Location:	**829 21st Street (See map on reverse)**
Assessor's Parcel Number:	**003-0033-039-00 through 003-0033-044-00**
Proposal:	Appeal of an Administrative decision to partially approve legalization of the unpermitted raising of a pre-existing commercial building that was located within the required setbacks. The subject property was later converted into five live-work units under Planning Case number CD07-399. The appellant is the project applicant and is specifically appealing two conditions of approval related to the decision.
Applicant/Appellant:	Robia Crisp
Owners:	829 21st Street Homeowners Association
Planning Permits Required:	Minor Variance for raising the pre-existing building within the required setbacks (front, side and rear); Regular Design Review for legalization of exterior modifications that include a variance.
General Plan:	Mixed Housing Type Residential
Zoning:	RM-2
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines – Existing facilities 15183 – Projects Consistent with a Community Plan or Zoning
Historic Status:	Not a historic property
Service Delivery District:	Metro
City Council District:	3
Status:	The application was approved by the Zoning Manager on August 26, 2016. The conditions of approval were subsequently appealed by the applicant on September 6, 2016.
Action to be Taken:	Decision on appeal
Staff Recommendation:	Deny the appeal thereby upholding the approval of the application
Finality of Decision:	Final
For Further Information:	Contact case planner **Peterson Z. Vollmann** at **(510) 238-6167** or by email at **pvollmann@oaklandnet.com.**

CITY OF OAKLAND PLANNING COMMISSION

Case File:	PLN15408-A01
Applicant / Appellant:	Robia Crisp
Address:	829 21st Street
Zone:	RM-2

SUMMARY

The applicant/appellant Robia Crisp on behalf of the 829 21st Street Homeowners Association ("Homeowners Association") has appealed the approval of the Homeowners Association's project to legalize the previous raising of the existing commercial building within the required setbacks. The appeal is specifically based upon two conditions of approval that were included requiring removal of portions of the building. The Zoning Manager's approval included a condition that required installation of light wells along the side elevations adjacent to windows on the adjacent neighboring properties as part of the approval of the side setback variance. A Condition of Approval was also required on the project that required the removal of the portion of the building that was raised within the required 15 foot rear yard setback, which was essentially a denial of the request for a rear yard variance. These conditions were determined to be necessary in order to support the Findings for approval.

PROPERTY DESCRIPTION

The subject property is a pie shaped property on the southeast corner of 21st Street at Curtis Street. The property has historically been a commercial/light industrial building, which was converted to five live-work units.

BACKGROUND HISTORY

As noted above, historically the subject property was a commercial/light industrial building. In the mid 2000's a permit was granted by the Building Services Division to replace the foundation on the building. It appears that during this time the building was raised in height from 15'9" to 19'6", which was beyond the scope of work on the permit as part of the review of the foundation permit, it was specifically noted as not allowed by Planning within the City's Permit Tracking System. Approximately four months after the work was completed on the foundation, the applicant filed for a Conditional Use Permit and Design Review to convert the existing building into five live-work units. This proposal also included the demolition of sections of the building to create three separate buildings on the property and reduced the site coverage on the property. The Planning application was approved and the building permit to implement it was finaled. The property was then sold as a condominium development to five different individuals, one for each unit. A number of years after the project was completed and sold a complaint was filed with Code Compliance on the issue of the building being raised within the required setbacks without the benefits of proper permits. The complaint was verified by the City and a Notice of Violation was sent to the property owners of 829 21st Street. The Homeowners Association then filed an appeal of the Notice of Violation, which was heard by a Hearing Officer in mid-2015, in which the City's position on the matter (e.g., that the building was raised without proper permits) was upheld. In response, the Homeowners Association subsequently filed an application to legalize the raising of the building within the required setbacks.

Timeline of Events

December 27, 2006- Applicant files for a building permit to replace the foundation of the existing warehouse – permit number B0605619.

January 12, 2007 – Planning Staff enters note into Permit Tracking System stating that it is okay to replace foundation but that they may not raise the structure or alter the exterior of the building.

April 19, 2007 – Planning staff adds an additional note into Permit Tracking System to allow removal of portions of the building – no Planning Permit required, only a building permit.

May 1, 2007 – Planning staff adds an additional note into Permit Tracking System to allow removal of portions of the building within the public right of way – no Planning Permit is required, only a building permit.

May 22, 2007 – Foundation replacement permit B0605619 is finaled.

September 14, 2007 – Applicant applies for a Design Review and Interim Conditional Use Permit, CD07-399, to allow new live-work floor area by adding mezzanines within the existing building envelope within the Mixed Housing Type Residential General Plan Area. Application also includes a Tentative Parcel Map for commercial condominiums.

November 1, 2007 - Planning staff adds an additional note into Permit Tracking System to allow conversion of the existing non-residential building into live-work pursuant to Planning Code Section 17.102.190 with no new interior floor area– this was done by the applicant so that they could begin the live-work conversion while they awaited a decision on whether or not they could add new floor area under the Conditional Use Permit that was filed, since the conversion would have just been a ministerial building permit.

December 20, 2007 – Applicant files building permit number B0705901 to convert the building into five live-work units.

May 30, 2008 – Planning approves case number CD07-399 to allow new floor area within the five live-work units by adding mezzanines within the existing building.

March 1, 2010 – Building Permit for the live-work conversion, now including the new floor area in the mezzanines, is finaled by the Building Services Division.

October 23, 2013 – Neighbor files Code Enforcement complaint about illegal raising of the building within the setbacks – notes from Code staff indicates that research will be necessary.

January 9, 2015 – Code Enforcement verifies violation of raising building within the required setbacks without a permit. Homeowners Association later appeals this determination of a violation.

May 19, 2015 – Homeowners Association's appeal of the violation is heard before a hearing officer.

June 30, 2015 – Hearing officer's decision to deny the appeal and uphold the violation is issued.

December 23, 2015 – Homeowners Association files Planning Case file PLN15-408 to legalize the raising of the building within the required setbacks.

August 26, 2016 – Planning case file number PLN15-408 is "partially" approved with conditions of approval that require removal of the addition in the rear setback and installation of light wells on side elevations. These Conditions of Approval require physical changes to the structure.

September 6, 2016 – Homeowners Association timely files appeal of conditions of approval.

PROJECT DESCRIPTION

The proposed project under case number PLN15-408 would not have altered the building from the existing (albeit unpermitted) configuration. The proposal was to legalize work that was done prior to the live-work conversion of the building in early 2007, which would legalize raising the building within the required front, side and rear setbacks.

ZONING ANALYSIS

The site is located in the RM-2 residential zone. This subject lot within the RM-2 Zone requires a front yard setback of 20 feet, side yard setbacks of four feet, and a rear yard setback of 15 feet. The pre-existing commercial structure was already located within all of these setbacks, but the Planning Code does not allow a building to be raised when located within a required setback as an existing non-conforming structure as it would increase the degree of non-conformity by creating a taller structure there. The Planning application PLN15-408 requested variances to all four of these setbacks. A use permit was also sought as a way to reduce the side yard setbacks; however, staff determined that the site did not meet the criteria to qualify so the variance request applied to all four non-conforming setbacks.

The front yard setback runs along the curved line of the street frontage between the two adjacent properties on Curtis and 21st Streets. The side yard setbacks run along the abutting side property lines. And due to the pie shaped nature of the lot, the rear yard setback projects from the rearmost point at the greatest lot depth and extends fifteen feet inward from that point in an arc parallel to the front property line.

ZONING MANAGER'S DECISION

On August 26, 2016 the Zoning Manager partially approved the application to legalize the raising of the building within the required setbacks. Attached is the Zoning Manager's decision letter containing the required findings and the reasons the findings were met (***see Attachment A***). The primary reasons for the decision on the application are as follows:

1. **Front Yard Setback:** The existing building was located within the required front setback and the footprint wouldn't change. The area contained a number of buildings that did not meet or even come close to meeting the required 20 foot front yard setback, including the two adjacent buildings. By granting the front yard setback the front façade height would be able to extend to a height consistent with other neighboring buildings also located within the front setback instead of being required to setback the additional 20 feet from the front of the building and be more in keeping with the character of the neighborhood without creating any negative impacts.

2. **Side Yard Setbacks:** The existing building was located within the required side setbacks and the footprint wouldn't change. The area contained a number of existing non-conforming buildings that didn't meet the required side yard setbacks. The granting of the side yard setbacks would allow the front façade of the building to not contain an awkward jog away from the side yard, however concerns over the impact to the adjacent neighboring building prompted the inclusion of a Condition of Approval that required the project to install a light well to mitigate any loss of light or spatial separation from the neighboring buildings as would be the case if the property were to meet the required side yard. The required findings clearly state that the condition of approval related to the installation of light wells adjacent to neighboring windows is a necessary condition of approval, and that the findings cannot be met without the condition. The stated intent of the condition of approval is for the design to meet the intent of the side setback regulation regarding access to light and air consistent to what would be available if the building met the required four foot side yard setback.

3. **Rear Yard Setback:** The building was also located within the required rear yard setback and the footprint would also remain unchanged. However, the difference with the rear yard setback is that there is no precedent for raising an occupied structure to a two story level within the rear yards of any buildings within the block. The granting of the allowance of this structure within the rear yard setback would also be impactful to the rear yards of the adjacent neighbors and would also potentially set a precedent to allow two story developments within the rear yard setbacks throughout the block. As a result, the Zoning Manager included a Condition of Approval that requires the portion of the building raised within the 15 foot required rear yard to be removed and returned to the original non-conforming height of 15'9". The required findings clearly state that the condition of approval requiring reduction of the portion of the building raised within the rear yard setback back to the original building height is a necessary condition of approval to address bulk and height issues that affect the character and setting of the surrounding homes, and that the findings cannot be met without the condition. The findings provide that while the previous existing condition was located within

the rear yard setback, the raising of the structure within the setback further exacerbates the negative non-conforming condition and cannot be supported, which is why the condition of approval was imposed.

BASIS OF THE APPEAL

On September 6, 2016 the appellant, Robia Crisp representing the 829 21st Street Homeowner's Association, submitted an appeal of the Zoning Manager's decision to partially approve the project and specifically objects to the two Conditions of Approval (#23 & #24) mentioned above. In accordance with Planning Code section 17.148.060, the appeal must state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Manager, or wherein his or her decision is not supported by the evidence in the record.

The applicant's appeal letter contains arguments challenging the Zoning Manager's approval of the Application with the aforementioned Conditions of Approval (***see Attachment B***). The appellant's arguments are summarized below. Staff's response to each argument follows.

Appellant's Argument #1: The appellant argues that the Conditions of Approval #23 and #24 are not required in order to meet the required findings. The basis of this argument is that findings for approval were previously made in 2008 on the prior entitlements allowing the new live-work floor area, in which the building was in the same configuration as it is today.

Staff Response: Staff disagrees with this assertion made by the appellant. The prior entitlements included permits for a Conditional Use Permit to add new floor area within the envelope of the building and Design Review. At that time it was believed that the existing building envelope legally existed, as the applicant represented in the application (and plans) and that no variances were required. The entire purpose of this current application is to address the fact that the building was raised within the required setbacks without proper permits prior to the property coming in for the permits to add the new live-work floor area. As a result the prior findings were made on an entirely different premise than that of the current application for a variance, which required findings for variances to be made, subject to conditions of approval, in order to legalize the raising of the structure within the required setbacks. Staff maintains that Conditions of Approval #23 and #24 requiring the installation of light wells as well as the "denial" of the rear yard variance requiring the height to be brought back to the prior height are appropriate and necessary in order to satisfy the required Findings.

Appellant's Argument #2: The appellant argues that the City may not impose new conditions of approval that would run contrary to the plans in the 2008 Conditional Use Permit. The argument claims that the City is estopped from imposing new conditions based upon substantial expenses that were incurred on reliance on the previously approved permit.

Staff Response: The City disagrees with the appellant's claim that by imposing new conditions of approval, the City is effectively revoking the 2008 CUP. Similar to the prior argument, this current application isn't directly related to the proposed use of the property granted through the prior Conditional Use Permit, but rather the fact that the building was raised within the required setbacks without the benefit of the proper permits. The prior application to allow a live-work activity within the site is unaffected in terms of use by this current application. What the appellant fails to point out is that the Design Review component of the prior application was based upon a false premise that the building legally existed in its current state and there was to be no exterior expansion proposed. That is, the appellant is relying on a permit that purportedly led her to believe that she did not need to obtain proper permits to build into then-existing front, side, and rear setback requirements. The case law cited by the appellant involved individuals who had obtained proper permits and substantially completed or completed the work prior to being informed that their projects did not comply with regulations. While the facts in those cases may have involved work that was completed on a project, they are distinguishable because in those cases, the applicants relied on properly issued permits, whereas in the case at hand, the building was raised without the benefit of the proper permits.

The appellant also claims that the City is estopped from revoking the CUP because the developer possesses a vested right. Equitable estoppel precludes a party from acting counter to its previous conduct or commitments. As stated above, the City is not revoking the CUP; rather, the City considered a separate discretionary approval (a variance) and imposed new conditions of approval on that approval.

The claim of estoppel against a government agency rests not on constitutional norms of fairness, but on broader norms of equity. (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 488.) One cannot establish estoppel where the right claimed runs contrary to applicable state and local law. Even if an agency's actions create a good faith belief on the part of the developer that it has a vested right to proceed with particular development plans, that belief is not enough to create a vested right if it is unsupported by the land use regulations and the facts of the particular situation. (*Summit Media LLC v. City of Los Angeles* (2012) 211 Cal.App.4th 921 [city-approved settlement agreement allowing property to be used for signs banned under zoning code could not be basis for vested rights].) One of the elements of estoppel is that the party to be estopped must be aware of the true facts. The City cannot be estopped from imposing new conditions of approval for a separate discretionary approval where the owner misrepresented the true facts about the building's current state and the scope of work to be undertaken in the previous application. It was the applicant's responsibility to submit accurate and complete applications and plans, but in the present case this did not occur. As a result, the City did not have accurate facts regarding the illegality of the appellant's development, which does not support equitable estoppel preventing the City from imposing new conditions of approval.

As outlined in the staff report above, the prior property owner had come in to obtain a permit to replace the foundation and was explicitly directed not to alter the exterior of the building. The property owner blatantly altered the exterior despite this direction, and the Conditional Use Permit and Design Review application was later submitted to the Planning Division for review of new live-work floor area within the "existing" building and the proposal did not include any

exterior building modifications that would enlarge the building. In fact, the building was identified as being reduced in size under the prior permits. The applicant submitted plans and applications that misrepresented the existing building, and it was not until much later that the City was made aware that the building was illegally raised within the required setbacks without a permit, at which point the City notified the owner of such violations and advised the owner to apply for the proper permits. Had the City been apprised of this illegality at an earlier time, it would have maintained the development was illegal and required proper permits. That is very different from the permit that is currently under consideration where a variance is being requested to legalize this work that was done without the benefit of the proper permits. Once again, the variances required findings for variances to be made, subject to conditions of approval, that are separate and distinct from any previous findings made for the CUP (which remains valid and enforceable). Staff maintains that Conditions of Approval #23 and #24 requiring the installation of light wells as well as the "denial" of the rear yard variance requiring the height to be brought back to the prior height are appropriate and necessary in order to satisfy the required Findings.

