

<b>Location:</b>	Three vacant lots northwest of 5800 Westover Drive
<b>Assessors Parcel Number:</b>	048D-7282-060-00, 048D-7282-061-00, and 048D-7282-062-04
<b>Proposal:</b>	One Year Time Extension of the planning entitlements for previously-approved subdivision involving a Shared Access Facility.
<b>Owner /Applicant:</b>	Kirk Miller (415)567-8885
<b>Planning Permits Required:</b>	Time Extension of the approval of Tentative Parcel Map to merge three lots and re-subdivide them into four lots; and Minor Conditional Use Permit to: 1) construct a Shared Access Facility to provide vehicular access to serve the subject lots, and 2) allow a subdivision involving two or more lots and/or moving of lots lines more than five feet in the R-20, R-30 (currently RH-3 & RH-4) and S-10 zones.
<b>General Plan:</b>	Hillside Residential
<b>Zoning:</b>	RH-3 & RH-4 Hillside Residential S-9 Fire Safety Protection Combining Zone S-10 Scenic Route Combining Zone
<b>Environmental Determination:</b>	Exempt: Section 15332, infill development Section 15303, new construction of small structures; and Section 15183 of the CEQA Guidelines (projects consistent with a community plan, general plan, or zoning).
<b>Historic Status:</b>	Area of Primary Importance (API)
<b>City Council District:</b>	4
<b>Status:</b>	Entitlements currently extended through December 31, 2018.
<b>Staff Recommendation:</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For Further Information:</b>	Contact case planner Maurice Brenyah-Addow at (510) 238-6342 or by email at <a href="mailto:mbrenyah@oaklandnet.com">mbrenyah@oaklandnet.com</a>

**SUMMARY**

The applicant for the above-referenced project is requesting an additional one year time extension of the entitlements originally approved by the Planning Director on July 21, 2010 (*See attachment "A"*).

Since the initial expiration date of July 21, 2012, the project applicant has requested, and has been granted, several administrative, City Council Resolution and Planning Commission time extensions that have kept the entitlements active with a latest expiration date of December 31, 2019. On September 20, 2019, the applicant made a request for an additional one-year time extension pursuant to the project's Condition of Approval #2, which allows for the applicant to request further extensions of the entitlements from the Planning Commission if an extension request is submitted prior to the expiration date.

Staff is supportive of the time extension because the applicant is currently in the process of obtaining a final map to complete the subdivision process. The additional time will assist the applicant in completing the final map process. At the same time, an additional year would ensure that the site does not remain underutilized for an excessive amount of time.

**BACKGROUND**

On July 21, 2010, the Planning Director approved a Tentative Parcel Map to merge three lots and re-subdivide them into four lots, and a Minor Conditional Use Permit to: 1) construct a Shared Access Facility to provide vehicular access to serve the subject lots, and 2) allow a subdivision involving two or more lots and/or moving of lots lines more than five feet in the R-20 and R-30 (currently RH-3 and RH-4) and S-10 zones.

From 2010 through 2018, the Project applicant took advantage of administrative extensions and the following Oakland City Council Resolutions (84746 and 85305 C.M.S.) to extend the planning entitlements with details as follows:

Planning Approval was granted on July 21, 2010 and valid for two years;

1<sup>st</sup> Administrative Time Extension was granted from July 21, 2012 to July 21, 2013;

2<sup>nd</sup> Administrative Time Extension was granted from July 21, 2013 to July 21, 2014;

3<sup>rd</sup> Administrative Time Extension was granted from July 21, 2014 to December 31, 2014;

City Council Resolution 84746 Time Extension was granted from December 31, 2014 to December 31, 2015;

City Council Resolution 85305 Time Extension was granted from December 31, 2015 to December 31, 2016.

4<sup>th</sup> Administrative Time Extension was granted from December 31, 2016 to December 31, 2017

5<sup>th</sup> Administrative Time Extension was granted from December 31, 2017 to December 31, 2018

1<sup>st</sup> Planning Commission Time Extension was granted from December 31, 2018 to December 31, 2019 on December 5, 2018.

