CITY OF OAKLAND

Memorandum

Planning Commission

Date: October 24, 2017

To: Planning Commission
Attn: Chair Adhi Nagraj

From: Peterson Z. Vollmann, Planner IV

Through: Robert Merkamp, Development Projects Manager

Subject: 2400 Filbert Street

At the October 18, 2017 Planning Commission Hearing, the applicant for 2400 Filbert Street had requested that the item for hearing on the extension of their existing permit approval be continued to allow for a community meeting to take place prior to consideration on the item. The Commission voted to continue the item November 1, 2017.

#7

Location:	**2400 Filbert Street (APN: 005-0433-018-05; &-018-06)**
Proposal:	Extension of entitlements to construct a new development consisting of 55 residential townhomes.
Applicant:	Tom Dolan
Phone Number:	(510) 839-7200
Owner:	2400 Filbert, LLC
Planning Permits Required:	Extension of the Interim Conditional Use Permit & Design Review.
General Plan:	Mixed Housing Type
Zoning:	Current Zoning: RM-4/RM-2, Mixed Housing Zones 4 & 2 Prior Zoning: M-20/R-50, Light Industrial Zone /Medium Density Residential Zone
Environmental Determination:	Infill Exemption (CEQA Guidelines Section 15332)
Historic Status:	Not Historic.
City Council district	3
Status:	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. On April 16, 2016 entitlements extended by the Planning Commission to December 31, 2016. On December 21, 2016, the entitlements were extended for nine months until September 21, 2017. The latest extension request was filed on July 20, 2017.
Staff Recommendation	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner **Pete Vollmann** at 510 238-6167 or by e-mail at pvollmann@oaklandnet.com.

SUMMARY

The Project applicant for the residential project at 2400 Filbert Street has requested a one year 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, which was granted by the Planning Commission to

CITY OF OAKLAND PLANNING COMMISSION

Case File:	CD05116
Applicant:	Tom Dolan
Address:	2400 Filbert Street
Current Zoning:	RM-4, RM-2
Prior Zoning:	M-20, R-50

December 31, 2016. In November of 2016 an additional extension request was made to the Planning Commission which was also granted for a nine month period to September 21, 2017.

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. 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. As part of the extension request 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. At the recommendation of staff, the Planning Commission extended the entitlements to December 31, 2016.

In November of 2016, an additional extension request was made by a trustee who had taken over the property through bankruptcy proceedings and was listing the property for sale. The item appeared before the Planning Commission on December 21, 2016, with a recommendation for denial by staff. At the hearing the applicant had stated that a sale of the property was about to be completed and that building permits for the project would be filed shortly after an extension. The applicant had requested a six-month extension in order to file building permits. The Commission granted an extension of nine months to September 21, 2017 to allow the applicant the opportunity to file building permits to commence construction. To date no building permits have been filed.

On July 20, 2017 the applicant filed another extension request, in which the fees for processing were paid on August 23, 2017. The last extension date has passed, and without another extension the planning permit will lapse and the applicant will need to file for a new Planning submittal which would be required to comply with the current zoning regulations.

PROJECT DESCRIPTION

Extension Request

In conformance with adopted Condition of Approval #2a, the Project applicant submitted a letter on July 20, 2017 requesting an extension of the entitlements from the Planning Commission until September 21, 2018. As noted above in the *Background* section, the Planning approval for this application has expired, but the request was filed prior to the expiration date. Unless the Planning Commission approves a time extension request, the approval will no longer be valid 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, 24th, & Filbert Streets as well as small commercial spaces at the lower level of the units along 24th 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 nine months since the last extension was granted no building permits were filed to proceed with the project as stated at the Planning Commission hearing on December 21, 2016 by the project/property representative. In addition, one week after receiving the extension it appears that the current ownership group had filed a pre-application with the Zoning Division to explore the possibility of converting the existing building into live-work units as an alternative development scenario rather than moving forward with filing the required building permits to implement the existing entitlements. The approved plans are out of date with the current zoning regulations which were implemented nearly eight years ago, and the current entitlements and have not been acted upon for nearly 12 years. Therefore, staff is not able to recommend support

for the extension request and believes that a new development application should be filed that would be consistent with the current zoning regulations in place for the neighborhood.

CONCLUSION AND RECOMMENDATIONS

As noted above, the Project entitlements have been in place for nearly 12 years with no action on building permits, the zoning has been updated for a number of years.

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:

PETERSON Z. VOLLMANN
Planner IV

Reviewed by:

ROBERT MERKAMP
Development Projects Manager
Bureau of Planning

Approved for forwarding to the Planning Commission:

DARIN RANELLETTI
Deputy Director
Department of Planning & Building

ATTACHMENTS:

A. Applicant's extension letter request, dated July 20, 2017.
B. City Council Resolution 79732
C. Planning Commission Staff Report from October 19, 2005.

Thomas Dolan Architecture

Architecture, Urban Design, Planning and Development Consultation

TDA

377 CLIFTON STREET
OAKLAND, CA 94618
PH: 510 / 839-7200
FAX: 510 / 839-7219
www.live-work.com

July 20, 2017

Peterson Vollman
Zoning Division
250 Frank Ogawa Plaza
Okland, CA 94612

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

Mr. Vollman,

At the direction of Darin Ranelletti, I am writing this extension request in regards to the above stated property address and case number. I do so in my capacity as the project architect for the property's new owner, 2400 Filbert LLC. They purchased the property in late June and are excited to move forward with the original design. For illustrative purposes I include in the email accompanying this letter a pdf of a recent rendering prepared by the new owner.