CONCLUSION

The Appellant/Applicant has not demonstrated that the Zoning Manager's Conditions of Approval attached to the approved application were made in error, constitute an abuse of discretion, or were not supported by evidence in the record. The required findings clearly indicate that Conditions of Approval were reasonable and appropriate and should be upheld. Often when a setback variance is requested, conditions or requests to modify the design are made so that any negative impacts can be avoided. This was the case here where the Conditions of Approval were included to address impacts to light and air along the side property line wall by requiring small light wells. The request for a rear yard variance was essentially denied as the Condition of Approval required the height of the portion within the setback to be returned to its prior legally existing height. The rear yard Condition of Approval on the project was appropriate in that the Zoning Manager did not feel that the proposed variance request was warranted, and could set an undesirable precedent on the residential block to allow two story habitable structures within the required rear yard setback.

RECOMMENDATIONS:

1. Affirm staff's environmental determination;
2. Uphold the Zoning Administrator's August 26, 2016 decision to approve the application for a Design Review and Minor Variances subject to the attached Conditions of Approval.

Prepared by:

PETERSON Z. VOLLMANN
Planner IV

Reviewed by:

for

SCOTT MILLER
Zoning Manager
Bureau of Planning

Approved for forwarding to the
City Planning Commission:

DARIN RANELLETTI, Interim Director
Department of Planning and Building

ATTACHMENTS:

A. Zoning Administrator's Decision Letter
B. Appellant's Letter
C. 2015 Site Survey
D. Plans from Prior Case CD07-399

ATTACHMENT A

CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941
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Sent via U.S. Mail and Electronic Mail

August 26, 2016

Robia Crisp / Manatt, Phelps & Phillips
1 Embarcadero Center, 30th Floor
San Francisco, CA 94111

RE: Case File No. PLN15-408, 829 21st Street (003-0033-039-00 through 003-0033-044-00)

Your application, as described below, has been **APPROVED, subject to revisions outlined in the Conditions of Approval,** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	Request to legalize the unpermitted raising of a pre-existing commercial building that was located within the required setbacks. The subject property was later converted into five live-work units under Planning Case number CD07-399.
Planning Permits Required:	Minor Conditional Use Permit to allow a reduced side setback of three feet within the West Oakland Area; Minor Variance for raising the pre-existing building within the required setbacks(front, side and rear); Regular Design Review for legalization of exterior modifications that include a variance.
General Plan:	Mixed Housing Type
Zoning:	RM-2
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines – Existing facilities 15183 – Projects Consistent with a Community Plan or Zoning
Historic Status:	Non-historic property
Service Delivery District:	1
City Council District:	3

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on** 9-6-16. An appeal shall be on a form provided by the Planning Bureau, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Peterson Vollmann, Planner IV**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **$1622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's

decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

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

If you have any questions, please contact the case planner, **Peterson Vollmann, Planner IV** at (510) **238-6167** or **pvollmann@oaklandnet.com,** however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,

SCOTT MILLER
Zoning Manager

cc: Koonal Parmar
823 21st Street
Oakland, CA 94607

Carl Maes
6240 Manoa St.
Oakland, CA 94618

Attachments:

A. Findings
B. Conditions of Approval, including Standard Conditions of Approvals

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under **Section 17.136.050A (Design Review), Section 17.134.050 (Conditional Use Permit Criteria) and Section 17.148.050 (Variance Findings)** of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. As noted below, a Conditional Use Permit for a reduction of the side yard setback is not approved, however, the proposal meets the required findings for reduced side yard setbacks by meeting the Variance Findings. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

17.136.050(B) - NON-RESIDENTIAL DESIGN REVIEW CRITERIA:

A. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area.**

The original proposal essentially kept the buildings as they were except that portions of the building had been removed to reduce the mass of the structure breaking it down into smaller buildings and allow for more open area on site. The exterior appearance of the building was improved by adding new siding and windows that transitioned the building into more of a commercial/residential appearance rather than the prior industrial warehouse appearance of the building. These exterior changes improved the exterior appearance of the building especially in relation to the surrounding residential neighborhood. The current application is taking into account that the building was raised prior to the live-work conversion without proper permits, including Variances and Design Review. Conditions of approval that will require the installation of light wells adjacent to neighboring windows and the reduction of the portion of the building raised within the rear yard setback back to the original building height will address bulk and height issues. Otherwise the exterior of the buildings, especially as seen from the street, will remain visually the same as they exist today, the height of which is compatible with the height context in the surrounding neighborhood.

B. **That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

The prior renovation of the building gave the structure a softer appearance by reducing the mass of the building by removing portions and breaking it down into multiple buildings, and improving the exterior finishes to allow for a more attractive development as opposed to the prior industrial appearance of the warehousing activity. This current application is to legalize the height increase that occurred prior to the live-work conversion without the proper permits. Conditions of approval that will require the installation of light wells adjacent to neighboring windows and the reduction of the portion of the building raised within the rear yard setback back to the original building height will address bulk and height issues that affect the character and setting of the surrounding homes. Otherwise the height of the buildings is compatible with the height context in the surrounding neighborhood.

C. **That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The continuation of a live-work development is consistent with the Mixed Housing Type General Plan area since the project allowed the re-use of a non-conforming commercial building in manner that allows accessory residential activities and less intensive commercial activities. The legalization of the building modifications would not change the exterior appearance of the buildings except with regard to conditions of approval that require light wells at the side property lines and reduction in building height for the portion of the building within the rear setback.

SECTION 17.148.050 – MINOR VARIANCE FINDINGS:

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

The proposed project includes minor variances to legalize the raising of the prior warehouse structure within the required front, side and rear setbacks. The building was eventually converted into live-work units after the building had been raised without the proper permits, including Variances and Design Review. Based upon the original building permit record the prior building was 15'9" and was raised approximately four feet to 19'6". The raising of the building within the front setback represents an effective design solution improving the design given the existing footprint of the building and the resulting height in relation to adjacent buildings of a similar height with similar non-conforming setbacks. If the building were to have met the required 15 foot front setback then there would be a fifteen foot tall structure at the front with an offset pop-up to the rear, which would have provided for an awkward street fronting elevation. By allowing the front yard setback variance the building can have a more prominent front façade at the intersection of two streets that is more in relation to the height of the context of the residential buildings along both streets.

The granting of the side yard setback is also appropriate to achieve a superior design solution so as to not have a minimal offset at the side elevation of the building of one to two feet that would result in an elevation that is not uniform. However, given the impacts to the adjacent proeprties associated with raising the building by approximately four feet, Conditions of Approval have been added that will require a light well recess to be provided in the building wall opposite the windows of the two side adjacent properties that shall be equal to twice the size of the width of said windows and setback at a distance equivalent to the required side yard setback of four feet.

While the granting of the front and side yard setbacks are appropriate on the basis of providing a superior design solution, the granting of the rear yard setback is not appropriate and conditions of approval have been included that will require the portion of the structure located within the required 15 foot rear yard be brought back down to the previous height of 15'9". The granting of the variance would not constitute a superior design solution improving appearance since the structure looms over the open rear yards of the adjacent properties, and would not have created an effective design solution improving livability given that the raising of the building was likely intended to provide the mezzanine level within these live-work units. A mezzanine could still have been established within the back corner unit by locating it on the street facing side of the unit and left

the portion of the unit within the rear yard at the existing height so as to not create anymore impacts upon neighboring yards than already existing by the structure.

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

   As previously stated above, the proposed project includes minor variances to legalize the raising of the prior warehouse structure within the required front, side and rear setbacks. The building was eventually converted into live-work units after the building had been raised without the proper permits. Based upon the original building permit record the prior building was 15'9" and was raised approximately four feet to 19'6". The basic intent of front setbacks is to provide a visual context to the neighborhood as seen from the street and by granting the front setback variance, the building is able to be at a height similar to other buildings in the area at the street facing façade rather than setting the upper level addition back. Side setbacks are intended to provide visual and spatial separation between the sides of dwelling units to allow adequate access to light and air. The granting of the side setback variance is warranted due to the existing context throughout the neighborhood with side yard setbacks that are much less than the code requirement of four feet as well as improving upon the design of the building to not require a small offset of the building from the side as seen from the street. Conditions of approval are incorporated that require that the development provide light wells twice the width of abutting windows to be located opposite said abutting windows equal to a depth that would be equivalent to the required four foot side yard setback. With the inclusion of this condition of approval, the design would meet the intent of the side setback regulation regarding access to light and air consistent to what would be available if the building met the required four foot side yard setback. The basic intent of the rear yard setback regulations is to allow mutual openness of abutting rear yards. The granting of the rear yard setback to allow the height increase within the required rear yard would not be an effective design solution and would not meet the intent of the regulation. While the previous existing condition was located within the rear yard, the raising of the structure within the setback further exacerbates the negative non-conforming condition and cannot be supported. As a result, conditions of approval have been incorporated that require the portion of the building within the rear yard be reduced back to the previous height of 15'9".

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

   Subject to building modifications, the granting of the front and side yard setback variances would not adversely affect the character, livability or appropriate development of abutting properties as the variance allows for a building that is a superior design and more aligned to the height and setback context of the neighborhood. As previously stated, conditions of approval have been added that require light wells to be placed opposite the abutting properties windows to alleviate any negative impacts associated with the increase in height at the non-conforming side yard setbacks. The granting of the rear yard variance would adversely affect the livability and appropriate development of abutting properties as it would further exacerbate the impacts of the warehouse building upon the openness of the rear yards of the abutting properties and would set a negative precedent to allow tall development within the required rear yards of properties within the neighborhood while such condition is not currently characteristic of the area other than lower scale accessory buildings as allowed by the Planning Code.

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

Subject to building modifications, the granting of the front and side yard setback variances would not constitute a grant of special privilege as it is typical to grant Minor Variances that result in a superior design solution without creating any negative impacts as a result.

5. **That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050.**

   See Design Review findings above.

6. **That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

   See finding for General Plan and Design Guideline conformity above.

17.134.050: GENERAL CONDITIONAL USE PERMIT CRITERIA

The applicant requested a conditional use permit to allow for a reduced side yard setback of three feet versus the four feet required in the RM-2 Zone as set forth in Table 17.17.03 (L1). This reduction is specifically permitted by the granting of a use permit within the West Oakland area when the proposal meets the following criterion:

Excluding the subject parcel, the prevalent size of existing lots in the surrounding block is three thousand (3,000) square feet or less, and the prevalent frontage width along the same block face is thirty-five (35) feet or less.

While the prevalent lot width on the block is less than 35 feet, the proposed project does not meet this criterion since nine of the 16 lots on the block contain lot sizes in excess of 3,000 square feet and therefore the prevalent lot size is not less than the 3,000 square feet. As a result the Conditional Use Permit reduction for the side yard setback is not valid; however the project applicant also applied for variances for reduced side yard setbacks as covered in the Variance Findings above.

ATTACHMENT B: CONDITIONS OF APPROVAL

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

Part 1: Standard Conditions of Approval – General Administrative Conditions

1. **Approved Use**

   The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, and the approved plans **filed on December 23, 2015**, as amended by the following conditions of approval and mitigation measures, if applicable ("Conditions of Approval" or "Conditions").

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

   This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **one year** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. **Compliance with Other Requirements**

   The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. **Minor and Major Changes**

   a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning

   b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent

permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. **Compliance with Conditions of Approval**

a. The project applicant and property owner, including successors, (collectively referred to hereafter as the "project applicant" or "applicant") shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

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

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

6. **Signed Copy of the Approval/Conditions**

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

7. **Blight/Nuisances**

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

8. **Indemnification**

a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation

of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

b. Within ten (10) calendar days of the service of the pleadings upon the City of any Action as specified in subsection5 (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. **Severability**

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. **Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring**

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with the Bureau of Building, if directed by the Building Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. **Public Improvements**

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement ("p-job") permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

Part 2: Standard Conditions of Approval – Environmental Protection Measures

AESTHETICS

12. **Graffiti Control**

Requirement:

a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:

   i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.

   ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.

   iii. Use of paint with anti-graffiti coating.

   iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

   v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.

b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:

   i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.

   ii. Covering with new paint to match the color of the surrounding surface.

   iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. **Lighting**

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

AIR QUALITY

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

Requirement: The project applicant shall implement all of the following applicable air pollution control measures during construction of the project:

a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.

b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).

c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.

e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).

f. Limit vehicle speeds on unpaved roads to 15 miles per hour.

g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.

h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

HAZARDS AND HAZARDOUS MATERIALS

15. **Hazardous Materials Related to Construction**

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;

b. Avoid overtopping construction equipment fuel gas tanks;

c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
d. Properly dispose of discarded containers of fuels and other chemicals;
e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

HYDROLOGY AND WATER QUALITY

16. **Erosion and Sedimentation Control Measures for Construction**

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

NOISE

17. **Construction Days/Hours**

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. **Construction Noise**

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.

b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

c. Applicant shall use temporary power poles instead of generators where feasible.

d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.

e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. **Extreme Construction Noise**

a. Construction Noise Management Plan Required

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that

contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;

ii. Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;

iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;

iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and

v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

20. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

TRANSPORTATION/TRAFFIC

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

a. Obstruction Permit Required

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets and sidewalks.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Traffic Control Plan Required

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

When Required: Prior to approval of construction-related permit

Initial Approval Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. Repair of City Streets

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

UTILITY AND SERVICE SYSTEMS

22. **Construction and Demolition Waste Reduction and Recycling**

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of $50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

Part 3: Project-Specific Conditions of Approval

23. **Light Wells Required**

Requirement: The applicant/property owners shall submit building permit plans that show light wells incorporated into the building along the side property line walls in all locations where the buildings on the abutting properties contain windows facing the side property line of the subject property. These light wells shall be designed in a manner that are of a width at least twice the size of the subject window on the abutting building and equal to a depth equivalent to where the required four foot setback would be. These light wells shall not contain any windows unless they are opaque and not transparent so as to not impact the privacy of the neighboring buildings. The applicant/property owners shall follow through on the building permit application to construction of the improvements required under this condition.

When Required: Building permit submittal shall occur within one year of approval, and construction of requirement within two years of approval.

Monitoring/Inspection: Bureau of Building

24. **Removal of Addition within the Rear Yard Setback**

Requirement: The applicant/property owners shall submit building permit plans that show the portion of the building that was raised within the required 15 foot rear yard setback to be reduced back to the original building height on record of 15'9".

When Required: Building permit submittal shall occur within one year of approval, and construction of requirement within two years of approval.