**PROJECT DESCRIPTION****Extension Request**

After exhausting all the administrative and Council Resolution extensions listed above, the Project applicant has submitted a second extension request for the Planning Commission to extend the deadline for project entitlements for one additional year from the current expiration date of December 31, 2019 to December 31, 2020. The Planning Director is referring this request to the Planning Commission after granting the prior five administrative extensions in addition to the two automatic City Council Resolution and last year's Planning Commission extensions listed above. The Project applicant would need to apply for a new development permit in accordance with the new Planning Code unless the Planning Commission approves the time extension request one more time.

**Approved Project Use and Design**

The approved project entailed merger of three lots and their re-subdivision into four lots, and construction of a Shared Access Facility (Common Driveway) to provide vehicular access to serve the four subject lots.

**ZONING AND GENERAL PLAN ANALYSIS**

At the time the application was approved, the Project site was zoned R-20 – Low Density, R-30 – One Family and S-10 Scenic Route Combining zones. Currently, the R-20 zone has become RH-3 Hillside

Residential & the R-30 zone has become RH-4 Hillside Residential. The S-10 Scenic Route Combining zone has not changed and the General Plan designation remains Hillside Residential.

**DISCUSSION**

**Impact Fees**

On May 3, 2016, the City adopted impact fees for affordable housing, transportation, and capital improvements (Ordinances 13365 and 1366). Development impact fees are a commonly used method of collecting a proportional share of funds from new development for infrastructure improvements and other public facilities to offset the impact of new development. As the applicant did not vest or commence the project, it is now subject to the impact fees. Staff has added a Condition of Approval noting this requirement.

**CONCLUSION AND RECOMMENDATIONS**

As noted above, the Project is still in conformance with the General Plan's goals and policies and Planning Code. Staff believes that a one-year extension would allow the applicant necessary time to complete the final map process. At the same time, an additional year would ensure that the site does not remain underutilized for an excessive amount of time. Condition of Approval #2 permits the applicant to request additional extensions from the Planning Commission if needed to complete the Project.

Therefore, staff recommends that the Planning Commission:

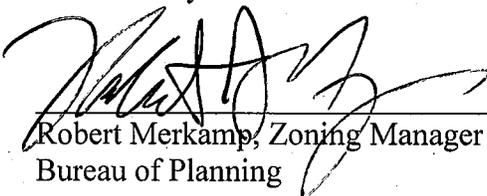
1. Grant a one-year extension of the current project approvals until December 31, 2019, subject to the previously approved Findings and Conditions of Approval, and the attached additional Condition of Approval regarding the imposition of impact fees.

Prepared by



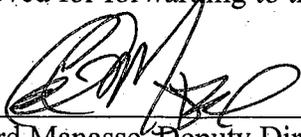
Maurice Brenyah-Addow, Planner IV

Reviewed by:



Robert Merkamp, Zoning Manager  
Bureau of Planning

Approved for forwarding to the Planning Commission:



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Edward Manasse, Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

- A. July 21, 2010 Approval Letter and Extensions
- B. September 20, 2019 Extension Request Letter

# CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2032

Department of Planning and Building  
Zoning Division

(510) 238-3911  
FAX (510) 238-4730  
TDD (510) 238-3254

L. Kirk Miller  
577 Forest Street  
Oakland, CA 94618

December 7, 2018

Dear Mr. Miller:

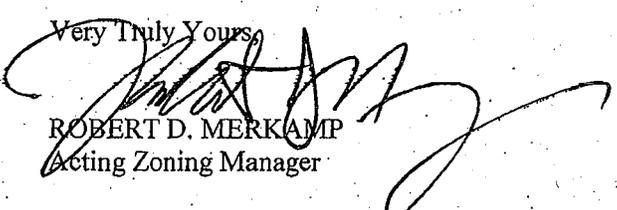
**RE: Case File Nos. TPM8784 & CU05-440; Address: Three vacant lots NW of 5860 Westover Drive (APNs: 048D-7282-060-00; 048D-7282-061-00; 048D-7282-062-04)**

Your application for a one year time extension of the entitlements as noted above was **APPROVED** at the City Planning Commission meeting of **December 5, 2018**. The Commission's action is indicated below. This action will become final ten (10) days after the date of the Planning Commission meeting unless an appeal to the City Council is filed by **December 17, 2018**. The new expiration date for these entitlements is **December 31, 2019**.