I hereby request a project/permit extension until September 30th, 2018, as the current extension expires September 30th, 2017. We understand that the extension will go before the Planning Commission.

I have enclosed the required extension fee of $451.00.

Please do not hesitate to contact me with any questions and/or concerns.

Thank you in advance,

Thomas Dolan
Principal

Attachment A

F. Faiz

OFFICE OF THE CITY CLERK
OAKLAND

2006 FEB -8 AM 11:29

OAKLAND CITY COUNCIL

RESOLUTION NO. 79732 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

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 24th 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, 3rd Floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st 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

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

PROJECT DESCRIPTION

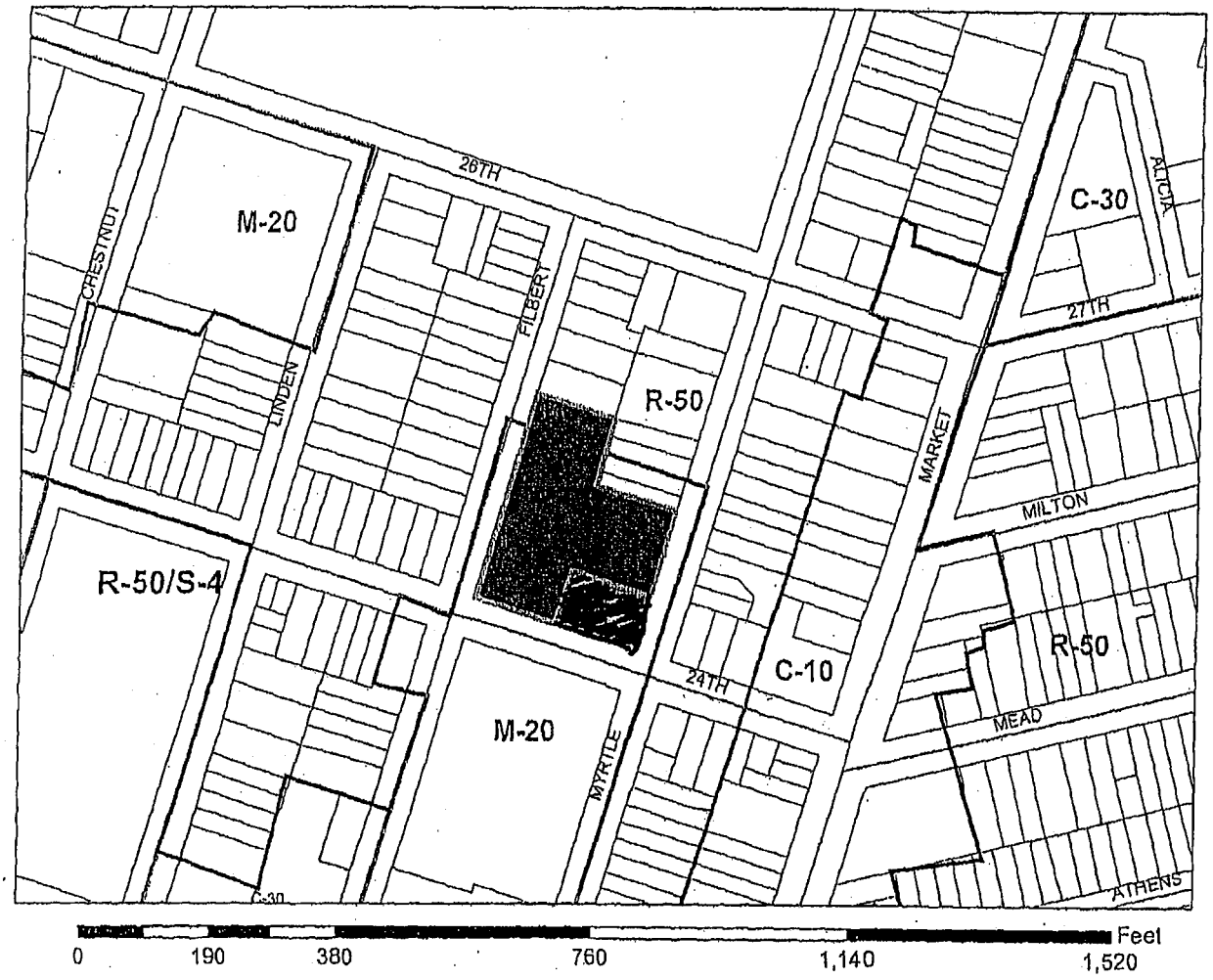
The proposal is to demolish the existing industrial warehouse building and construct 55 new townhouse style condominiums units that will be developed around an internal driveway and open space. The proposed townhouses will face both out toward the public streets on Filbert, Myrtle, and 24th Streets with 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 24th 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.