Monitoring/Inspection: Bureau of Building

Applicant Statement

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

_____

Name of Project Applicant

_____

Signature of Project Applicant

_____

Date

ATTACHMENT B

CITY OF OAKLAND
APPEAL FORM
FOR DECISION TO PLANNING COMMISSION, CITY COUNCIL OR HEARING OFFICER

PROJECT INFORMATION

Case No. of Appealed Project: PLN15-408

Project Address of Appealed Project: 829 21st Street

Assigned Case Planner/City Staff: Peterson Vollmann

APPELLANT INFORMATION:

Printed Name: 829 21st St. Homeowners Assn Phone Number: (415) 291-7462

Mailing Address: c/o Robin Crisp, Manatt, Phelps & Phillips Alternate Contact Number: (415)515-7013

City/Zip Code 1 Embarcadero Center San Francisco, CA 94111 Representing: _____

Email: rcrisp@manatt.com

An appeal is hereby submitted on:

☒ **AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

YOU MUST INDICATE ALL THAT APPLY:

- ☒ Approving an application on an Administrative Decision
- ☐ Denying an application for an Administrative Decision
- ☐ Administrative Determination or Interpretation by the Zoning Administrator
- ☐ Other (please specify) _____

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

RECEIVED
SEP 06 2016
City of Oakland
Planning & Zoning Division

- ☐ Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- ☐ Determination of General Plan Conformity (OPC Sec. 17.01.080)
- ☒ Design Review (OPC Sec. 17.136.080)
- ☐ Small Project Design Review (OPC Sec. 17.136.130)
- ☒ Minor Conditional Use Permit (OPC Sec. 17.134.060)
- ☒ Minor Variance (OPC Sec. 17.148.060)
- ☐ Tentative Parcel Map (OMC Section 16.304.100)
- ☐ Certain Environmental Determinations (OPC Sec. 17.158.220)
- ☐ Creek Protection Permit (OMC Sec. 13.16.450)
- ☐ Creek Determination (OMC Sec. 13.16.460)
- ☐ City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- ☐ Hearing Officer's revocation/impose or amend conditions (OPC Sec. 17.152.150 &/or 17.156.160)
- ☐ Other (please specify) _____

(Continued on reverse)

(Continued)

☐ **A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)** ☐ Granting an application to: **OR** ☐ Denying an application to:

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- ☐ Major Conditional Use Permit (OPC Sec. 17.134.070)
- ☐ Major Variance (OPC Sec. 17.148.070)
- ☐ Design Review (OPC Sec. 17.136.090)
- ☐ Tentative Map (OMC Sec. 16.32.090)
- ☐ Planned Unit Development (OPC Sec. 17.140.070)
- ☐ Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- ☐ Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- ☐ Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- ☐ Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- ☐ Other (please specify) _____

FOR ANY APPEAL: An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision. The appeal must be accompanied by the required fee pursuant to the City's Master Fee Schedule.

You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.

The appeal is based on the following: *(Attach additional sheets as needed.)*

Please see attached letter.

Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form;* however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.

(Continued on reverse)

(Continued)

Robin Crisp — 9/6/16

Signature of Appellant or Representative of Appealing Organization — *Date*

TO BE COMPLETED BY STAFF BASED ON APPEAL TYPE AND APPLICABLE FEE

APPEAL FEE: $_____

Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. All fees are due at submittal of application.

Below For Staff Use Only

Date/Time Received Stamp Below:

Cashier's Receipt Stamp Below:

manatt
manatt | phelps | phillips

Robia Crisp
Manatt, Phelps & Phillips, LLP
Direct Dial: (415) 291-7462
E-mail: RCrisp@manatt.com

September 6, 2016

Client-Matter: 49316.030

BY HAND DELIVERY

Honorable Chair Adhi Nagraj and
Members of the Oakland City Planning Commission
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612-2031

Re: Appeal of August 26, 2016 Zoning Manager Decision to Approve Subject to Conditions of Approval the After-the-Fact Application for Minor Variance and Conditional Use Permit Application by 829 21st Street Homeowners Association

Dear Chari Nagraj and Planning Commissioners:

This firm represents 829 21st Street Homeowners Association, the owners (the "Owners") of five separate live-work units housed within three buildings located at 829 21st Street (the "Property") in the City of Oakland ("City"). Pursuant to Section 17.132.020 of the Oakland Municipal Code, we hereby submit this appeal of the Zoning Manager's August 26, 2016 decision approving our client's application to legalize the existing buildings ("Decision") to the extent that the conditions of approval requires the installation of lightwells and to the extent that it will require the lowering of the height of a portion of an existing building by almost four feet. More specifically, we appeal Conditions of Approval No. 23 relating to light wells, and No. 24 requiring removal or lowering of a portion of the building located within a 15 foot rear yard setback from the current 19 feet, 6 inches, to 15 feet, 9 inches.

As discussed in detail below, neither of the project-specific conditions of approval imposed by the Decision are required to make the findings to support the Decision to approve our application and both conditions will require significant and infeasible structural alterations that would result in the elimination of at least one live-work unit. A survey depicting the location and configuration of the buildings is attached hereto as **EXHIBIT A**. Accordingly, we respectfully request that you uphold the Decision to approve the application with a modification deleting Conditions of Approval No. 23 and 24.

1. FACTUAL BACKGROUND

To provide context, the Application was filed in an effort to legalize the structures after the City initiated code enforcement proceedings in January 2015. A judicial challenge to the City's decision is now pending in Alameda County Superior Court.

In 2008, the City approved a conditional use permit for a conversion and development of the site in its current configuration. Dating back to the 1950s, the Property was developed with one or more buildings that formerly housed a cardboard factory but remained vacant by the early 2000s. The plans submitted at that time included floor plans and elevations showing the buildings at their current height and with the existing setbacks. A copy of the conditional use permit approval ("CUP"), including the approved plans, are attached as **EXHIBIT B**.

In approving the CUP, the City made all requisite findings. While the former owner of the Property did not specifically apply for, and consequently, the City did not approve, a variance from the setback requirements, the plans reviewed and approved by the City reflected the buildings' current height of 19 feet, 6 inches, and the existing setbacks. In approving the CUP, the City made all of the requisite findings, pursuant to the City's Zoning Ordinance, in approving the CUP, including the finding that the location, size, design and operating characteristics of the proposed project was compatible with, and would 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. The decision to approve the CUP was not appealed.

In 2010, the City issued a building permit and a certificate of occupancy for the Buildings in their current configuration. The City issued Building Permit No. B0705901 to construct the buildings in their current form and issued a certificate of occupancy on April 4, 2010, confirming that the buildings were inspected and approved for code compliance.

After 2010, each of the homeowners purchased their respective units. At the times each of the current homeowners purchased their respective live/work units, none of them had any knowledge of any potential code violations and properly relied upon, among other things, the Certificate of Occupancy issued by the City and the public report issued by the State of California Department of Real Estate for the subdivision (marketed as "Pop Junction Lofts"), which disclosed consumer information about the subdivision. As with all public reports, these disclosures were intended to protect the consumer from misrepresentation, deceit, and fraud in the public sale or lease of subdivisions pursuant to the Subdivided Lands Law.

In October 2013, an adjacent property owner with whom one or more of the homeowners have an ongoing dispute, contacted the City and reported that a former owner of

the building did not obtain required permits and raised the buildings when foundational work was completed in late 2006/early 2007.

In January 2015, the City issued Notices of Violation to each homeowner. Nearly five years after issuing a Certificate of Occupancy for the conversion project, the City issued Notices of Violation to each of the homeowners and thereby initiated an untimely and unsupported code enforcement proceeding. Each of the Notices of Violation described the following: "Building has been raised (possibly prior to converting warehouse into live-work units in 2006) without approvals, permits, and inspections. Obtain all needed approvals, permits, and inspections." Subsequent appeals were denied and on September 28, 2015, the homeowners filed a lawsuit challenging the City's decision.

In December 2015, the homeowners submitted the subject application to obtain the land use approvals that purportedly should have been required. In an effort to correct the alleged code violation and avoid protracted litigation, on December 23, 2015, we submitted an after-the-fact permit application requesting, in part, minor setback variances to allow the buildings to remain in their current configuration and height.

2. CONDITIONS OF APPROVAL ON APPEAL

Both of the project-specific conditions of approval are not required to make the findings to support the Decision to approve our application and will require significant and infeasible structural alterations that would result in the elimination of at least one live-work unit. The two project-specific conditions of approval, both of which we hereby appeal would require (1) cutting into the sides of two of the three buildings at a depth of up to 2 feet and some unknown width to be calculated as twice the width of adjacent neighboring windows, none of which the Decision identifies or provides measurements for and (2) lowering the building height of a portion of one of the buildings from 19 feet, 6 inches to 15 feet, 9 inches.

Specifically, Condition of Approval Nos. 23 and 24 appear on page 19 of the Decision as follows:

> 23. **Light Wells Required**
> Requirement. The applicant/property owners shall submit building permit plans that show light wells incorporated into the building along the side property line walls in all locations where the buildings on the abutting properties contain windows facing the side property line of the subject property. These light wells shall be designed in a manner that are of a width at least twice the size of the subject window on the abutting building and equal to a

> depth equivalent to where the required four foot setback would be. These light wells shall not contain any windows unless they are opaque and no transparent so as to not impact the privacy of neighboring buildings. The applicant/property owners shall follow through on the building permit application to construction of the improvements required under this condition.
>
> ...
>
> 24. **Removal of Addition within the Rear Yard Setback** Requirement: The applicant/property owners shall submit building permit plans that show the portion of the building that was raised within the required 15 foot rear yard setback to be reduced back to the original building height on record of 15 feet 9 inches.

As a practical matter, even if implementation of the conditions was conceptually possible, at a minimum, they will require lowering the building height for approximately one-fourth of the Building B to meet a 15-foot rear yard setback, measured diagonally from the rear corner of the lot. Thus, as applied, this requirement will eliminate the housing unit housed in Building B.

(a) The Conditions of Approval are Not Required to Make the Findings, Which Previously Were Made By the City in Its Approving the CUP for the Conversion Project in 2008.

The Decision states that the project-specific conditions of approval primarily are required to: (1) address bulk and height issues that affect the character and setting of the surrounding homes; (2) ensure that the design will be of a quality and character which harmonizes with, and serves to protect the value of, the private and public investments in the area; (3) reduce the impacts to the adjacent properties associated with raising the building by approximately four feet since the structure looms over the open rear yards of the adjacent properties; and (4) avoid setting a negative precedent to allow tall development within the required rear yards of properties within the neighborhood where such condition is not currently characteristic of the area. The specific findings are as follows:

First, the findings for design review made as part of the Decision explain that the conditions are required in order to "address bulk and height issues that affect the character and setting of the surrounding homes" and make the required finding under Section 17.36.050(B) that the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area." (Decision, p. 3.)

Second, the findings for minor variance, made pursuant to Section 17.148.050, require a finding "[t]hat strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance." The Decision states that while the granting of side yard setbacks is appropriate to achieve a superior design solution, the conditions of approval requiring lightwells have been added, "given the impacts to the adjacent properties associated with raising the building by approximately four feet." (Decision, p. 4.)

Third, with regard to the rear yard setback, the Decision states that the "granting of the rear yard setback is not appropriate" because it "would not constitute a superior design solution improving appearance since the structure looms over the open rear yards of the adjacent properties, and would not have created an effective design solution improving livability given that the raising of the building was likely intended to provide the mezzanine level within these live-work units. A mezzanine could still have been established within the back corner unit [Unit 3 as shown on the attached survey] by locating it on the street facing side of the unit and left the portion of the unit within the rear yard at the existing height so as to not create anymore impacts upon neighboring yards than already existing by the structure. (Decision pp. 4-5.)

Fourth, the Decision notes that "[w]hile the previous existing condition was located within the rear yard, the raising of the structure within the setback further exacerbates the negative non-conforming condition and cannot be supported. (Decision, p. 5.) It further explains, "[t]he granting of the rear yard variance would adversely affect the livability and appropriate development of abutting properties and would set a negative precedent to allow tall development within the required rear yards of properties within the neighborhood while such condition is not currently characteristic of the area other than lower scale accessory buildings as allowed by the Planning Code." (Decision, p. 5.)

The rationale contained in the Decision for the requirement of the project-specific conditions of approval ignores the fact that the plans reviewed and approved by the Zoning Manager in 2008 show the Building B in its current configuration and height. (**EXHIBIT B**, plan set pages A2.10 and A2.20.) Those plans were approved with a finding 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 character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development." (**EXHIBIT B**, Attachment B.)

While the Decision explains that a mezzanine could have been established within the

back corner unit [Unit 3 as shown on the attached survey] by locating it on the street facing side of the unit and left the portion of the unit within the rear yard at the existing height so as to not create anymore impacts, it does not explain why the City did not require the project proponent to do so when it reviewed the CUP application in 2008. The City could have, but did not, require the project applicant for the conversion to re-locate the mezzanine or require lowering the portion of the unit within 15 feet of the rear yard at the time of its original project approval.

In addition, the footprint of the buildings has never changed. If anything, a portion of the building was cut out as part of the conversion project approved in 2008 to reduce massing and to create two separate Buildings A and B. In terms of impacts on side-facing adjacent properties, neither of those properties appear to meet current side yard setback requirements. The residence adjacent to Building C has a side yard setback of approximately 1.4 feet and the residence adjacent to Building A has a side yard setback of approximately 1.7 feet.

As far as setting negative precedent for taller construction, the building height of 19 feet, 6 inches are well within the allowed building height under the City's Zoning Ordinance, which is 30 feet. The adjacent neighbor's property, at 823 21st Street, reaches a height of 23 feet, 5 inches—nearly four feet higher than any of the buildings on the Property.

Finally, the Decision's finding under Section 17.36.050(B), that the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area, fails to take into account the value of the private investment that was undertaken in rehabilitating the formerly vacant, industrial warehouse buildings and creating new and live-work units.

To the extent that the City did not specifically make (and was not asked to make) the findings required for a variance when the City approved the CUP in 2008, the original decision to allow the project to proceed as proposed was arguably not supported. However, the administrative appeal period and judicial review period for that decision have long since expired. The City cannot now re-visit design and compatibility issues that were considered in 2008, by the same planner and same zoning manager, and make contrary findings, when none of the project conditions have changed.

(b) The City is Estopped From Imposing Conditions Contrary to the Conditional Use Permit and Related Plans Approved by the City in 2008

By imposing the project-specific conditions of approval, the City is effectively revoking the 2008 CUP. However, a local agency is equitably estopped from revoking or denying renewal of a CUP when a developer incurs substantial expense in reasonable and good faith reliance on the CUP. (*See Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App. 4th 1519,

1526.) Such timely and good faith action in reliance on the permit establishes a vested right, protected by due process.

For example, in *Anderson v. City of La Mesa* (1981) 118 Cal. App. 3d 657, 659, the court applied equitable estoppel to the city where it had issued the property owner a building permit under the City's standard zoning ordinances requiring single family dwellings be set back at least five feet from the side lot lines. As allowed under the permit, one wall of the property owner's house was built approximately seven feet from the side lot line. During construction, the City inspected the house six times but upon completing the house and applying for final inspection, the City claimed a specific plan ordinance required her house be set back at least 10 feet from the side lot lines. The City did not grant Anderson a variance and would not issue her a permanent occupancy permit unless she removed the portion of her house within 10 feet of the side lot line. The court found that the property owner had a vested right in having her home remain where built because she relied in good faith on the building permit the City issued. (*Anderson*, 118 Cal.App.3d at 660.) The court found no substantial evidence that a variance for her seven-foot setback would harm anyone, while remodeling the house would be costly to the property owner. Finding the City abused its discretion, the court ordered the City to issue a variance and an occupancy permit. (*Id.*)

Similarly, in *Stanson v. San Diego Coast Regional Commission* (1980) 101 Cal.App.3d 38, 50, an agent of the coastal commission advised a restaurant owner that he did not need a development permit to remodel his restaurant and in reliance, the owner obtained building permits and expended substantial sums of money remodeling his building. The coastal commission later required and then denied his permit application. The court concluded that under these circumstance, the property owner had acquired a vested right to remodel his building. The court did not rule on of whether the commission would be compelled to issue the permit because in part, "[l]ong before Stanson was denied the permit by the Regional Commission, his remodeling was 100 percent complete; the shops and restaurant were open for business" and further, the commission had decided to take no legal action in connection with the violation. (*Id.* at 43.)