**(X) Granted with revisions to conditions of approval. (Vote: 6 Ayes, 0 Nays)**

If you have any questions, please contact the case planner, **Maurice Brenyah-Addow** at (510) 238-6342 or [mbrenyah@oaklandnet.com](mailto:mbrenyah@oaklandnet.com).

Very Truly Yours,

  
ROBERT D. MERKAMP  
Acting Zoning Manager

cc: Bill Quesada, Inspection Services  
Philip Basada, Fire Prevention Bureau  
Ed Manasse, Bureau of Planning

David Harlan, Building Services Division  
Kevin Kashi, PWA  
Ray Herbert, Acting City Surveyor

Mike Petouhoff, Shepherd Canyon Homeowner's Assn, 5959 Westover Drive, Oakland, CA 94611  
Annie Mudge, 6155 Girvin Drive Oakland, CA 94611  
Joseph Petrozelli, 6159 Girvin Drive, Oakland, CA 94611  
Bruce Horton, 6153 Girvin Drive, Oakland, CA 94611  
Steven Finley, 5925 Westover Drive, Oakland, CA 94611  
Damien Rigby, 2335 Pelham Place, Oakland, CA 94611

Attachments: Original and Additional Conditions of Approval

**Attachment A**

**FINDINGS FOR APPROVAL**

See Attachment A: July 21, 2010 Approval Letter and Original Conditions of Approval

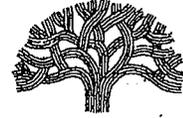
**ADDITIONAL CONDITION OF APPROVAL**

The following condition of approval shall be added to the adopted Conditions of Approval for case file CU05-440/TPM8784 upon extension of applicable entitlements beyond December 31, 2018:

1. The Project approved under Case File CU05-440/TPM8784 is subject to, and Applicant shall agree to pay, the development impact fees that were adopted by the City Council per Ordinances 13365 and 13366.
2. The applicant shall be required to obtain a P-Job Permit (privately funded public improvement) to widen the paved roadway abutting the entire subject site to a minimum of 20 feet. Any encroachments located within the public right-of-way require encroachment permits and would need a 5-foot minimum setback from the required finished edge of pavement.

***Additional Conditions of Approval***

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

July 21, 2010

Kirk Miller  
Westover Heights Inc.  
442 Post Street, Suite 801  
San Francisco, CA 94102

**RE: Case No.:** TFM8784 & CU05-440  
**Project Address:** Three vacant lots adjacent to, and north-west of 5860 Westover Drive  
(APNs: 048D-7282-060-00; 048D-7282-061-00; and 048D-7282-062-04)

Dear Mr. Miller:

Subject to the Conditions of Approval included below, your application for a Tentative Parcel Map to merge three lots and re-subdivide them into four lots, and Minor Conditional Use Permit to: 1) construct a Shared Access Facility to provide vehicular access to serve the subject lots, and 2) allow a subdivision involving two or more lots and/or moving of lot lines more than five feet in the R-20 and S-10 zones, located at the above-referenced location has been **APPROVED**. The proposed project has been found to comply with the Subdivision Regulations and Conditional Use Permit Criteria as set forth in Sections 16.04.010, 16.08.030, 16.24.040 of the Subdivision Regulations and Sections 17.90.050, 17.90.060, 17.102.090, 17.134.050, and 17.136.050 of the Oakland Zoning Regulations of the Oakland Planning Code. Attachment "A" contains the findings required for this approval and the reasons your proposal satisfies them. Attachment "B" contains the Conditions of Approval for the project.