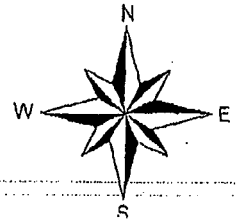
The 24th Street buildings will be three stories tall with two bedroom dwellings above a garage or small commercial spaces. The proposed garage doors will contain high quality finishes with glazing at the top three lites. The entry porches at this elevation will be located at grade to fit in with the 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 24th 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 24th 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 24th 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. The 24th 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 24th 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 24th 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

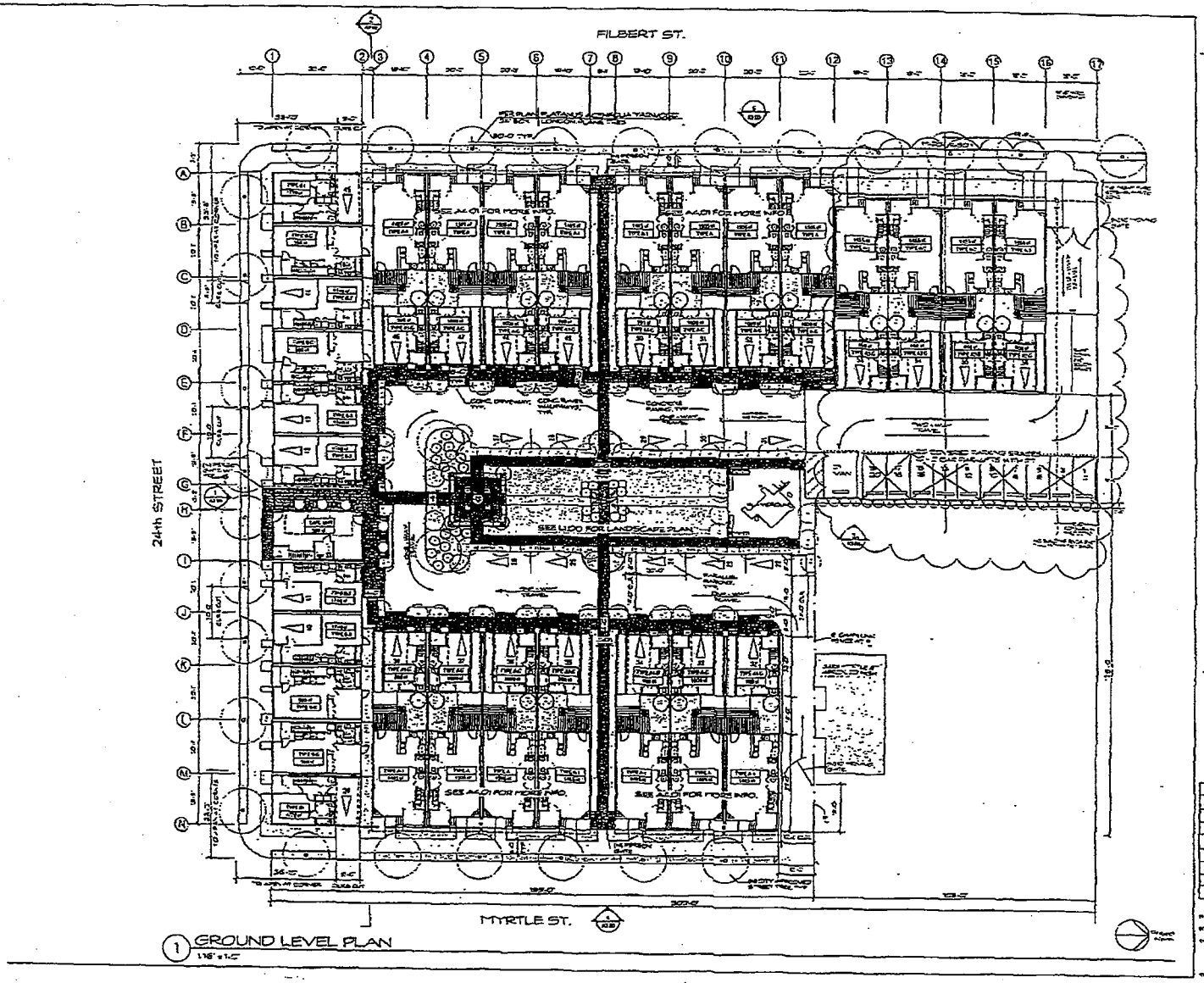
Approved for forwarding to the
City Planning Commission:

CLAUDIA CAPPIO
Director of Development

ATTACHMENTS:

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

ATTACHMENT A



1 GROUND LEVEL PLAN

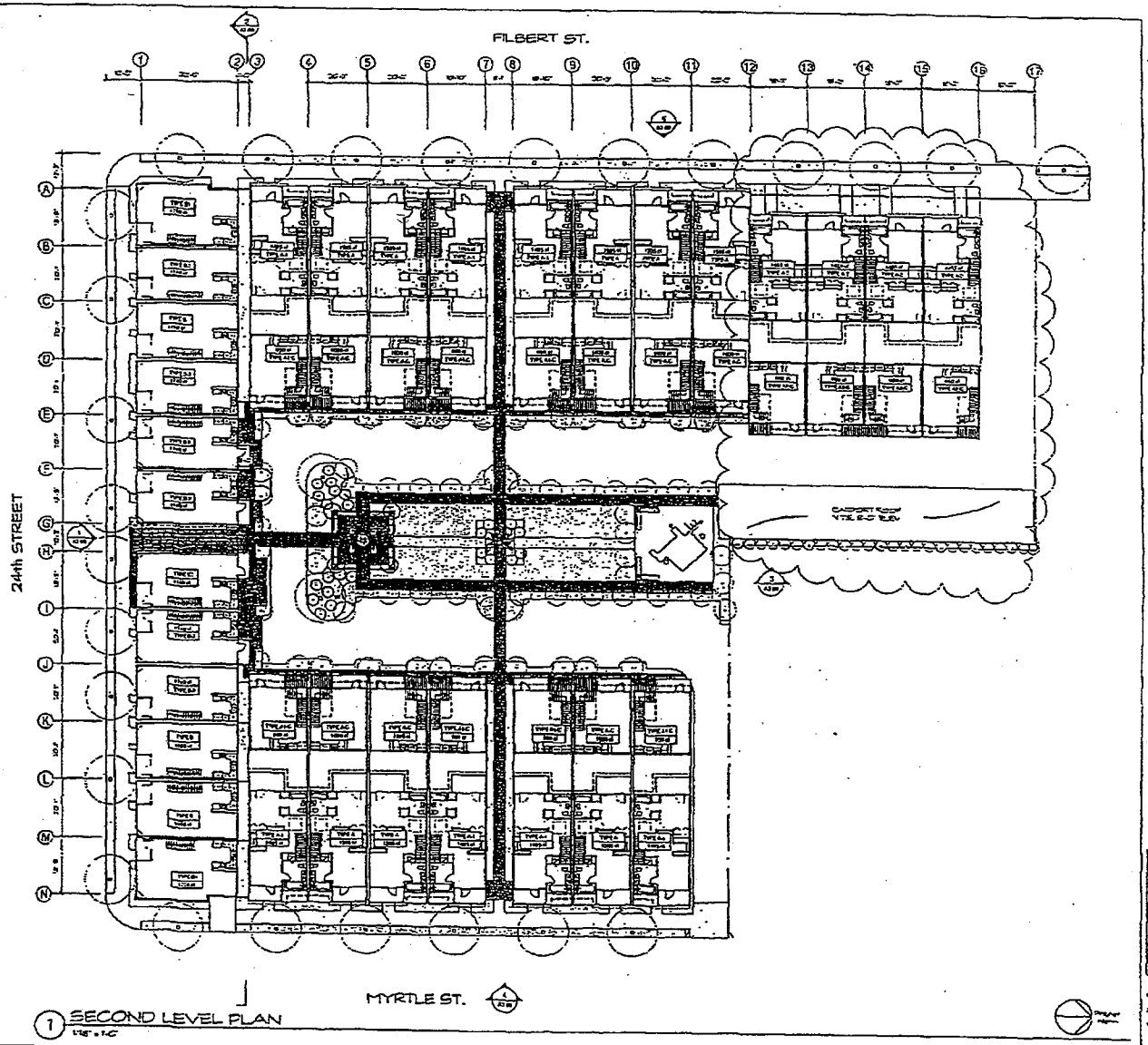
TDA

EMERALD PARC FLEXHOUSES

2400 FILBERT ST.
OAKLAND, CA

GROUND FLOOR PLAN

A2.10



1 SECOND LEVEL PLAN

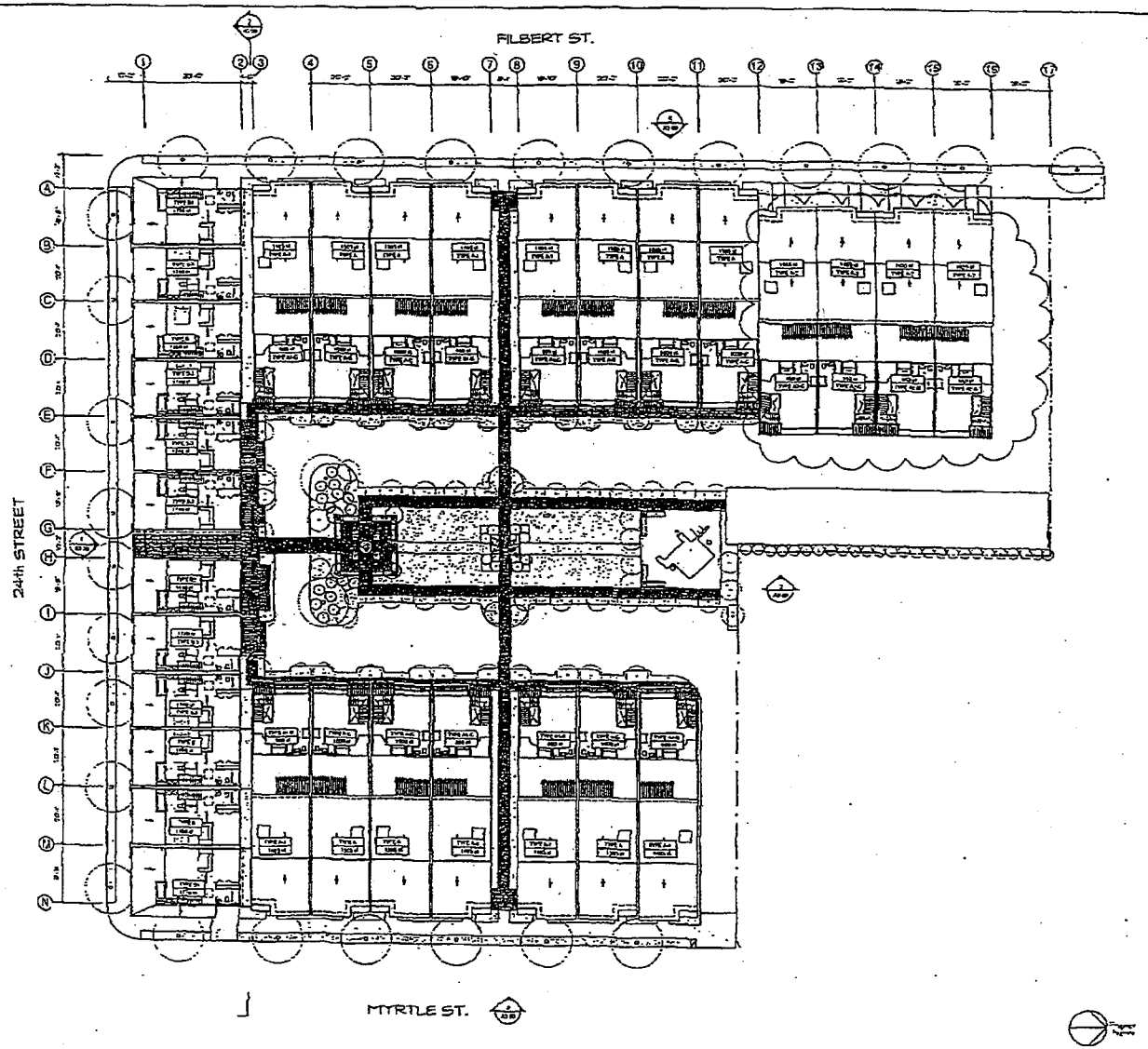
TDA

OWNER
MONICA HUJAZI