Under the same reasoning of *Anderson* and *Stanson*, here, the City was apprised of the facts and intended that its conduct in approving the CUP and related plans would be acted upon. The owners, and arguably the developer, relied upon the City's conduct in issuing all of the necessary approvals, to their injury. The current homeowners, now twice removed from the predecessor owner who in 2006 may or may not have raised the foundation of the buildings, were entirely ignorant of any facts to support that allegation. Considering factors relating to the culpability the City as compared to the seriousness of the impact or effect of the City's Decision on our clients, justice and right compel application of estoppel.

We appreciate your consideration and in accordance with the foregoing, respectfully urge the commission to modify the Decision to delete the project-specific Conditions of Approval Nos. 23 and 24.

Sincerely,

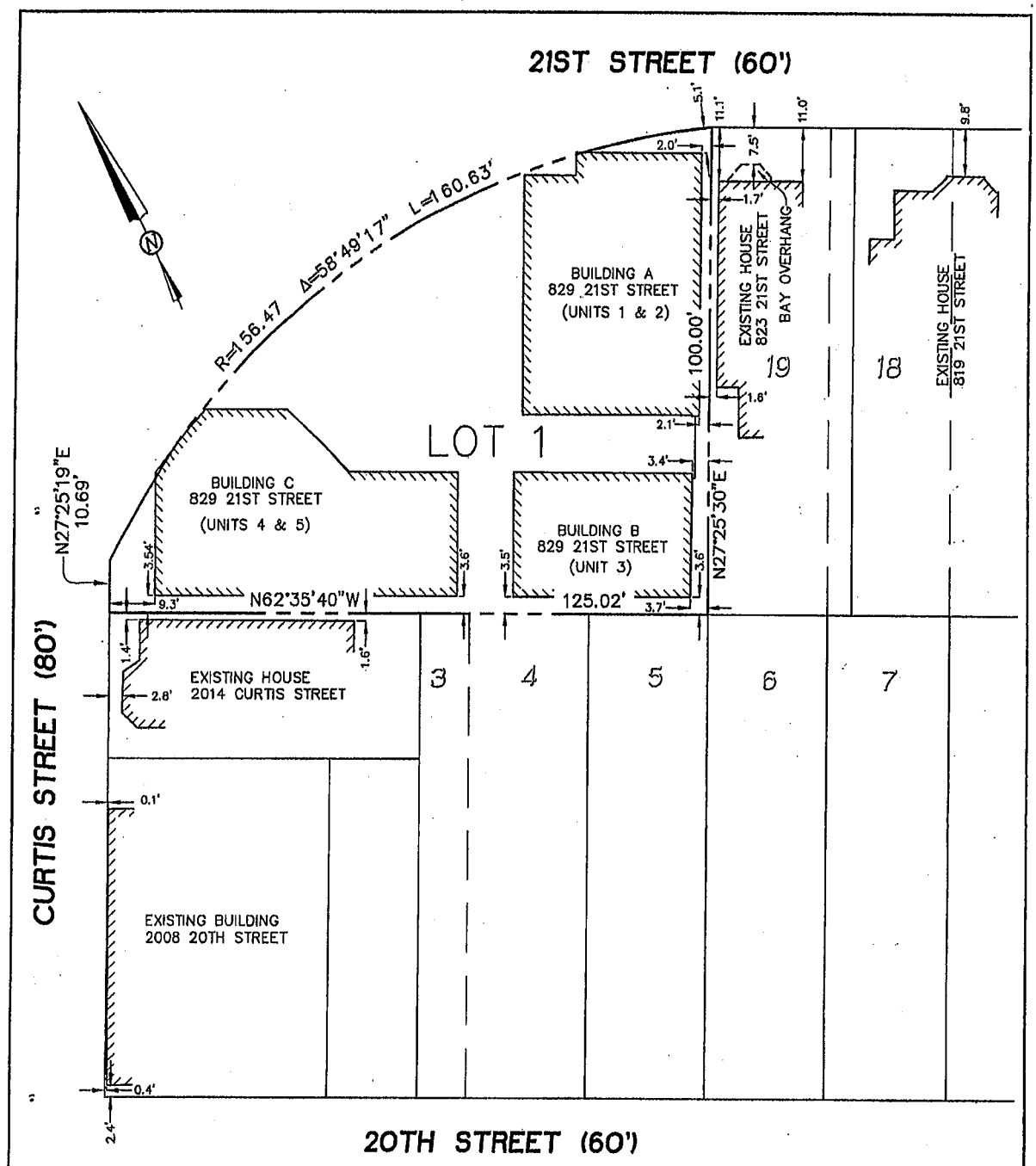
Robia Crisp

Robia Crisp

cc: Kristina Lawson (via email Klawson@manatt.com)

317534485.2

EXHIBIT A



BUILDING LOCATION SURVEY

LOT 1, PARCEL MAP 9658 (314 M 59)
CITY OF OAKLAND, COUNTY OF ALAMEDA,
CALIFORNIA

SEPTEMBER 24, 2015 SCALE: 1" = 20'

LICENSED LAND SURVEYOR
M. J. GUARE
8361
9/24/15
STATE OF CALIFORNIA

MORAN ENGINEERING, INC.

CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

APN 003-0033-044 F.B. NO. 1141/1440/1586 21ST-BLDGLOC.DWG JOB NO. 15-6879.1

EXHIBIT B

CITY OF OAKLAND

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

Community and Economic Development Agency
Planning & Zoning Services Division

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

May 30, 2008

Tom Dolan Architects
173 Filbert Street
Oakland, CA 94607

RE: Case File No. CD07-399 & TPM-9658, 829 21st Street (003-0033-001-00)

Dear Mr. Dolan:

Your application for a Conditional Use Permit to allow new Live-Work floor area within the Mixed Housing Type Residential General Plan area, and to allow the re-activation of the prior non-conforming activity and allow the permitted substitutive uses, Design Review to alter the exterior of the existing buildings, and Tentative Parcel map for five commercial condominiums has been **APPROVED**. The application complies with the Use Permit Criteria (Section 17.134.050 & 17.01.100B) and Design Review Criteria (Section 17.136.050) as set forth in the Oakland Zoning Regulations of the Oakland Planning Code. Attachment A contains the Conditions of Approval for the project. Attachment B contains the findings required for this approval and the reasons your proposal satisfies them. This project is effective ten (10) days after the date of this letter unless appealed as explained below.

Information regarding the proposed project is summarized below:

General Plan:	Mixed Housing Type Residential
Zoning:	R-50, Medium Density Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; existing facilities; and Section 15183 of the State CEQA Guidelines, projects that are consistent with a community plan, general plan, or zoning
Historic Status:	Not a potentially designated historic property; rating: *2-
Service Delivery District:	1
City Council District:	3

An Appeal to the City Planning Commission of this Administrative Case decision may be submitted within ten (10) calendar days after the date of this letter, and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Peterson Z. Vollmann, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Administrator or wherein his/her decision is not supported by substantial evidence and must include payment of $774.57 in accordance with the City of Oakland Master Fee Schedule. The appeal itself must raise each and

every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you from raising such issues during your appeal and/or in court. If you challenge a Commission decision in court, you may be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the Appeal hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the Commission's final decision.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. You **may** record the NOE, the Environmental Declaration, and, if applicable, the De Minimis Impact Findings at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of $25.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of **Peterson Z. Vollmann, Planner III.** Although recordation of the Notice of Exemption (NOE) **is optional** pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE reduces the statute of limitations on challenges to your project, based on environmental issues, to 35 days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for challenges extends to 180 days.

If you have any questions, please contact the case planner, **Peterson Z. Vollmann** at **(510) 238-6167** or by e-mail at pvollman@oaklandnet.com.

Sincerely,

Scott Miller

SCOTT MILLER
Zoning Manager

Attachments:

A. Conditions of Approval
B. Findings for Approval
C. Notice of Exemption

ATTACHMENT A

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

STANDARD CONDITIONS:

1. **Approved Use**
   Ongoing
   a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, this letter, and the plans dated **February 2, 2008**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

   b) This action by the **Zoning Manager** ("this Approval") includes the approvals set forth below. This Approval includes: ***Design Review and Minor Conditional Use permits.***

2. **Effective Date, Expiration, Extensions and Extinguishment**
   Ongoing
   Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

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

4. **Conformance with other Requirements**
   Prior to issuance of a demolition, grading, P-job, or other construction related permit
   a) The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency.
   b) The applicant shall submit approved building plans for project-specific needs related to fire protection including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

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

Ongoing

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

b) Violation of any term, Condition or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions.

6. **Signed Copy of the Conditions of Approval**

With submittal of a demolition, grading, and building permit

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

7. **Indemnification**

Ongoing

a) The project applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees (hereafter collectively called the City) from any claim, action, or proceeding (including legal costs and attorney's fees) against the City to attack, set aside, void or annul this Approval, or any related approval by the City. The City shall promptly notify the project 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. The project applicant shall reimburse the City for its reasonable legal costs and attorney's fees.

b) Within ten (10) calendar days of the filing of a claim, action or proceeding to attack, set aside, void, or annul this Approval, or any related approval by the City, the project applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations and this condition of approval. This condition/obligation shall survive termination, extinguishment, or invalidation of this, or any related approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in 7(a) above, or other conditions of approval.

8. **Compliance with Conditions of Approval**

Ongoing

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

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if any one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

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

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

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

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

12. Dust Control

Prior to issuance of a demolition, grading or building permit

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

a) Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.
e) Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
f) Limit the amount of the disturbed area at any one time, where feasible.
g) Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
h) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
i) Replant vegetation in disturbed areas as quickly as feasible.

j) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
k) Limit traffic speeds on unpaved roads to 15 miles per hour.
l) Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.

13. **Construction Emissions**
Prior to issuance of a demolition, grading or building permit
To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:
a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.

b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.

14. **Days/Hours of Construction Operation**
Ongoing throughout demolition, grading, and/or construction
The project applicant shall require construction contractors to limit standard construction activities as follows:
a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.

b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.

c) Construction activity shall not occur on Saturdays, with the following possible exceptions:

- Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.

- After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.

d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.

e) No construction activity shall take place on Sundays or Federal holidays.

f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

15. Noise Control

Ongoing throughout demolition, grading, and/or construction

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

a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).

b) Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.

d) *If feasible, the noisiest phases of construction shall be limited to less than 10 days at a time.*

16. Noise Complaint Procedures

Ongoing throughout demolition, grading, and/or construction

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

a) A procedure and phone numbers for notifying the City Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);

b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);

c) The designation of an on-site construction complaint and enforcement manager for the project;

d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and

e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

17. **Interior Noise**

Prior to issuance of a building permit

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls) shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer. Final recommendations for sound-rated assemblies will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phase.

18. **Construction Traffic and Parking**

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

The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the appropriate City of Oakland agencies. The plan shall include at least the following items and requirements:

a) 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.
b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
c) Location of construction staging areas for materials, equipment, and vehicles (must be located on the project site).
d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
e) Provision for accommodation of pedestrian flow.

19. **Erosion and Sedimentation Control**

Ongoing throughout demolition grading, and/or construction activities

Pursuant to Chapter 13.16 of the Oakland Municipal Code, the project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

20. **Hazards Best Management Practices**

Prior to commencement of demolition, grading, or construction

The project applicant and construction contractor shall ensure that construction best management practices are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
b) Avoid overtopping construction equipment fuel gas tanks;
c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
d) Properly dispose of discarded containers of fuels and other chemicals.
e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building. The applicant is responsible to avoid, eliminate delays with the unexpected discovery of contaminated soils with hazardous materials.

21. **Waste Reduction and Recycling**

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

Prior to issuance of demolition, grading, or building permit

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

Ongoing

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

22. **Asbestos Removal in Structures**

Prior to issuance of a demolition permit

If asbestos is found to be present in building materials to be removed, demolition and disposal is required to be conducted in accordance with procedures specified by Regulation 11, Rule 2 (Asbestos Demolition, Renovation and Manufacturing) of Bay Area Air Quality Management District (BAAQMD) regulations, as may be amended.

23. Archaeological Resources

Ongoing throughout demolition, grading, and/or construction

Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.

Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

24. Human Remains

Ongoing throughout demolition, grading, and/or construction

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

25. Paleontological Resources

Ongoing throughout demolition, grading, and/or construction

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

26. Erosion and Sedimentation Control Plan

Prior to any grading activities

a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

Ongoing throughout grading and construction activities

b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

27. Vibrations Adjacent Historic Structures

Prior to issuance of a demolition, grading or building permit

The project applicant shall retain a structural engineer or other appropriate professional to determine threshold levels of vibration and cracking that could damage the **either adjacent structure** (Historic Structure) and design means and methods of construction that shall be utilized to not exceed the thresholds.

28. Site Review by the Fire Services Division

Prior to the issuance of demolition, grading or building permit

The project applicant shall submit plans for site review and approval to the Fire Prevention Bureau Hazardous Materials Unit. Property owner may be required to obtain or perform a Phase II hazard assessment.

29. **Phase I and/or Phase II Reports**
Prior to issuance of a demolition, grading, or building permit
Prior to issuance of demolition, grading, or building permits the project applicant shall submit to the Fire Prevention Bureau, Hazardous Materials Unit, a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer.

30. **Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment**
Prior to issuance of any demolition, grading or building permit
The project applicant shall submit a comprehensive assessment report, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACM), lead-based paint, and any other building materials or stored materials classified as hazardous waste by State or federal law.

31. **Environmental Site Assessment Reports Remediation**
Prior to issuance of a demolition, grading, or building permit
If the environmental site assessment reports recommend remedial action, the project applicant shall:

a) Consult with the appropriate local, State, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps.

b) Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.

c) Submit a copy of all applicable documentation required by local, State, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II environmental site assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans.

32. **Lead-based Paint Remediation**
Prior to issuance of any demolition, grading or building permit
If lead-based paint is present, the project applicant shall submit specifications signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: Cal/OSHA's Construction Lead Standard, 8 CCR1532.1 and DHS regulation 17 CCR Sections 35001 through 36100, as may be amended.

33. **Asbestos Remediation**
Prior to issuance of any demolition, grading or building permit
If asbestos-containing materials (ACM) are present, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health & Safety Code

25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.

34. **Other Materials Classified as Hazardous Waste**
Prior to issuance of any demolition, grading or building permit
If other building materials or stored materials classified as hazardous waste by State or federal law is present, the project applicant shall submit written confirmation that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of such materials.

35. **Health and Safety Plan per Assessment**
Prior to issuance of any demolition, grading or building permit
If the required lead-based paint/coatings, asbestos, or PCB assessment finds presence of such materials, the project applicant shall create and implement a health and safety plan to protect workers from risks associated with hazardous materials during demolition, renovation of affected structures, and transport and disposal.

