  
 INSTALLED BY THE  
 CONTRACTOR.

1 COURTYARD LANDSCAPE PLAN  
 11/11/05

ATTACHMENT B

FINDINGS FOR APPROVAL

This proposal meets all the required Use Permit criteria (Sections 17.134.050 & 17.01.100B) and Design Review Criteria (Section 17.136.070) 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.

SECTION 17.134.050 –CONDITIONAL USE PERMIT FINDINGS:

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

The proposed project consists of 55 residential dwelling units and five small commercial spaces. The proposal will remove an existing industrial/ commercial building and replace it with a residential development as envisioned by the General Plan. The proposal will consist of two story townhouse style homes fronting onto Filbert and Myrtle Streets to be consistent with the scale of the residential neighborhood along those streets. The 24<sup>th</sup> Street elevation will increase to three stories and contain some ground floor commercial spaces for neighborhood serving activities or small scale offices for small local businesses, which is appropriate given the site across the street is in a commercial zone and General Plan designation with frontage on West Grand Avenue, and any future development would be of a higher intensity than the rest of the neighborhood north of the site. The proposal will build out the site towards the street to create a pedestrian friendly environment surrounding the site, and contain an internal parking arrangement off of an internal driveway that connects to exterior and interior parking stalls. Each dwelling will contain a designated parking stall. The project will contain a large open interior that will limit site coverage and provide a large group open space. Each dwelling will also contain small individual private open spaces. The project is located within an area that contains availability to civic facilities and utilities. A traffic study prepared by Abrams and Associates indicates that the proposed development will not degrade existing levels of service (LOS) below an acceptable level.

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

The proposed project will provide for a functional living environment by reusing an existing industrial/commercial site that is incompatible with the surrounding residential neighborhood to the north. The site planning will allow for limited curb cuts along the exterior of the site by providing an internal driveway with access to garage and parking stalls. The middle of the site will contain a large group open space and each unit will contain private open spaces for individual use. The project will also incorporate five small commercial spaces along 24<sup>th</sup> Street to try to activate the street level in the neighborhood. Potential uses would include small scale neighborhood serving activities such as a café, beauty salon, and offices for small local businesses.

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

The development will enhance the area as a residential neighborhood by adding dwelling units to an existing industrial/commercial lot to transition the neighborhood back to residential as envisioned by the General Plan.

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

See Design Review findings below.

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

The conversion of an industrial/commercial use to residential is consistent with the Mixed Housing Type Residential General Plan Area.

**SECTION 17.01.100B - MINOR CONDITIONAL USE PERMIT FINDINGS FOR PROPOSALS CLEARLY IN CONFORMANCE WITH GENERAL PLAN BUT NOT PERMITTED BY ZONING REGULATIONS:**

- A. That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area.

The Mixed Housing Type General Plan Area is intended to have a residential neighborhood with a medium level of density. The existing zoning is M-20, which does not allow for residential uses, however; the large majority of properties on the subject block are presently residential. The proposed dwelling units will help to transition this neighborhood to more of a residential setting as the existing parcel contains an industrial/commercial structure that is incompatible with the surrounding residential neighborhood.

- B. That the proposal is clearly consistent with the intent and desired character of the relevant land use classification or classifications of the General Plan and any associated policies.

The proposal for residential dwelling units is clearly consistent with the Mixed Housing Type General Plan Area as it will turn a lot with an incompatible use into a residential use.

- C. That the proposal will clearly promote implementation of the General Plan.

The proposal for residential dwelling units will clearly promote implementation of the General Plan as the Mixed Housing Type General Plan Area calls for residential uses.

17.136.070A - RESIDENTIAL DESIGN REVIEW CRITERIA:

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

The proposal will consist of two story townhouse style homes fronting onto Filbert and Myrtle Streets to be consistent with the scale of the residential neighborhood along those streets. The units will contain entry stoops to add to the pedestrian scale of the neighborhood. The bulk of the proposal is broken down by the townhouse form of the units, breaks in the façade of the individual units, and gabled roofs. The exterior elevations will include a mix of horizontal siding, which is prevalent throughout the neighborhood and board and batten siding to add verticality to the buildings. All of the proposed windows will be true divided lite windows with a factory powder coated finish, which will add depth and detail to the façade of the buildings. The elevations on 24<sup>th</sup> Street will increase to a three story structure, but will no exceed 30 feet which is the maximum height allowed in the adjacent R-50 zone.

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

The development will enhance the area as a residential neighborhood by adding dwelling units to an existing industrial/commercial lot to transition the neighborhood back to residential as envisioned by the General Plan.

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

The subject area is flat containing no natural landscape.

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

Not situated on a hill.

- E. The proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by the City Council.

The conversion of an industrial/commercial use to residential is consistent with the Mixed Housing Type Residential General Plan Area.