EMERALD PARC FLEXHOUSES
2400 FILBERT ST.
OAKLAND, CA

SECOND FLOOR PLAN

A2.20



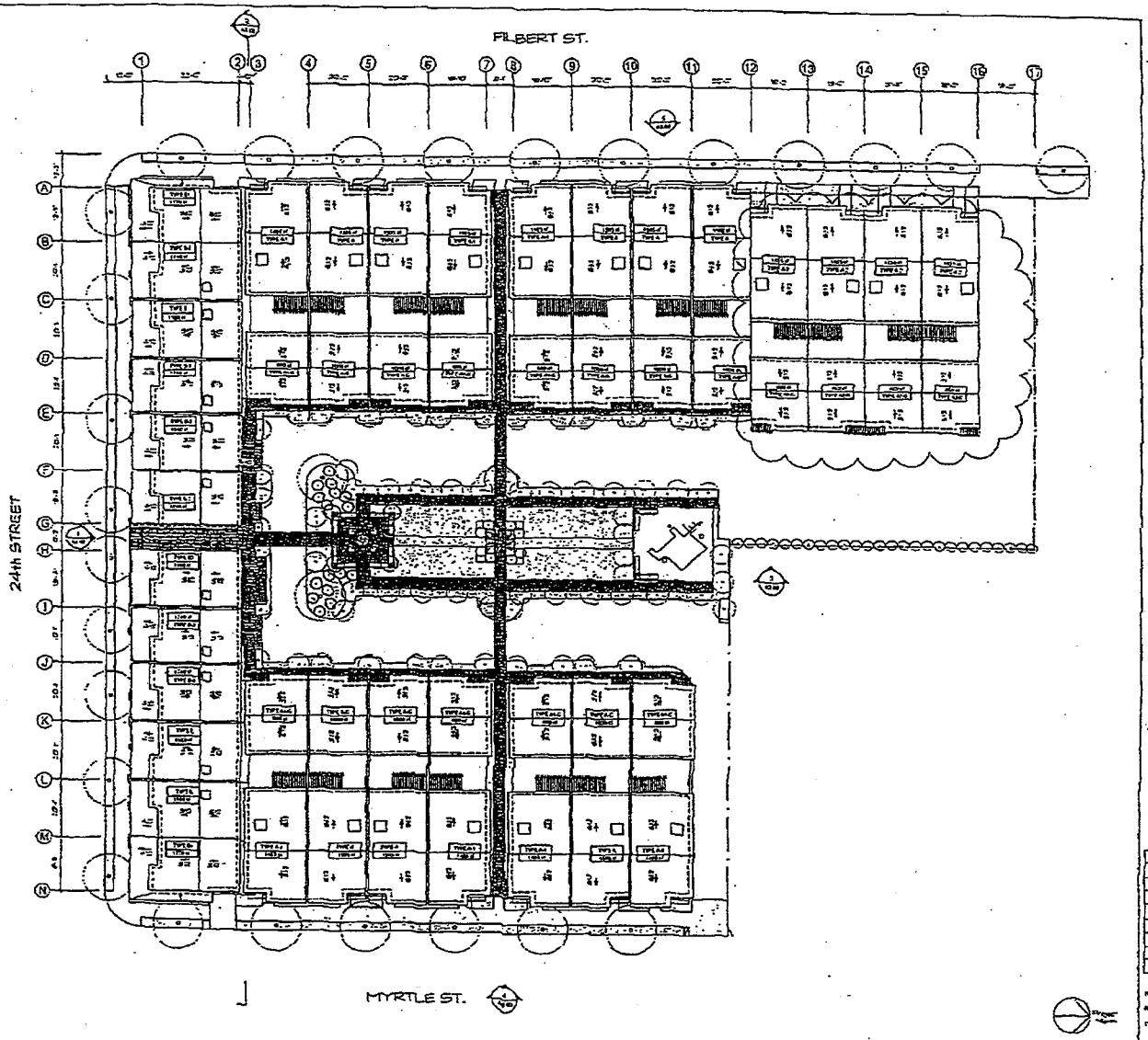
TDA

MONICA HUJAZI

EMERALD
PARC
FLEXHOUSES

3400 FILBERT ST.
OAKLAND, CA

A2.30



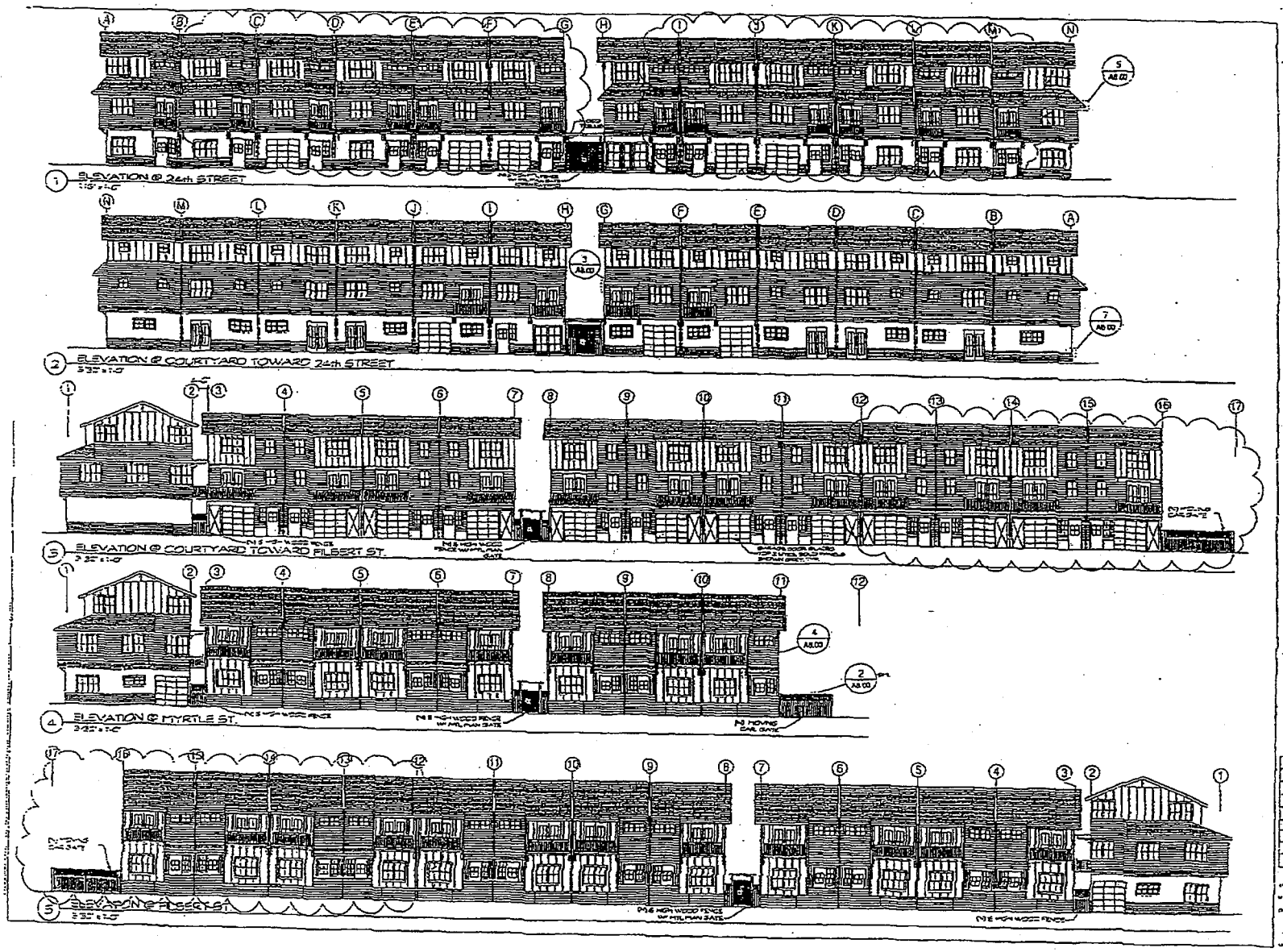
TDA

MONICA HUAZI

EMERALD PARC FLEXHOUSES

2400 FILBERT ST.
OAKLAND, CA

A2.40