36. **Site Design Measures for Post-Construction Stormwater Pollution Management**
Prior to issuance of building permit (or other construction-related permit)
The project drawings submitted for a building permit (or other construction-related permit) shall contain a final site plan to be reviewed and approved by Planning and Zoning. The final site plan shall incorporate appropriate site design measures to manage stormwater runoff and minimize impacts to water quality after the construction of the project. These measures may include, but are not limited to, the following:
- Minimize impervious surfaces, especially directly connected impervious surfaces;
- Utilize permeable paving in place of impervious paving where appropriate;
- Cluster buildings;
- Preserve quality open space; and
- Establish vegetated buffer areas.

Ongoing
The approved plan shall be implemented and the site design measures shown on the plan shall be permanently maintained.

37. **Source Control Measures to Limit Stormwater Pollution**
Prior to issuance of building permit (or other construction-related permit)
The applicant shall implement and maintain all structural source control measures imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.
Ongoing
The applicant, or his or her successor, shall implement all operational Best Management Practices (BMPs) imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.

38. **Stormwater and Sewer**
Prior to completing the final design for the project's sewer service
Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements

to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the City. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.

PROJECT SPECIFIC CONDITIONS:

39. **Allowed Substitutive Activities**

a. Ongoing

Future uses shall only include the following categories as permitted substitution of the prior non-conforming warehousing activity per Section 17.114.070, which are as follows:

- General Food Sales
- Convenience Sales and Service
- Medical Service
- General Retail Sales
- General Personal Service
- Consultative and Financial Service
- Consumer Laundry and Repair Service
- Administrative
- Business and Communication Service
- Retail Business Supply

40. **Lighting Plan.**

a. Prior to issuance of building permit.

The applicant shall submit a lighting plan for review and approval by the Planning and Zoning Division, with referral to other City departments as appropriate. The plan shall include the design and location of all lighting fixtures or standards. The plan shall indicate lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site.

41. **Street Trees Required**

a. Prior to certificate of occupancy

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 PWA Tree Division and Building Services.

43. **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.

44. **Statement of Disclosure**

a. Ongoing.

The owner of the property shall provide a Statement of Disclosure on the lease or title to all new tenants or owners of the live-work units acknowledging the commercial and industrial character of the district and acceptance of the potential for uses in the area to result in certain off-site impacts at higher levels than would be expected in residential areas. The statement of disclosure shall also state that the tenants may only engage in the activities allowed by the relevant General Plan Land Use and Zoning Designation and the allowed substitutive activities as outlined in Condition of Approval #39. The statement of disclosure shall also state that at least one tenant of each unit shall apply for and maintain a City of Oakland Business Tax Certificate for a business at the project address. The statement described in this condition of approval shall also be provided to any new owners of the property or any of the new units before a unit or the property is sold.

45. **Safe and Legal Activities**

a. Prior to lease or sale of any unit.

All leases and use agreements affecting the facility and related property shall include a clause prohibiting the facility, and all portions of the parcel on which the facility is located, from being used for illegal activity as defined and specified in Division 10 of the California Health and Safety Code. The project applicants shall take immediate action and due diligence to abate any nuisance, as defined in the California Health and Safety Code, occurring in the building or on the parcel on which the building is located.

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 17.136.050) 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. This proposal does not contain characteristics that require denial pursuant to the Tentative Map Findings (Section 16.08.030) of the Oakland Subdivision Regulations.

SECTION 17.134.050 – MINOR 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 will adaptively re-use an existing non-conforming commercial activity by converting it into live-work units. The site planning and scale of the buildings will remain essentially the same except that portions of the buildings will be removed, which will lead to a reduction in overall mass of the structure. The potential uses that would occupy the future live-work units would be less intensive than the previous warehousing activity and have much less off site impacts to the neighboring community, as well as add living quarters to the property as it is located within an existing residential neighborhood. The five live-work units would generate far less traffic than that of a transport and warehousing activity.

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 development will provide for a functional working and living environment by creating a commercial space located near regional transportation networks, and by providing open space for the accessory living uses. The physical appearance of the building will be improved and the mass of the structure will be reduced since portions of the building are being removed.

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 by reusing the existing structure in a manner that allows accessory residential activities in the residential neighborhood and allows far less obtrusive commercial activities than that of what was legally present prior to the application.

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 creation of a live-work development is consistent with the Mixed Housing Type General Plan area given that the proposal will add residential activities into the non-conforming commercial building.

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 creation of a live-work development is consistent with the Mixed Housing Type General Plan area since the project allows the re-use of a non-conforming commercial building in manner that allows accessory residential activities and less intensive commercial activities.

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 general intent of the Mixed Housing Type General Plan area is to have a medium density residential area with different housing types. The conversion of a non-conforming commercial warehouse into live-work allows for re-use of the building in manner that allows accessory residential activities and less intensive commercial activities.

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

The creation of a live-work development is consistent with the Mixed Housing Type General Plan area since the project allows the re-use of a non-conforming commercial building in manner that allows accessory residential activities and less intensive commercial activities.

17.136.050(B) - NON-RESIDENTIAL DESIGN REVIEW CRITERIA:

1. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area.**

   The proposal will essentially keep the buildings as they are except that portions of the buildings have been removed to reduce the mass of the property and allow for more open area on site, and the exterior appearance of the building is being improved by adding new siding and windows that will transition the building into more of a commercial/residential appearance rather than the prior industrial appearance of the building.

2. **That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

   The proposed renovation of the building will give the structure a softer appearance by reducing the mass of the building, and improving the exterior finishes to allow for a more attractive development as opposed to the prior industrial appearance of the warehousing activity.

3. **That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

   The creation of a live-work development is consistent with the Mixed Housing Type General Plan area since the project allows the re-use of a non-conforming commercial building in manner that allows accessory residential activities and less intensive commercial activities.

16.08.030 - TENTATIVE MAP FINDINGS **(Pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act)**

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

A. **That the proposed map is not consistent with applicable general and specific plans as specified in the State Government Code Section 65451.**

   Not Applicable

B. **That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.**

   Not Applicable

C. **That the site is not physically suitable for the type of development.**

   Not Applicable

D. That the site is not physically suitable for the proposed density of development.

Not Applicable

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Not Applicable

F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

Not Applicable

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)

Not Applicable

H. That the design of the subdivision does not provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision

Not Applicable

16.24.040 – LOT DESIGN STANDARDS

These findings are not applicable as this is an application for a one lot subdivision of an existing parcel for the purposes of creating condominiums and no physical land subdivision will be taking place other than merger the two existing lots together.

City of Oakland
Community and Economic Development Agency
Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: **Case Number CD07-399**

Project Applicant: **Tom Dolan**

Project Location: **829 21st Street (003-0033-001-00)**

Project Description: **Construct new floor area for five live-work units.**

Exempt Status: CHECK ALL THAT APPLY

Statutory Exemptions {Article 18;Section 21080;15260}	**Categorical Exemptions {Article 19:Section 21084;15300}**
[ ] Ministerial {Sec.15268}	[X] Existing Facilities {Sec.15301}
[ ] Feasibility/Planning Study {Sec.15262}	[ ] Replacement or Reconstruction {Sec.15302}
[ ] Emergency Project {Sec.15269}	[ ] Small Structures {Sec.15303}
[ ] General Rule {Sec.15061(b)(3)}	[ ] Minor Alterations {Sec.15304}
[ ] Other: {Sec._____}	[ ] Other {Sec. 15315_}
	[ ] In-fill Development {Sec. 15332}

Reasons why project is exempt: Project has been found to comply with the standards and requirements of Section 15301 of the California Environmental Quality Act (Categorical Exemptions, Class 1: Existing Facilities) & Section 15183 of the California Environmental Quality Act (Special Situations, Projects that are consistent with a community plan, general plan, or zoning).

Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: **Peterson Z. Vollmann** **Phone:** **(510) 238-6167**

Scott Miller 5-30-08

Signature (Scott Miller, Zoning Manager) Date:

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

*ENVIRONMENTAL DECLARATION
(CALIF. FISH AND GAME CODE SEC. 711.4)

	FOR COURT USE ONLY
NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY	
LEAD AGENCY:	
COMMUNITY & ECONOMIC DEVELOPMENT AGENCY/PLANNING: **250 Frank H. Ogawa Plaza** **Room 2114** **Oakland, CA 94612**	
APPLICANT: **Tom Dolan**	_____
Contact: **Tom Dolan**	*FILING NO.* _____

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: CLERK'S USE ONLY

1. **NOTICE OF EXEMPTION**

[X] A – STATUTORILY OR CATEGORICALLY EXEMPT — PLU 117
$50.00 (Fifty Dollars) – CLERK'S FEE

[ ] B – FEE EXEMPTION –NO IMPACT DETERMINATION ISSUED BY F&G — PLU 117
$50.00 (Fifty Dollars) – CLERK'S FEE

2. **NOTICE OF DETERMINATION**

[ ] A – NEGATIVE DECLARATION — PLU 116
$1,876.75 (One Thousand Eight Hundred Seventy Six Dollars and Seventy Five Cents)-STATE FILING FEE

$50.00 (Fifty Dollars) – CLERK'S FEE

[ ] B – MITIGATED NEGATIVE DECLARATION — PLU 116
$1,876.75 (One Thousand Eight Hundred Seventy Six Dollars and Seventy Five Cents) – STATE FILING FEE

$50.00 (Fifty Dollars) – CLERK'S FEE

[ ] C – ENVIRONMENTAL IMPACT REPORT — PLU 115
$2,606.75 (Two Thousand Six Hundred Six Dollars and Seventy Five Cents) – STATE FILING FEE

$50.00 (Fifty Dollars) – CLERK'S FEE

3. [ ] OTHER (Specify) Notice of Finding of No Significant Impact
$50.00 (Fifty Dollars) – CLERK'S FEE — PLU 117

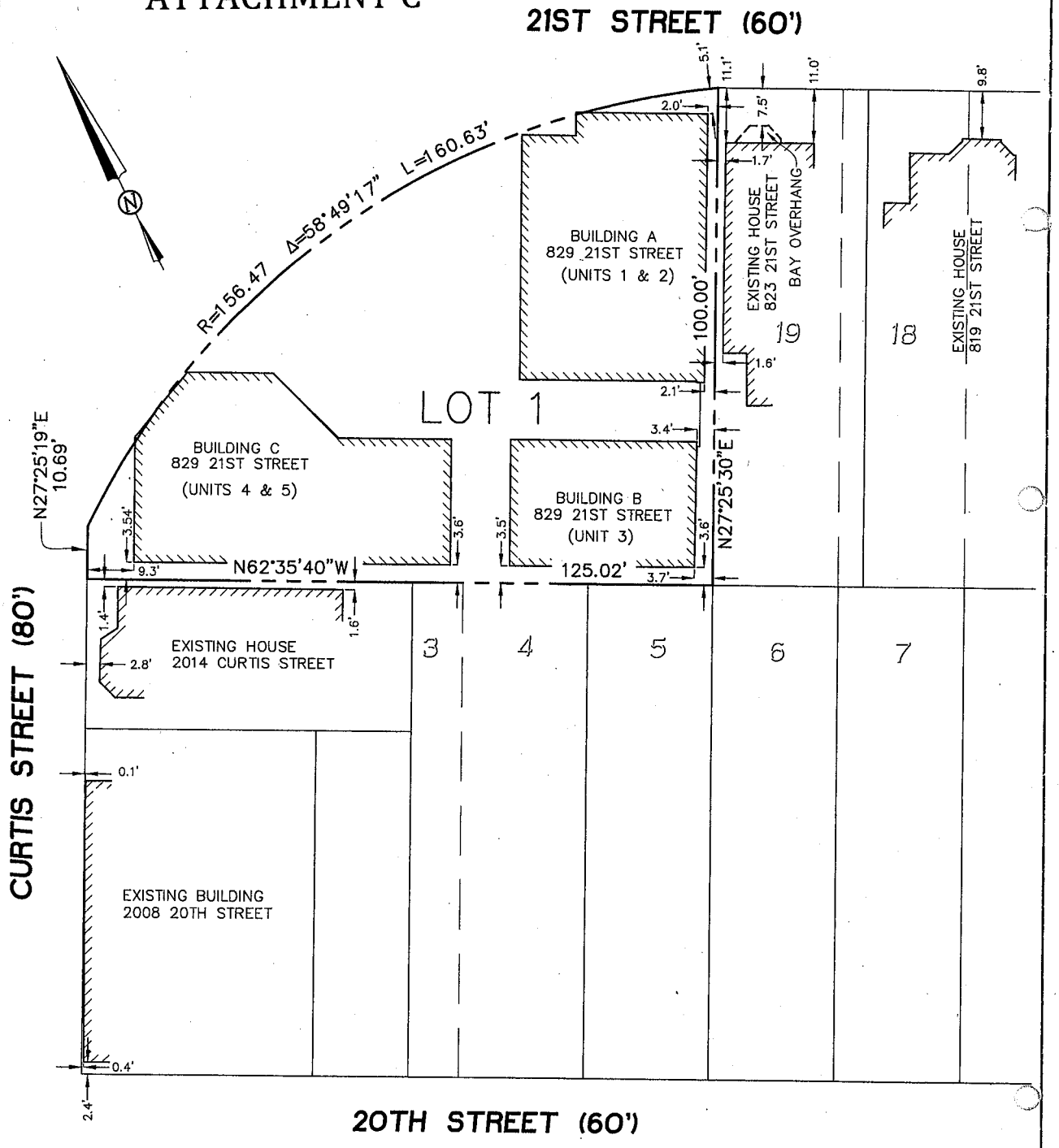
*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

FIVE COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK

ATTACHMENT C



BUILDING LOCATION SURVEY

LOT 1, PARCEL MAP 9658 (314 M 59)
CITY OF OAKLAND, COUNTY OF ALAMEDA,
CALIFORNIA

SEPTEMBER 24, 2015 SCALE: 1" = 20'

LICENSED LAND SURVEYOR
M. J. GUARE
8361
9/24/15
STATE OF CALIFORNIA

MORAN ENGINEERING, INC.

CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

APN 003-0033-044 F.B. NO. 1141/1440/1566 21ST-BLDGLOC.DWG JOB NO. 15-6879.1

PROJECT DATA

#	TYPE	REQUIRED INFORMATION
1	ARCHITECT	Thomas Dolan Architecture (510) 839-7200
	OWNER	Jenkins + Chinn LLC
	LESSEE	n/a
2	PLANNING APPROVALS	CUP required
3	TITLE 24 ENERGY	Full Title 24
4	NOTICE(S) OF LIMITATION	none
5	TYPE OF PERMIT	Complete conversion of all portions of (E) buildings to JLWQ.
6	ADDITIONAL INFO.	See attached Lighting and Ventilation Calculations.