<b>Zoning:</b>	R-20 Low Density Residential Zone R-30 One-Family Residential Zone S-10 Scenic Route Combining Zone
<b>General Plan:</b>	Hillside Residential
<b>Environmental Determination:</b>	Exempt, Sections 15332, infill development and 15303, new construction of small structures of the State CEQA Guidelines; Section 15183, projects consistent with a community plan, general plan or zoning.
<b>Historic Status:</b>	Not a Potential Designated Historic Property (PDHP); Survey Rating: N/A
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	4

This decision becomes effective in ten (10) days from the date of this letter unless appealed to the City Planning Commission. If you, or any interested party, wishes to appeal this decision to the City Planning Commission, the appeal must 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 **Maurice Brenyah-Addow**. 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 \$1181.93 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 will preclude one from raising such issues during the appeal and/or in court.

Any party seeking to challenge a final decision in court must do so within ninety (90) days of the date of the announcement of a final decision, pursuant to Code of Civil Procedure section 1181.93, unless a shorter period applies.

In order to file a Building Permit, please submit construction drawings consistent with the present approval and pay fees at the 2nd floor, Permit Counter, 250 Frank H. Ogawa Plaza, Oakland. Please include a copy of this letter with your Building Permit application.

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 the De Minimis Impact Findings 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 **Maurice Brenyah-Addow, 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 Maurice Brenyah-Addow at (510) 238-6342.

Sincerely yours,



SCOTT MILLER - Zoning Manager  
Community & Economic Development Agency

- Attachments: A. Findings for Approval  
B. Conditions of Approval  
C. Building Services & Fire Prevention Bureau Comments

Case No.: TPM8784 & CU05-440; Address: Three vacant lots adjacent to and north-west of 5860 Westover Drive

- 3 -

cc: Mike Petouhoff and Michael Lighty, SCHA, 5959 Westover Drive, Oakland, CA 94611  
Steve Finley, 5925 Westover Drive, Oakland, CA 94611  
Linda Flower, 5909 Westover Drive, Oakland, CA 94611  
Joe Petroxelli, 6159 Girvin Drive, Oakland, CA 94611  
Bruce Horton, 6153 Girvin Drive, Oakland, CA 94611  
Anne Mudge, Esq. c/o Cod, Castle & Nicholson, LLP, 555 California Street, 10<sup>th</sup> Fl, San Francisco, CA 94104  
James Mittelberger, 6155 Girvin Drive, Oakland, CA 94611  
Rena Rickes, 1970 Broadway, Suite 1200, Oakland, CA 94612  
Chief Edwards, Fire Prevention Bureau  
Chief Williams, Fire Prevention Bureau  
Philip Basada, Fire Prevention Bureau  
Shahram Aghamir, Building Services

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## ATTACHMENT A

This proposal meets the required findings and standards under Section 16.04.010 (Purpose), Section 16.08.030 (Tentative Map), and Section 16.24.040 (Lot Design Standards) of the Oakland Subdivision Regulations; and Sections 17.90.050, 17.90.060, 17.102.090, 17.134.050, and 17.136.050 of the Oakland Planning Code as set forth below. Findings, explaining how the proposal conforms to given criteria, are stated in bold type.

### SECTION 16.04.010 - PURPOSE:

"...ensure that the development of subdivisions is consistent with the goals and policies of the Oakland General Plan."

The site falls within the Hillside Residential Land-Use classification of the Oakland General Plan (GP). The Hillside Residential classification is intended to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots. Typical lot sizes range from approximately 6,530 square feet to one acre in size. The proposed 4 lots with net sizes ranging from 14,100 to 16,700 square feet are intended to accommodate 4 detached single family residences and therefore the proposed development is consistent with the desired neighborhood character and density of the Hillside Residential General Plan.

### SECTION 16.08.030 - TENTATIVE MAP

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 consistent with applicable general and specific plans as specified in the State Government Code Section 65451.