TDA

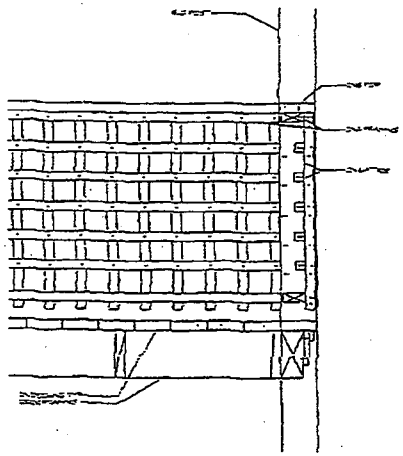
MONICA HUIAZI

EMERALD PARC FLEXHOUSES

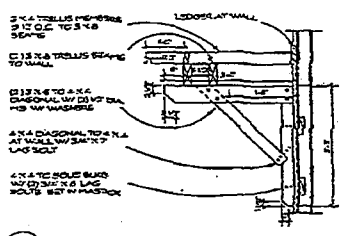
2400 FILBERT ST.
OAKLAND, CA

ELEVATIONS

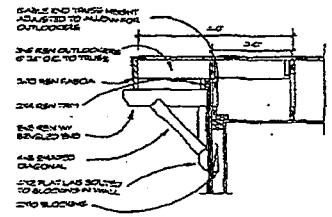
A3.00



1 GUARDRAIL @ DECKS
Scale: 1 1/2" = 1'-0"



3 TRELLIS & BRACKET DETAIL
Scale: 3/4" = 1'-0"