EXISTING BUILDING

7	OCCUPANCY	Bldgs A, B + C: Group F Occupancy at present
8	CONSTRUCTION	Bldgs A, B + C: Type V-Non-Rated
9	LOCATION ON PROP.	See Drawings
10	FLOOR AREA	Entire (E) Bldg = 5,637sf (as of bldg permit construction)
11	HT. & # OF STORIES	(E) Bldg approx. 19'-6" - 1 story
12	OCCUPANT LOAD	sf / 500 =11
13	(E) SPACES & **	Buildings are undemised at present
14	FIRE PROTECTION	No existing sprinklers
15	CONTROL AREAS	None

PROPOSED CONDITIONS

16	OCCUPANCY	Live/Work (R-7)
17	CONSTRUCTION	Type V-Non-Rated
18	LOCATION ON PROP.	See Drawings
19	FLOOR AREA	Bldg A = 2,820 sf; Bldg B = 1,365 sf; Bldg C = 2,807 sf All Bldgs = 6,992
20	HT. & # OF STORIES	unchanged
21	OCCUPANT LOAD	See attached Building Code Summary
22	(N) SPACES & **	See attached Live/Work Calculations
23	FIRE PROTECTION	no sprinklers
24	CONTROL AREAS	n/a

PROPOSED INDIVIDUAL SPACE OR JLWQ

25	NOTICE(S) OF LIMITATION	none
26	ACCESS REGULATIONS	No employees or regular public visits are contemplated. Disabled Access therefore not required.
27	TITLE 24	See Title 24 Calculations
28	FLOOR AREA	Bldg A = 2,820 sf; Bldg B = 1,365 sf; Bldg C = 2,807 sf All Bldgs = 6,992
29	MAX. # PERSONS	See attached Live/Work Calculations
30	# OF FLOORS/ MEZZANINE	All units are ground floor.
31	INCREASED MEZZANINE AREA (to 1/2)	n/a
32	SLEEPING AREA	All units have complying escape openings (not alternate means)
33	HAZARDOUS MAT.	Nothing extraordinary per OBC for R-7

LIGHT + VENT CALCULATIONS

LIGHTING AND VENTILATION CALCULATIONS

UNIT #	GROUND FLOOR AREA	MEZZANINE AREA	TOTAL UNIT AREA	GLAZED AREA PROVIDED	NATURAL LIGHT AREA REQ'D (10%)	NATURAL LIGHT AREA SURPLUS	OPENING AREA PROVIDED	NATURAL VENT AREA REQ'D (5%)	NATURAL VENT AREA SURPLUS	INT. LIGHT NEED FOR VENT **
1A	979 sf	426 sf	1405 sf	517 sf	141 sf	376 sf	142 sf	70 sf	72 sf	0 sf
2A	1011 sf	404 sf	1415 sf	295 sf	142 sf	153 sf	144 sf	71 sf	73 sf	0 sf
1B	893 sf	472 sf	1365 sf	288 sf	137 sf	151 sf	136 sf	68 sf	68 sf	0 sf
1C	948 sf	483 sf	1431 sf	330 sf	143 sf	187 sf	160 sf	72 sf	88 sf	0 sf
2C	933 sf	443 sf	1376 sf	337 sf	138 sf	200 sf	145 sf	69 sf	76 sf	0 sf

* PER OAKLAND HOUSING CODE 3-108.2 Light, the required 10% natural light...can be reduced to 5% of the floor area of the unit but not smaller than five square feet-as long as sufficient artificial (electric) light is provided.
** Actual skylights will be larger and more numerous, however only these areas indicated will be required by code.

LIVE / WORK CALCULATIONS

	1ST FLR	2ND FLR	TOTAL	%	1ST FLR	2ND FLR	TOTAL	%		
1A	979 sf	426 sf	1,405 sf	66%	80 sf	306 sf	386 sf	27%	1,405 sf	9
2A	721 sf	116 sf	1,837 sf	44%	80 sf	364 sf	444 sf	32%	1,415 sf	9
1B	893 sf	199 sf	1,092 sf	80%	78 sf	253 sf	331 sf	24%	1,365 sf	9
1C	850 sf	150 sf	1,000 sf	70%	83 sf	330 sf	413 sf	29%	1,431 sf	10
2C	854 sf	148 sf	992 sf	62%	81 sf	303 sf	384 sf	28%	1,376 sf	9

SYMBOLS

- GRID LINE
- MATCH LINE
- DATUM OR ELEVATION
- ELEVATION TAG — DRAWING NUMBER — SHEET WHERE OCCURS
- SECTION TAG — DRAWING NUMBER — SHEET WHERE OCCURS
- INTERIOR ELEVATION TAG — DRAWING NUMBER — SHEET LOCATION
- DETAIL CALL-OUT — DETAIL NUMBER/LETTER — SHEET WHERE OCCURS
- ESCAPE OPENING
- WINDOW OR SKYLIGHT TAG — WINDOW OR SKYLIGHT TYPE
- DOOR TAG — DOOR TYPE — HARDWARE GROUP
- WALL TYPE TAG
- REVISION

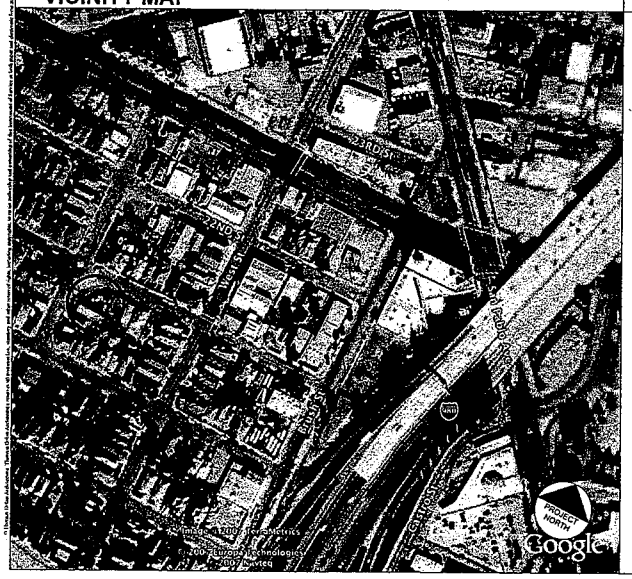
GENERAL NOTES

1. WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALE DIMENSIONS.
2. DIMENSIONS ARE TO FACE OF STUD UNLESS OTHERWISE NOTED.
3. NOTED UNIT SQUARE FOOTAGE FIGURES ARE APPROXIMATE. FOR TRUE SIZE, MEASURE FINISHED UNIT IN FIELD.
4. REFER TO CIVIL DRAWINGS FOR CIVIL ENGINEERING-RELATED SYMBOLS.
5. REFER TO STRUCTURAL DRAWINGS FOR STRUCTURAL MEMBER SYMBOLS.
6. REFER TO ARCHITECTURAL DRAWINGS FOR ARCHITECTURAL SYMBOLS.
7. REFER TO MECHANICAL/ PLUMBING DRAWINGS FOR MECHANICAL/ PLUMBING SYMBOLS.
8. REFER TO ELECTRICAL DRAWINGS FOR ELECTRICAL AND COMMUNICATIONS SYMBOLS.

829 21st STREET
OAKLAND, CA

C.U.P. / BUILDING PERMIT RESUBMITTAL

VICINITY MAP



DESIGN TEAM

ARCHITECT: THOMAS DOLAN ARCHITECTURE
BUILDINGS + LANDSCAPES + PLANNING & DEVELOPMENT CONSULTATION
173 FILBERT ST.
OAKLAND, CA 94607
TEL. 510.839.7200 FAX. 510.839.7208
td.arch@live-work.com

OWNER: JENKINS & CHINN, LLC
DEANE JENKINS
829 21st STREET
OAKLAND, CA, 94607
TEL. 415.336.6224 FAX. 510.452.1063
deanejenkins@yahoo.com

GENERAL CONTRACTOR: JENKINS CONSTRUCTION & DESIGN
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deanejenkins@yahoo.com

STRUCTURAL ENGINEER: YU STRANDBERG ENGINEERING
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david@yusengineering.com

CIVIL ENGINEER: MORAN ENGINEERING
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TEL. 510.848.1930 FAX. 510.848.9725

TITLE 24 CONSULTANT: GABEL ASSOCIATES, LLC
ROSEMARY HOWLEY
1818 HARMON ST
STREET
BERKELEY, CA, 94703
TEL. 510.428.0803 FAX. 510.428.0324
rosemary@gabelenergy.com

INFORMATION

PROJECT ADDRESS:
829 21st STREET
OAKLAND, CA 94607

PROJECT DESCRIPTION:
LIVE/ WORK CONVERSION OF EXISTING WAREHOUSE FACILITY.

ZONING:
R-50

LOT AREA:
9,020 SF

PROPOSED FLOOR AREA:

BUILDING A:	2,820 SF
BUILDING B:	1,365 SF
BUILDING C	2,807 SF
PROJECT TOTAL:	**6,992 SF**

UNIT COUNT:

UNIT 1A:	1,405 SF
UNIT 2A:	1,415 SF
UNIT 1B:	1,365 SF
UNIT 1C:	1,431 SF
UNIT 2C:	1,376 SF
PROJECT TOTAL, 5 UNITS:	**6,992 SF**

PARKING: 2 (E) + 3 (N) = 5 TOTAL

TRASH AREA: 70 SF

SHEET INDEX

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www.live-work.com
Landscaping Was
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Oakland, California
94607 USA

LICENSED ARCHITECT THOMAS DOLAN REN 31-2008 STATE OF CALIFORNIA

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510.452.1063 FAX

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829 21st St.
OAKLAND, CA

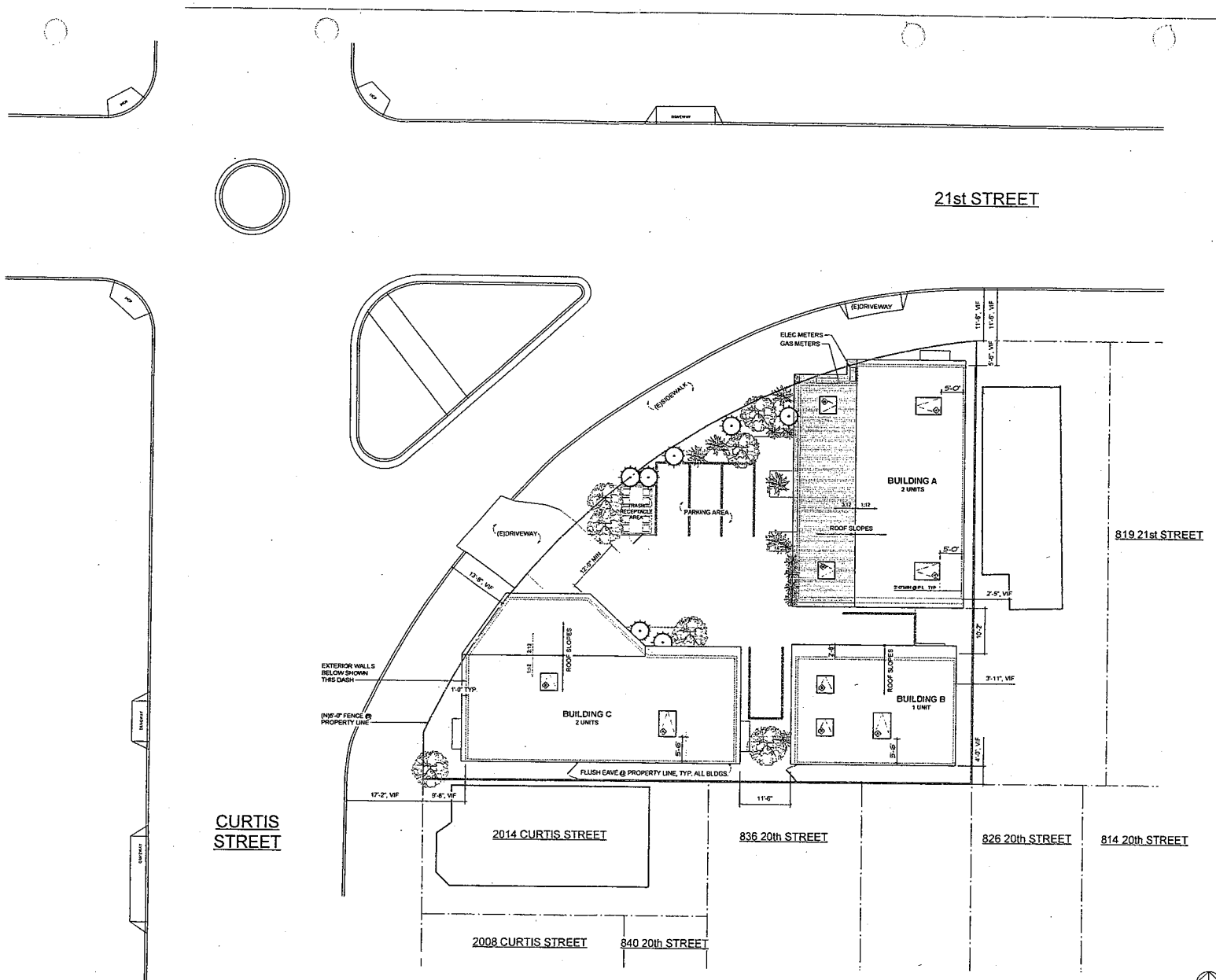
TITLE SHEET

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	09.30.07
	BUILDING PERMIT SUBMITTAL	12.14.07
	CONSTRUCTION DOCUMENTS	01.29.08
	PLANNING RESUBMITTAL	02.27.08

DATE 02.27.08
JOB NO. 07.101
DRAWN

SHEET NO. G0.10

ATTACHMENT D



1 SITE PLAN
Scale: 1" = 10 ft

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475 Fifth Street
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94607 U.S.A.