**As stated in the finding for Section 16.04.010 above, the proposed project is consistent with the intended character, land use, and density of the General Plan's Hillside Residential Land-Use classification which states that future development should remain residential in character. The proposed project maintains the residential character of the neighborhood and is therefore consistent with the intent and desired character of the Hillside Residential General Plan.**

- B. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

See "A" above.

- C. That the site is physically suitable for the type of development.

**The subject site is located in a hillside setting where similar detached single family dwellings exist. The project is not anticipated to have any significant impacts on the availability of civic facilities and utilities. It is not anticipated to generate any unusual level of traffic beyond the**

capacity of the surrounding streets. A proposed common driveway will enable the site to be developed in a manner that will enable the four lots to share amenities. Staff is not aware of any existing condition that could create a significant environmental hazard, and therefore concludes that the site is physically suitable for the proposed development.

- D. That the site is physically suitable for the proposed density of development.

The proposed density of 4 total units for the entire 69,331 square-foot site works out to be one unit for every 17,332 square feet of gross lot area. This is consistent with both the R-20 (1 unit/12,000 s.f.) and R-30 (1 unit/5,000 s.f.) lot area zoning densities as well as the Hillside Residential General Plan's maximum density of one lot per every 6,530 lot area. Therefore, the proposed 4 units at the site are consistent with the desired neighborhood character and density for the site.

- E. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The proposed project is not anticipated to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

- F. That the design of the subdivision or type of improvements is not likely to cause serious public health problems.

There are similar single family developments in the hillside setting of the Oakland Hills. No public health problems are anticipated from the proposed development.

- G. That the design of the subdivision or the type of improvements will not 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.)

N/A

- H. That the design of the subdivision does provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

The proposed lots have been configured in a manner to allow for future passive or natural heating or cooling opportunities in the subdivision. Future buildings will be oriented to have ample fenestration to take advantage of natural solar heating and cooling opportunities.

**SECTION 16.24.040 - LOT DESIGN STANDARDS:**

- A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except....  
All four proposed lots have frontage on Westover Drive. Therefore the proposed parcels meet the above criterion.
- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.  
The side property lines for all four proposed parcels to the extent practical, run at right angles to Westover Drive. Because of the curvature of the street, a couple property lines angle in and out to adjust to the overall lot configuration. The proposed parcels therefore meet the above criterion.
- C. All applicable requirements of the zoning regulations shall be met.  
The proposed lots exceed the minimum 5,000 and 12,000 square-foot lot areas for the R-30 and R-20 zones respectively.
- D. Lots shall be equal to or larger in measure than the prevalent size of existing lots in the surrounding area.  
The following are the prevalent lot size and width statistics of properties within a 200-foot radius of the subject site:

R-30 Zone  
Median lot size- 8000 SF  
Median lot width - 70 feet

R-20 Zone  
Median lot size - 11,993  
Median lot width - 95 feet.

Hence, the proposed lots ranging from 14,100 to 16,700 square feet in sizes and 70 to 120 feet in width are equal to or larger in measure than the prevalent lot sizes and widths of the existing lots in the surrounding area.

**SECTION 17.134.050 - CONDITIONAL USE PERMIT FINDINGS:**

- (a) That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.  
The aspects of the proposed project that requires a conditional use permit are: 1) the Shared Access Facility, and 2) the moving of a lot line more than 5 feet in the S-10 zone. The Shared Access Facility will provide vehicular access to the four lots without each lot

having to have a separate driveway on the winding and narrow hillside roadway. The moving of the property lines allows the subdivision to create lots that are reasonably configured for practical future development.