4 BRACKET @ PRIVATE DECK DETAIL
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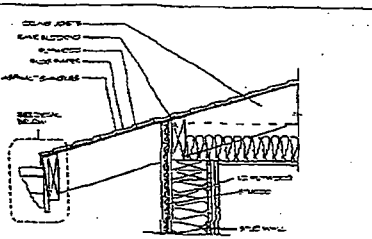

5 EAVE DETAIL
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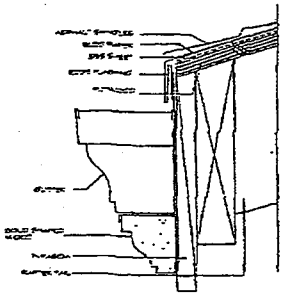
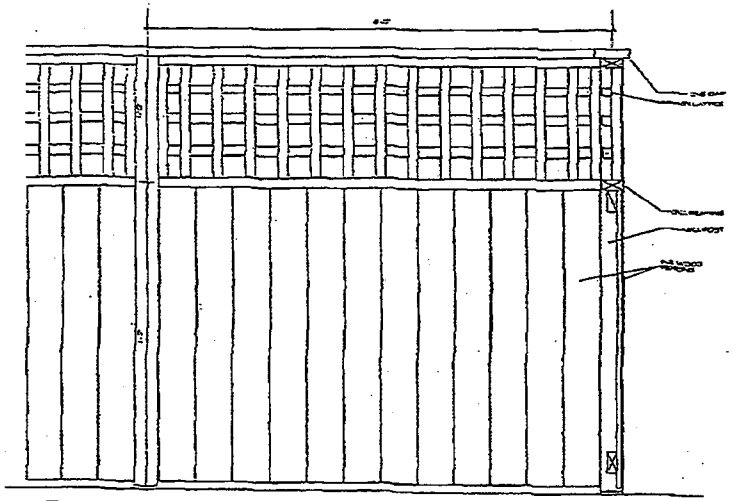
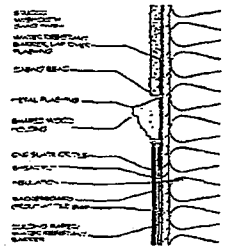