REGISTERED ARCHITECT THOMAS DOLAN STATE OF CALIFORNIA

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829 21st St.
OAKLAND, CA

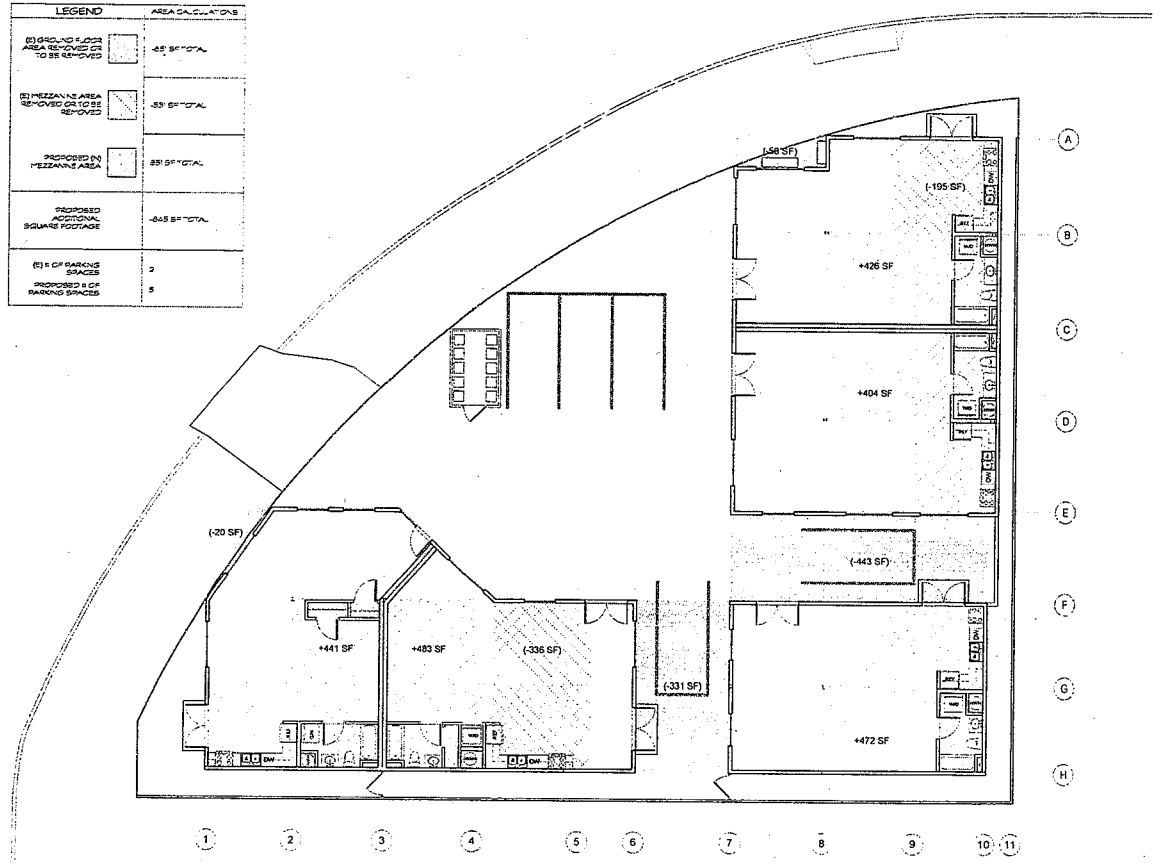
SITE PLAN

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	10.30.07
	BUILDING PERMIT SUBMITTAL	12.14.07
	CONSTRUCTION DOCUMENTS	01.29.08
	PLANNING RESUBMITTAL	02.27.08

DATE: 02.27.08
JOB NO. 07.101
DRAWN: XXX

SHEET NO. A1.00

LEGEND	AREA CALCULATIONS
(E) GROUND FLOOR AREA REMOVED OR TO BE REMOVED	-65 SF TOTAL
(E) MEZZANINE AREA REMOVED OR TO BE REMOVED	-551 SF TOTAL
PROPOSED (N) MEZZANINE AREA	851 SF TOTAL
PROPOSED ADDITIONAL SQUARE FOOTAGE	645 SF TOTAL
(E) # OF PARKING SPACES	2
PROPOSED # OF PARKING SPACES	5



1 SQUARE FOOTAGE DIAGRAM
Scale: 1/8" = 1'-0"

PROJECT NORTH

NORTH

TDA Thomas Dolan Architecture

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LICENSED ARCHITECT THOMAS DOLAN C-18814 STATE OF CALIFORNIA

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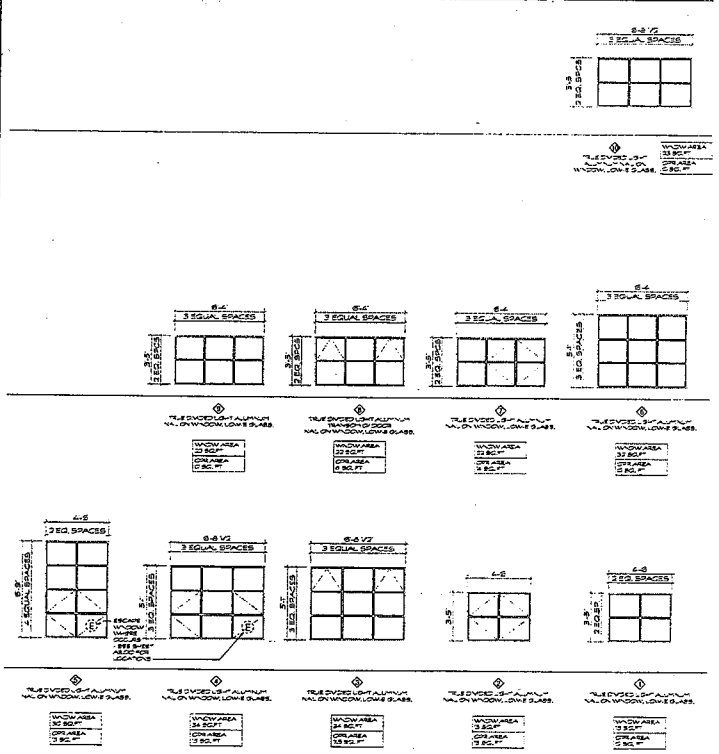
SQUARE FOOTAGE DIAGRAM

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	09.26.07
	BUILDING PERMIT SUBMITTAL	02.14.07
	CONSTRUCTION DOCUMENTS	04.25.08
	PLANNING RESUBMITTAL	02.17.08

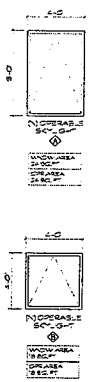
DATE: 02.27.08
JOB NO. 07.101
DRAWN

SHEET NO. A2.00

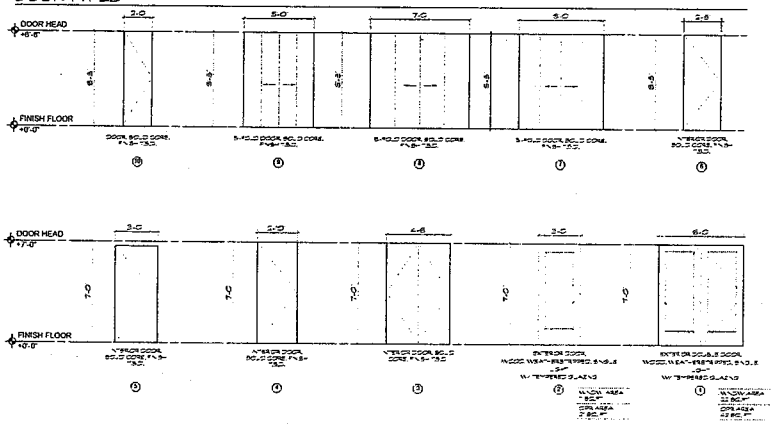
WINDOW TYPES

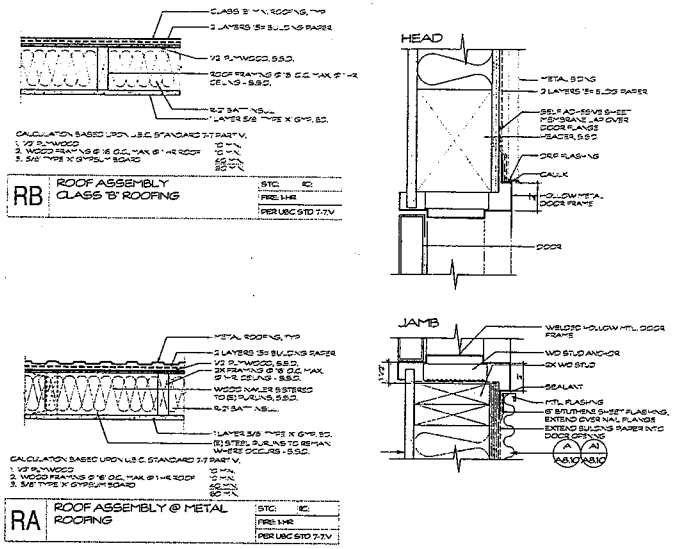


SKYLIGHT TYPES



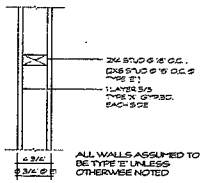
DOOR TYPES



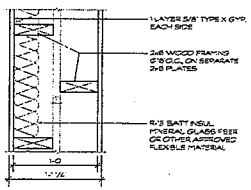


RB | ROOF ASSEMBLY CLASS 'B' ROOFING | STC: 50 | FIRE: 1HR | PER UBC STD 7-7V

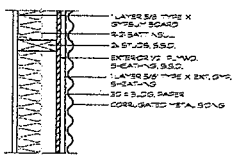
RA | ROOF ASSEMBLY @ METAL ROOFING | STC: 50 | FIRE: 1HR | PER UBC STD 7-7V



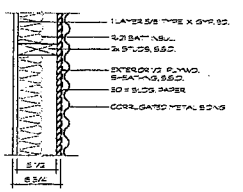
E | TYPICAL INTERIOR WALL



B | TYPICAL DEMISING WALL | STC: 50 | FIRE: 1HR | SIA II; WC 2370



A1 | 1 HOUR EXTERIOR WALL | STC: 50 | FIRE: 1HR | SIA II; WC 2370



A | TYPICAL EXTERIOR WALL | STC: 50 | FIRE: 1HR

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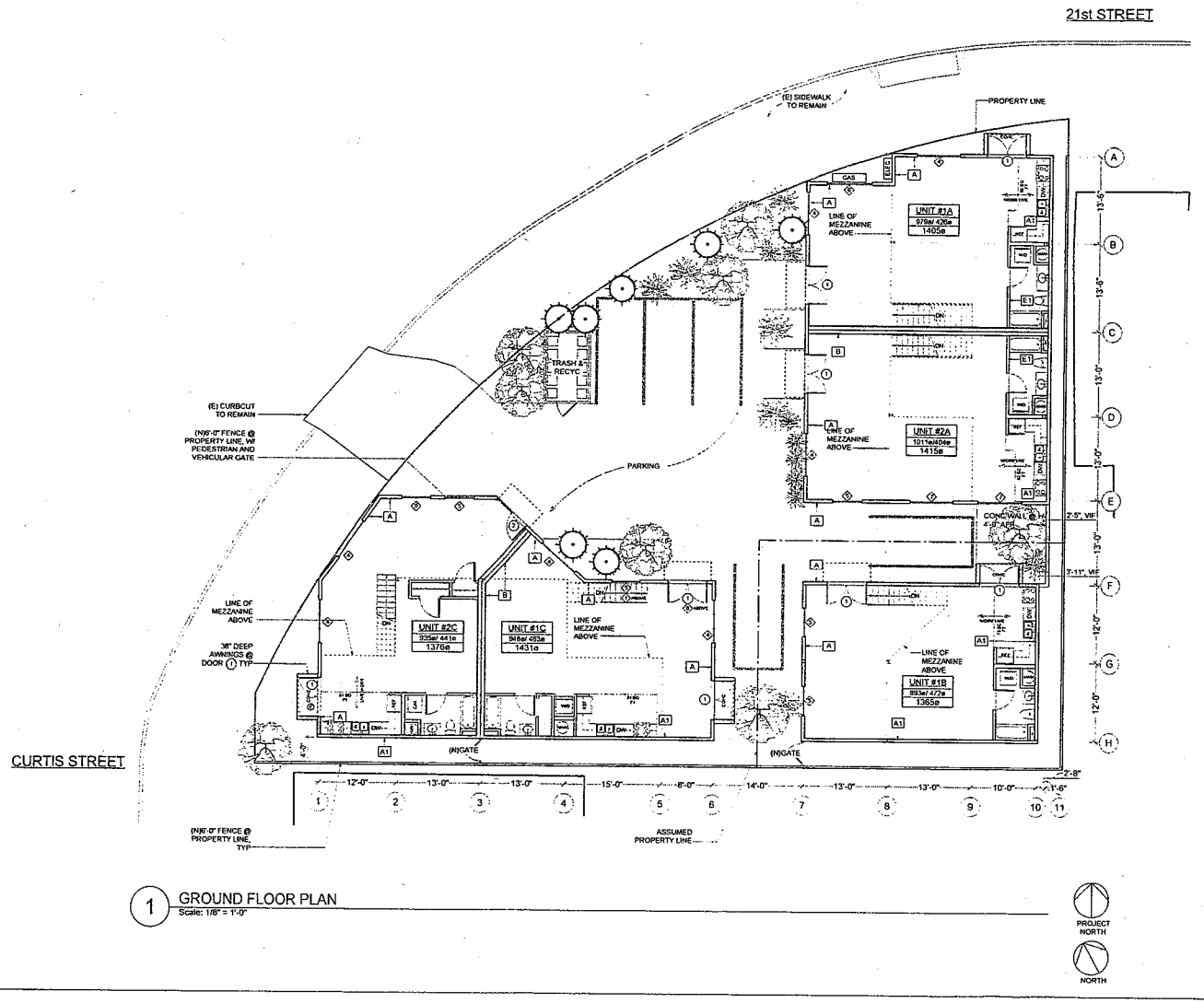
WINDOW/ DOOR TYPES & PARTITION DETAILS

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	10.30.07
	BUILDING PERMIT SUBMITTAL	12.14.07

DATE: 12.14.07
JOB NO. 05.101
DRAWN

SHEET NO. A8.10



1 GROUND FLOOR PLAN
Scale: 1/8" = 1'-0"

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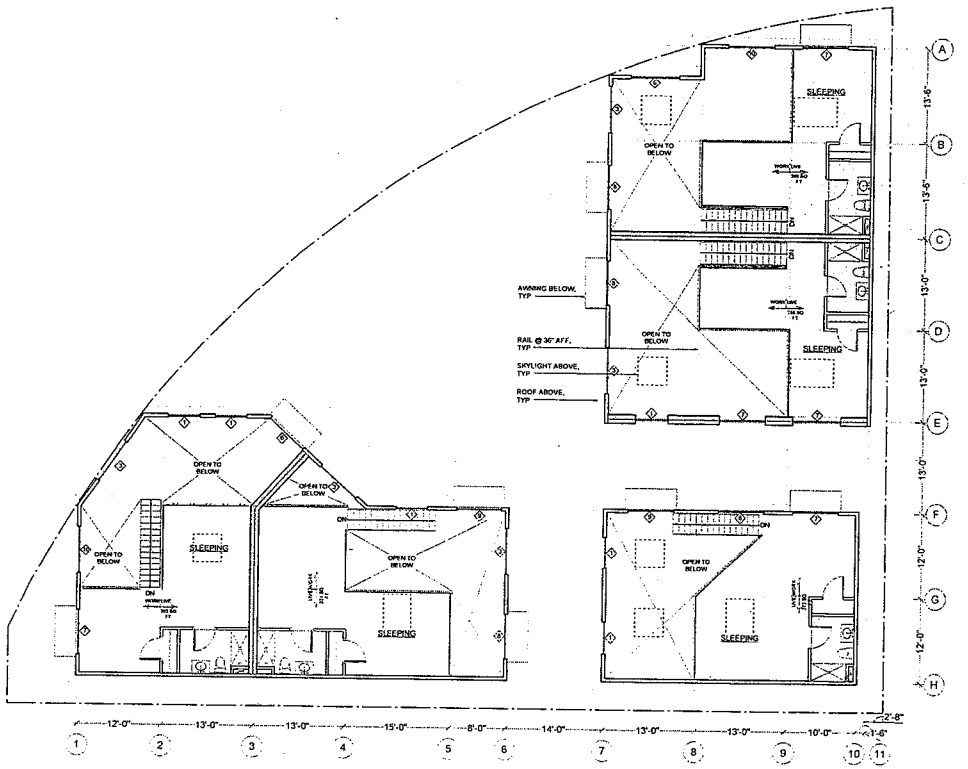
OAKLAND, CA

GROUND FLOOR PLAN

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	10.26.07
	BUILDING PERMIT SUBMITTAL	12.14.07
	CONSTRUCTION DOCUMENTS	10.29.08
	PLANNING RESUBMITTAL	02.27.09