- (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 Shared Access Facility has been reviewed and received input from the Oakland Fire Prevention staff, Building Services staff and interested parties in the community. Together with the conditions of approval, it will provide a convenient and functional living environment for the residents of the subject house.**
- (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 proposed development will result in the construction of new detached single family residential units in a hillside setting and therefore consistent with the character of the area.**
- (d) That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURES at Section 17.136.50. See 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 subject site is located in the Hillside Residential General Plan designation where residential uses in hillside settings are encouraged. The proposed project therefore conforms in all significant respects to the Oakland General Plan.**

**SECTION 17.90.060 – SUBDIVISIONS IN THE SHEPHERD CANYON CORRIDOR**

Within the area shown as "R-20, S-10" on Map 4 of the Shepherd Canyon Corridor Plan adopted by the City Council, no land shall be subdivided into two or more lots, and no lot line shall be moved more than five feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

- A. That the proposal is consistent in all significant respects with the Shepherd Canyon Corridor Plan.  
**The proposed project is residential in nature and outside the areas designated as open space. The recommended density of the Shepherd Canyon Corridor Plan is one unit per 12,000 square feet and therefore, the proposed 4 lots with net sizes ranging from 14,100 to 16,700 square feet are consistent with the Shepherd Canyon Corridor land use map.**
- B. That every reasonable effort has been made to locate the building sites so as to maximize the conservation of open space which is valuable for visual, recreational, ecological, drainage, or safety purposes.  
**The proposed project shows conceptual building footprints that are consistent with the setbacks of the applicable zones and therefore preserves open space to the extent possible.**

**SECTION 17.102.090 – CONDITIONAL USE PERMIT FOR SHARED ACCESS FACILITIES**

A. Use Permit Required. A shared access facility shall be allowed only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

See Findings above.

B. Use Permit Criteria. A conditional use permit under this section may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. Compliance with Guidelines. Each shared access facility proposal shall be in compliance with the City Planning Commission guidelines for development and evaluation of shared access facilities.

**The proposed Shared Access Facility has been designed and revised in accordance with the applicable guidelines and tailored to the demands of the subject site. The current configuration of the driveway and retaining wall is the result of extensive reviews by the Oakland Fire Prevention Bureau staff and interested community members.**

2. Public Safety. The width of a shared access facility shall be adequate to ensure unimpeded emergency and nonemergency ingress and egress at all times. Additionally, the shared access facility shall conform to city standards for roadway layout and design.

**The Shared Access Facility has been reviewed by the Oakland Fire Prevention Bureau (OFPB) and the current width and configuration is based on the recommendations of OFPB.**

3. Aesthetics. A shared access facility shall be designed to provide the environmentally superior alternative to other approaches for the development of the property and shall be designed to be visually compatible with its surroundings, as set forth in the City Planning Commission guidelines; necessary retaining walls shall not be of excessive height and shall not be visibly obtrusive, as such are defined in the City Planning Commission guidelines.

**The Shared Access Facility minimizes the number of driveways from four to one. It also incorporates the "soil nail" retaining wall method that minimizes grading while mitigating visual impacts with finishes that are naturalistic in appearance.**

4. On-Going Owner Responsibility. Applicants for a shared access facility shall submit, for approval, an agreement for access facility maintenance, parking restrictions, and landscape maintenance. Upon staff approval, the proposed agreement shall be recorded by the applicant within thirty (30) days with the Alameda County Recorder. In addition, applicants for a shared access facility shall provide documentation of continuing liability insurance coverage. Documentation of insurance coverage shall include the written undertaking of each insurer to give the city thirty (30) days' prior written notice of cancellation, termination, or material change of such insurance coverage.

**A condition of approval (#44) has been added for this requirement.**

5. Certification. Prior to construction, applicants for a shared access facility shall retain a California registered professional civil engineer to certify, upon completion, that the access facility was constructed in accordance with the approved plans and construction standards. This requirement may be modified or

waived at the discretion of the Director of Public Works, based on the topography or geotechnical considerations. An applicant may also be required to show assurance of performance bonding for grading and other associated improvements. In addition, prior to the installation of landscaping, an applicant shall retain a landscape architect or other qualified individual to certify, upon completion, that landscaping was installed in accordance with the approved landscape plan.