ATTACHMENT C

CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. **Approved Use.**
  - a. *Ongoing.*

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans dated September 30, 2005 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 approved plans, will require a separate application and approval. All proposals for future commercial uses shall require separate zoning clearances.
2. **Effective Date, Expiration, and Extensions**
  - a. *Ongoing.*

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on October 19, 2007, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.
3. **Scope of This Approval; Major and Minor Changes**
  - a. *Ongoing.*

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes, requirements, regulations, and guidelines imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval by the City Planning Commission.
4. **Modification of Conditions or Revocation**
  - a. *Ongoing.*

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.
5. **Reproduction of Conditions on Building Plans**
  - a. *Prior to issuance of building permit.*

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.
6. **Indemnification**
  - a. *Ongoing.*

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and

attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**STANDARD CONDITIONS FOR NEW CONSTRUCTION:**

**7. Waste Reduction and Recycling**

*a. Prior to issuance of a building permit*

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7073 for information.

**8. Recycling Space Allocation Requirements**

*a. Prior to issuance of 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. 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.

**STANDARD CONDITIONS FOR MAJOR PROJECTS:**

**9. Air Quality**

*a. Prior to commencement of construction activity*

The contractor shall implement a construction dust abatement program including the following measures:

- i. Twice-daily watering of the project site during construction to reduce dust emissions.
- ii. Following best management practices such as (i) watering all active construction areas at least twice daily; (ii) covering all trucks hauling soil and other loose materials or requiring trucks to maintain at least two feet of freeboard; (iii) paving, applying water three times daily, or applying non-toxic stabilizers on all unpaved access roads, parking areas, and staging areas at the construction site; (iv) sweeping daily with water sweepers all unpaved access roads, parking areas, and staging areas at the construction site; and (v) sweeping streets daily with water sweepers if visible soil material is carried onto adjacent public streets.
- iii. Routing temporary haul roads to the soil stockpile away from existing neighboring land uses, surfacing these temporary roads with gravel, and implementing a program to regularly water or apply an appropriate dust suppressant to control for dust.
- iv. Utilizing water sprays to control dust when material is being added or removed from the soil stockpile or when the stockpile remains undisturbed for more than a week treating the stockpile with a dust suppressant or crusting agent to eliminate windblown dust generation.



- v. Providing neighboring properties located within 300 feet of the subject property lines with name and phone number of a designated dust control coordinator who shall respond to complaints within 24 hours by suspending dust producing activities or providing additional personnel or equipment for dust control as deemed necessary. The phone number of the BAAQMD pollution complaints contact shall be provided. The dust control coordinator shall be on-call during construction hours and shall maintain a log of complaints received and remedial actions taken in response. The log shall be submitted to City staff upon request.

**10. Hydrology and Water Quality**

*a. Prior to commencement of construction activity*

If required the project sponsor shall prepare, for City review and approval, and implement a Storm Water Pollution Prevention Plan (SWPPP) to reduce potential impacts to surface water quality during project construction.

**11. Construction Hours for Major Projects**

*a. During all construction activities.*

Construction hours will be limited to be between 7:00AM to 7:00PM, Monday through Friday. Subject to prior authorization of the Building Services Division and the Planning and Zoning Division, no construction activities shall be allowed on Saturdays until after the building is enclosed, and then only within the interior of the building with the doors and windows closed. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of residents preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays.

**12. Construction Staging and Phasing Plan**

*a. Prior to issuance of any demolition, grading or building permit.*

The project applicant and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management strategies to reduce traffic congestion and the effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction.

The project applicant shall submit a construction management and staging plan to the Building Services Division with the application for the first building permit for the project for review and approval. The plan shall include at least the following items and requirements:

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours and lane closures will occur.
- Provision for accommodation of pedestrian flow.
- Location of construction staging areas.

- Provisions for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected.
- A temporary construction fence to contain debris and material and to secure the site.
- Provisions for removal of trash generated by project construction activity.
- Dust control measures as set forth in Condition #9.
- A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager.

**13. Public Improvements Plan**

*a. Prior to issuance of a building permit.*

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with conditions of approval 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 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. The Planning and Zoning Division, Building Services Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to issuance of certificate of occupancy.

**14. Underground Utilities.**

*a. Prior to issuance of building permits.*

The applicant shall submit plans for review and approval of the Planning and Zoning Division, Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, plans that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground by the developer from the applicant's structures to the point of service. The plans shall show all electric and telephone facilities installed in accordance with standard specifications of the serving utilities.

**15. Exterior Materials Details**

*a. Prior to issuance of building permit.*

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building including colors. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. In particular, the exterior stucco shall contain a smooth trowel finish. All material at ground level shall be made of durable material that can be maintained in an urban environment.

Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

16. Landscape and Irrigation Plan

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

17. Landscaping Maintenance

a. *Ongoing.*

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

18. Street Trees

a. *Prior to issuance of building permit.*

The applicant shall provide one street tree (24 inch box) per 25 feet of linear frontage of the project site for review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Office of Parks and Recreation and Building Services.

19. Meter Shielding

a. *Prior to issuance of building permits.*

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way.

APPROVED BY: City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)