DATE: 02.27.09
JOB NO. 07.101
DRAWN AD

SHEET NO. A2.10



1 SECOND FLOOR PLAN
Scale: 1/8" = 1'-0"

PROJECT NORTH

NORTH

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LICENSED ARCHITECT THOMAS DOLAN STATE OF CALIFORNIA

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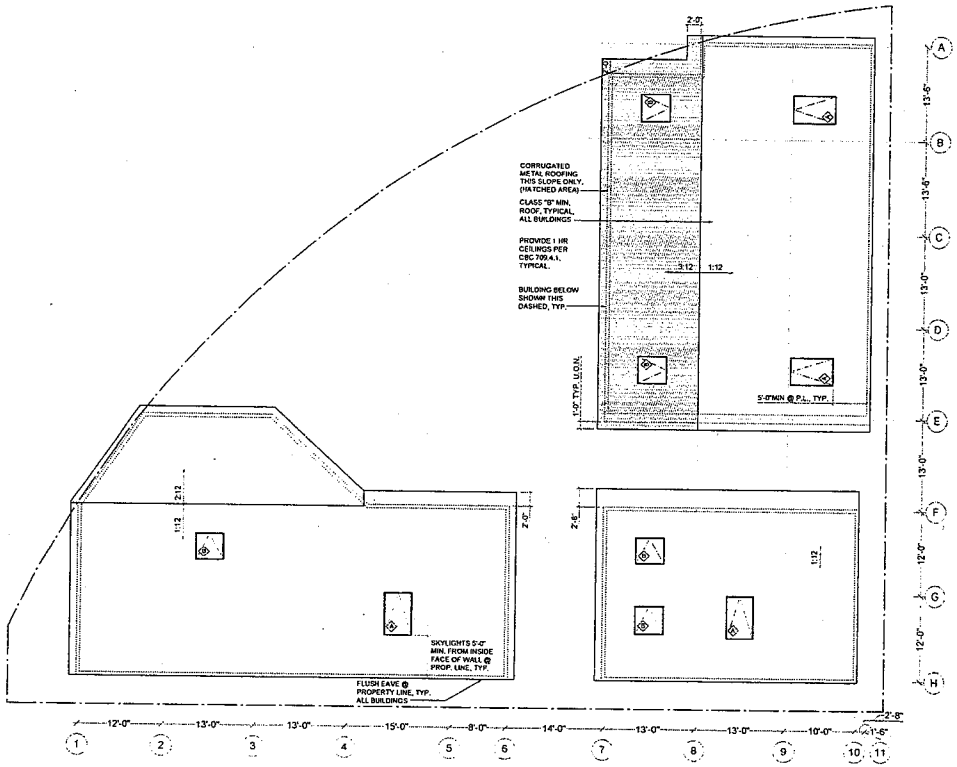
829 21st St.
OAKLAND, CA

SECOND FLOOR
MEZZANINE PLAN

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	
	BUILDING PERMIT SUBMITTAL	
	CONSTRUCTION DOCUMENTS	
	PLANNING RESUBMITTAL	

DATE:
JOB NO.
DRAWN

SHEET NO. A2.20



1 ROOF PLAN
Scale: 1/8" = 1'-0"

PROJECT NORTH

NORTH

TDA Thomas Dolan Architecture
Architecture
Urban Design
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Development Consultation
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123 Filbert Street
Oakland, California
94607 U.S.A.

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OAKLAND, CA
415.336.6224 PH.
510.452.1063 FAX

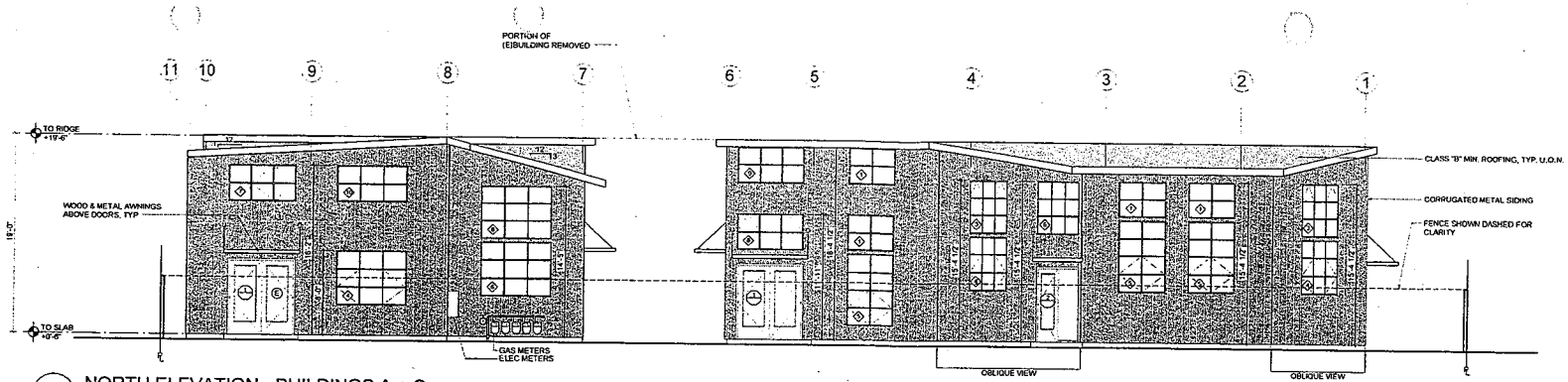
829 21st St.
829 21st St.
OAKLAND, CA

ROOF PLAN

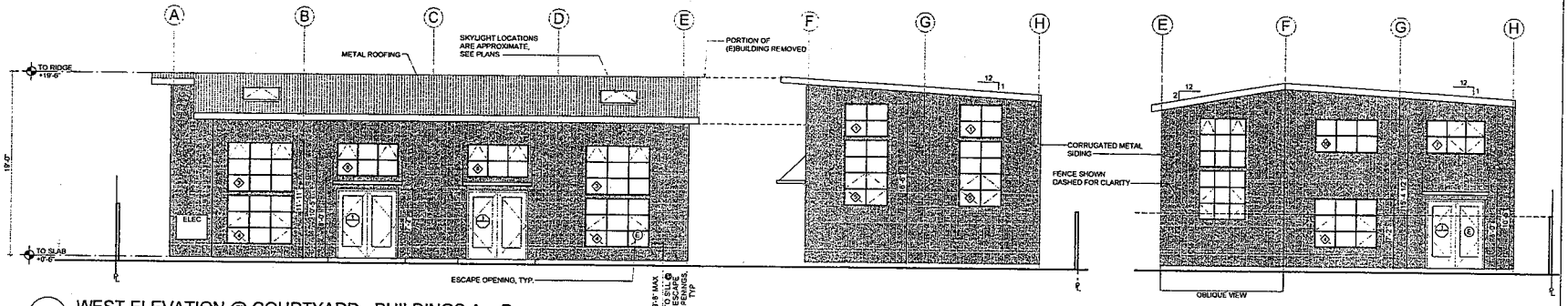
ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	
	BUILDING PERMIT SUBMITTAL	
	CONSTRUCTION DOCUMENTS	
	PLANNING RESUBMITTAL	

DATE:
JOB NO.
DRAWN AD

SHEET NO. A2.30

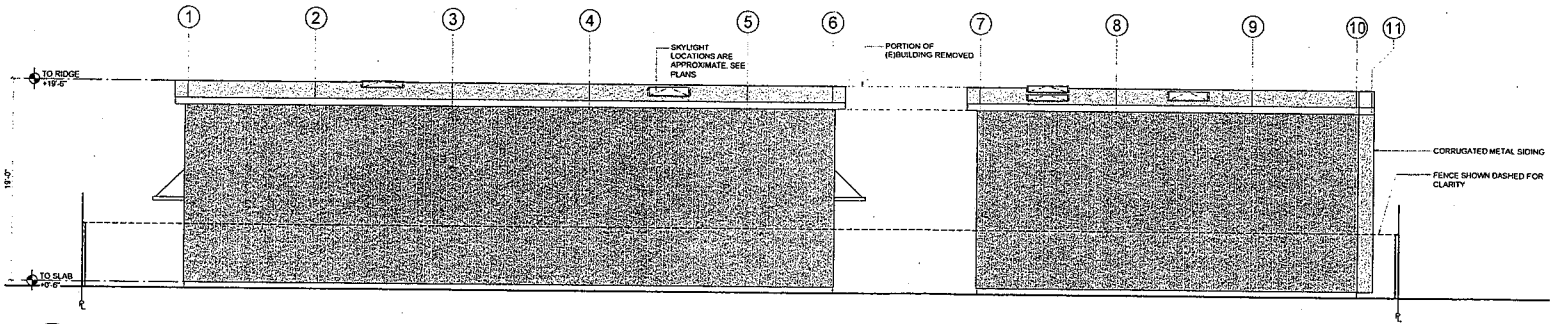


1 NORTH ELEVATION - BUILDINGS A + C
Scale: 3/16" =-1'-0"



2 WEST ELEVATION @ COURTYARD - BUILDINGS A + B
Scale: 3/16" = 1'-0"

3 BUILDING C WEST ELEVATION
Scale: 3/16" = 1'-0"



4 SOUTH ELEVATION - BUILDINGS B + C
Scale: 3/16" = 1'-0"

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LICENSED ARCHITECT THOMAS D. DOLAN REN 11-30-08 STATE OF CALIFORNIA C-18014

OWNER:
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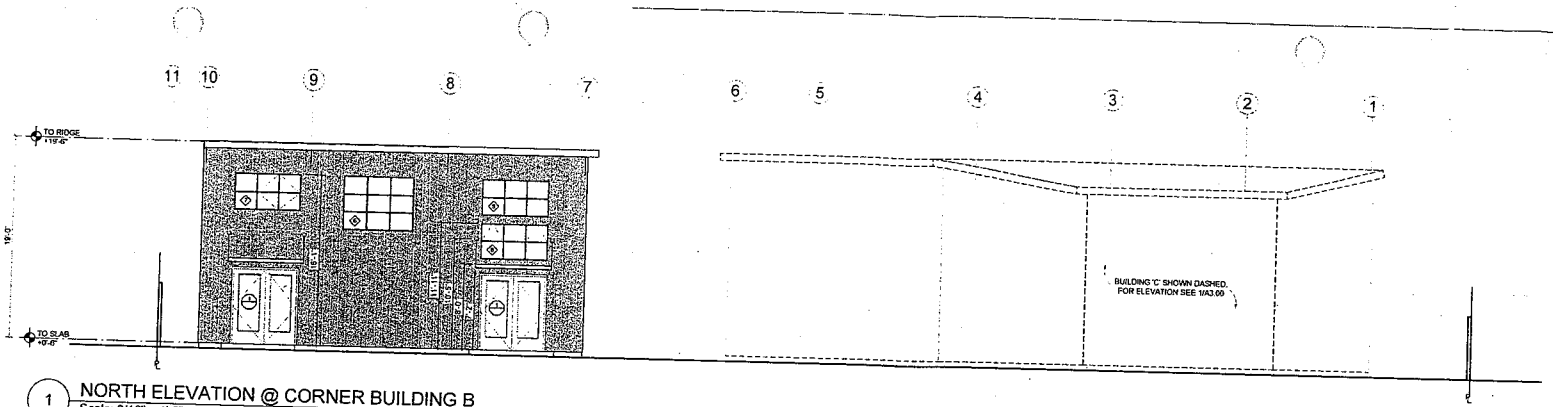
ELEVATIONS

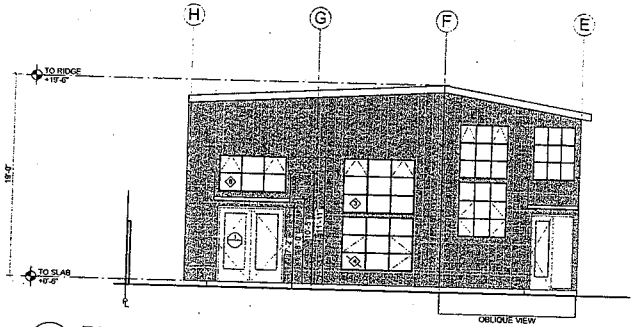
ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	10.30.07
	BUILDING PERMIT SUBMITTAL	12.14.07
	CONSTRUCTION DOCUMENTS	04.28.08
	PLANNING RESUBMITTAL	07.07.08

DATE: 02.27.08
JOB NO. 07.101
DRAWN

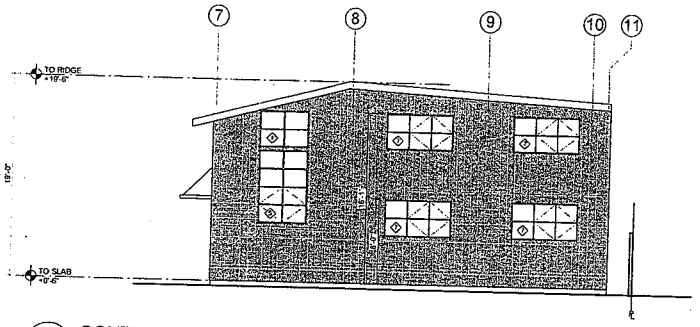
SHEET NO. A3.00



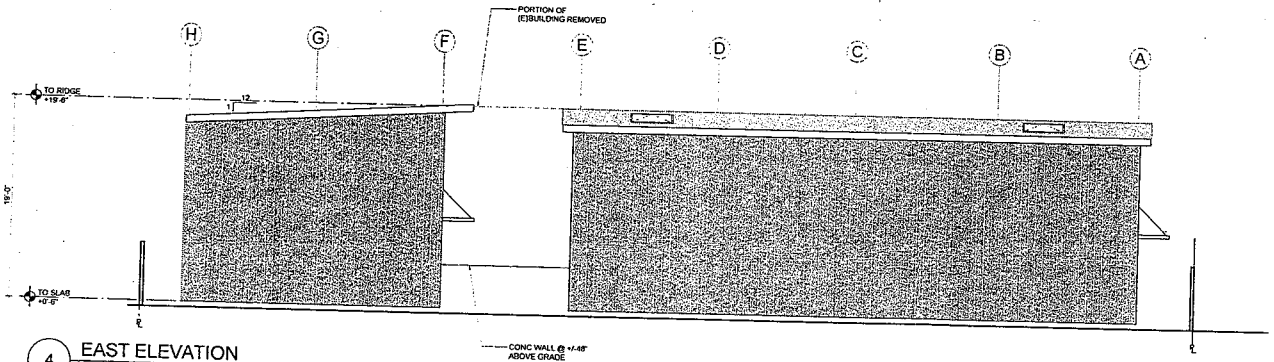
1 NORTH ELEVATION @ CORNER BUILDING B
Scale: 3/16" = 1'-0"



2 EAST ELEVATION @ BUILDING C
Scale: 3/16" = 1'-0"



3 SOUTH ELEVATION @ BUILDING A
Scale: 3/16" = 1'-0"



4 EAST ELEVATION
Scale: 3/16" = 1'-0"

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ELEVATIONS

ISSUE	DESCRIPTION	DATE
	PLANNING SUBMITTAL	10.30.07
	BUILDING PERMIT SUBMITTAL	12.04.07
	CONSTRUCTION DOCUMENTS	01.29.08
	PLANNING RESUBMITTAL	02.27.08

DATE 02.27.08
JOB NO. 07.101
DRAWN

SHEET NO. A3.10