**A condition of approval (#45) has been added for this requirement.**

**SECTION 17.136.050(a) - REGULAR DESIGN REVIEW FINDINGS:**

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

**The proposed project incorporates a retaining wall that incorporates a natural rock finish that creates a wall that is well related to the surrounding area in their setting, scale, bulk, height, materials, and textures.**

2. That the proposed design will protect, preserve or enhance desirable neighborhood characteristics.

**The proposed project maintains the residential nature of the site and will not introduce any prohibited activity to the neighborhood. It will provide off-street parking for the new units while eliminating the need for separate driveways on the narrow and winding roadway.**

3. That the proposed design will be sensitive to the topography and landscape.

**The project will not involve any unnecessary earthwork or vegetation removal.**

4. That if situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

**The proposed project does not involve construction of any dwelling unit at this point. Future developments will be required to relate to the grades of the hill.**

5. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable district plan or development control map which has been adopted by the City council.

**See response to Section 16.04.010 above.**

**SECTION 17.90.050 - S-10 DESIGN REVIEW CRITERIA.**

In the S-10 zone, proposals requiring regular design review approval pursuant to Section 17.90.030 may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to both of the following additional criteria:

- A. That the siting, grading, and design will, to the maximum extent feasible, preserve existing live trees and other desirable natural features;  
**The proposed project will involve removal of mostly eucalyptus trees that are considered highly flammable and recommended for removal.**
- B. That the proposed development will, as far as practicable, maintain existing vistas or panoramas which can be seen from the abutting public road and maintain the visual value of the total setting or character of the surrounding area.  
**The applicant has entered into an agreement with interested parties to preserve existing vistas by entering into a view easement agreement over the subject site. Future developments will be required to comply with the stipulations of the agreements.**

**SECTION 17.102.400.E - RETAINING WALLS**

1. No retaining wall shall exceed six (6) feet in height, except in the following cases:
- a. Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty (20) percent or more may exceed six (6) feet in height if both of the following provisos are met:
- i. The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Section 17.116.260A.  
**The proposed driveway has been designed to have a minimum width of 18 feet. The street-to-setback slope exceeds 20% and the garage floors of future dwellings units will be at the optimum elevation based on the maximum driveway slopes permitted by Section 17.116.260A.**
- ii. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.  
**The proposed retaining wall applies the "soil nail" method which keeps the top of the retaining wall no higher than necessary to retain the existing grade at the top of the wall.**
2. Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.  
**The proposed "soil nail" walls will be separated by a distance of at least four (4) feet between the exposed faces of each wall.**

3. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

**The proposed "soil nail" walls shall be treated with a naturalistic texture, finish, and color that has the appearance of natural hillside rock. The areas around the walls shall be landscaped to further the naturalistic appearance and minimize visual impacts.**

#### **ENVIRONMENTAL DETERMINATION**

The project has been found to be categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Sections 15332 and 15303 of the CEQA Guidelines (Class 32, "In-fill Development Projects" and "new construction of small structures") because the project consists of in-fill development within an urbanized area where there is no potential for the project to cause any significant environmental impacts. On a separate and independent basis, the project is also exempt under CEQA Guidelines Section 15183, projects consistent with a community plan, general plan or zoning. Below are the findings required for projects found exempt under Section 15332 and the reasons the proposed project meets these findings:

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

**Finding: The project is consistent with the general plan designation, all applicable general plan policies, and the applicable zoning regulations as described above in the Conditional Use Permit findings.**

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

**Finding: The project is located within the city limits of the city of Oakland in an urbanized area along an arterial. The combined lot areas of all the properties involved is less than 5 acres in size.**

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

**Finding: The project is located within a substantially urbanized area characterized by detached single family dwellings in a hillside setting. As far as staff has been able to determine, no evidence has been provided to substantiate that the site has value as habitat for endangered, rare, or threatened species.**

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

**Finding:** The project would not result in any significant effects relating to traffic, noise, air quality, or water quality. Implementation of the City's standard conditions of approval, which includes, but is not limited to, specific measures for noise, air-quality, stormwater pollution management, would reduce potential negative impacts to less than significant levels.