6 FASCIA & GUTTER DETAIL
Scale: 6" = 1'-0"



2 FENCE DETAILS
Scale: 1 1/2" = 1'-0"



7 MOULDING @ WATERTABLE
Scale: 3" = 1'-0"

TDA

Thomas Dolan Architecture

OFFICE
MONICA HUJAZI

[redacted]
SAN MATEO, CA 94401

650.685.8555 TEL
650.685.8558 FAX

EMERALD PARC FLEXHOUSES

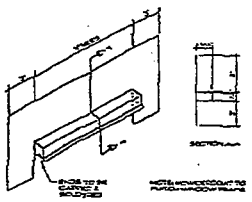
2400 FILBERT ST.
OAKLAND, CA

EXTERIOR DETAILS

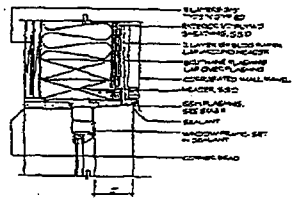
MARK	DESCRIPTION	DATE

DRAWN
CHECKED
SCALE

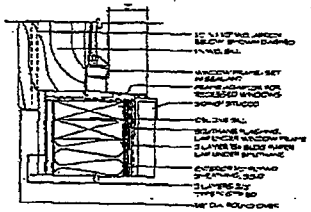
A8.00



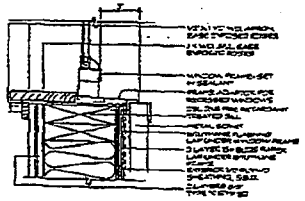
TYP. G.S.M. HEAD FLASHING



RECESSED WINDOW HEAD

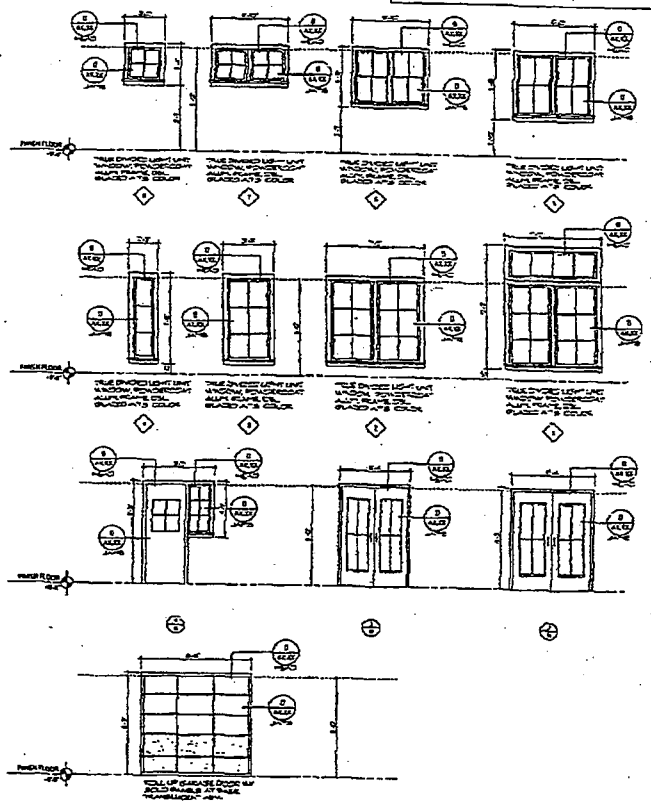


RECESSED WINDOW JAMB



RECESSED WINDOW SILL

GENERAL NOTES



DOOR/WINDOW TYPES

TDA

Thomas Dolan Architecture

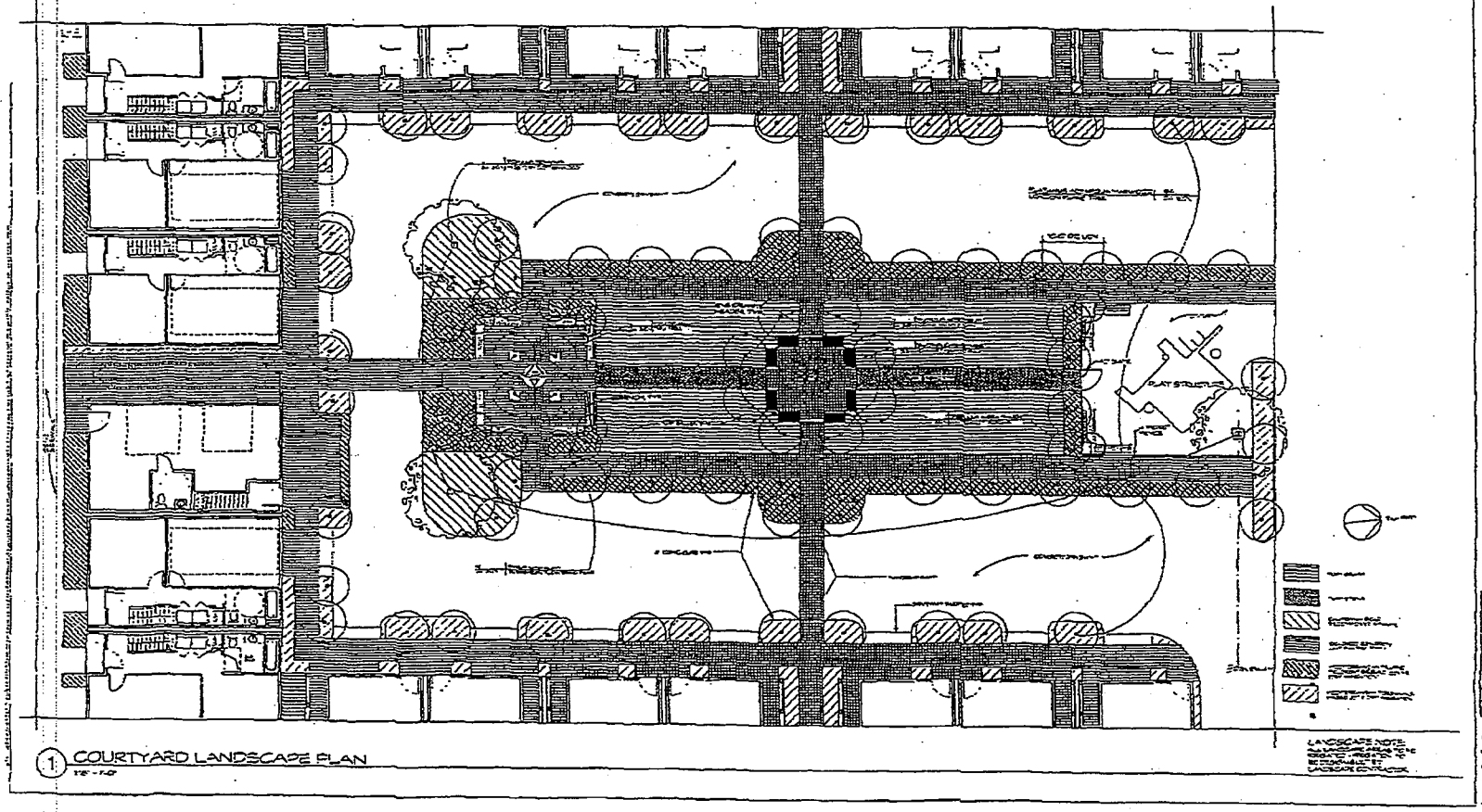
OWNER:
MONICA HUJAZI

EMERALD PARC FLEXHOUSES

2400 FILBERT ST.
OAKLAND, CA

WINDOW & DOOR TYPES & WINDOW DETAILS

A8.10



1 COURTYARD LANDSCAPE PLAN

TDA

EMERALD PARC FLEXHOUSES

3400 FILBERT ST.
OAKLAND, CA

L1.00

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 24th 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 24th 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 24th 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)