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

**Finding:** The project site is conveniently accessible to all required utilities (e.g., water, power, sanitary sewer facilities, and storm drain facilities) and all required public services (e.g., police and fire services).

As a separate and independent basis, the project also satisfies CEQA Guidelines Section 15183 as the project is consistent with the general plan and zoning. Specifically, as a separate and independent basis from the other CEQA findings, pursuant to CEQA section 21083.3 and Guidelines section 15183, staff recommends that the Planning Commission find: (a) the project is consistent with Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998; (b) feasible mitigation measures identified in the LUTE EIR were adopted and have been, or will be, undertaken; (c) the EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made, staff recommends that the City Planning Commission find and determine that the Standard Conditions of Approval substantially reduce environmental impacts; and (e) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate the project and cumulative impacts.

## ATTACHMENT B

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

### General Conditions of Approval for all Projects:

#### 1. Approved Use

##### *Ongoing*

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, decision letter, and the revised plans dated February 25, 2010 and submitted on February 25, 2010, 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 require prior written approval from the Director of City Planning or designee.
- b) This action by the Director of City Planning ("this Approval") includes the approvals set forth below. This Approval includes:
  - Tentative Parcel Map to merge three lots and re-subdivide them into four lots, and
  - Minor Conditional Use Permit to: 1) construct a Shared Access Facility to provide vehicular access to serve the subject lots and 2) allow a subdivision involving two or more lots and/or moving of lot lines more than five feet in the R-20 and S-10 zones.

#### 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 use and/or plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved use and/or 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. Compliance with the other applicable requirements may require changes to the approved use/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, 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) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions** if it is found that there is violation of any of the **Conditions** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

**6. Signed Copy of the Conditions**

*With submittal of a demolition, grading, and building permit*

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

**7. Indemnification**

*Ongoing*

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole

discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

- a). Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

*Ongoing*

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval as 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 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 stamped 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, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

**12. Required Landscape Plan for New Construction and Certain Additions to Residential Facilities**

*Prior to issuance of a building permit*

Submittal and approval of a landscape plan for the entire site is required for the establishment of a new residential unit (excluding secondary units of five hundred (500) square feet or less), and for additions to Residential Facilities of over five hundred (500) square feet. The landscape plan and the

plant materials installed pursuant to the approved plan shall conform with all provisions of Chapter 17.124 of the Oakland Planning Code, including the following:

- a) Landscape plans shall include a detailed planting schedule showing the proposed location, sizes, quantities, and specific common botanical names of plant species.
- b) Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 zone, shall show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions.
- c) Landscape plans shall incorporate pest-resistant and drought tolerant landscaping practices. Within the portions of Oakland northeast of the line formed by State Highway 13 and continued southerly by Interstate 580, south of its intersection with State Highway 13, all plant materials on submitted landscape plans shall be fire resistant. The City Planning and Zoning Division shall maintain lists of plant materials and landscaping practices considered pest-resistant, fire resistant and drought tolerant.
- d) All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

**13. Landscape Requirements for Street Frontages.**

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

- a) All areas between a primary Residential Facility and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.
- b) In addition to the general landscaping requirements set forth in Chapter 17.124, a minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Director of Parks and Recreation.

**14. Assurance of Landscaping Completion.**

*Prior to Issuance of a Certificate of Occupancy*

The trees, shrubs and landscape materials required by the conditions of approval attached to this project shall be planted before the certificate of occupancy will be issued; or a **bond, cash, deposit, or letter of credit, acceptable to the City**, shall be provided for the planting of the required landscaping. The amount of such or a **bond, cash, deposit, or letter of credit** shall equal the greater of two thousand five hundred dollars (\$2,500.00) or the estimated cost of the required landscaping, based on a licensed contractor's bid.

**15. Landscape Maintenance.**

*Ongoing*

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences, walls and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

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

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

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements located within the public ROW.
- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

**17. Payment for Public Improvements**

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

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

**18. Compliance Plan**

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

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

**19. Dust Control**

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

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

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

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

**20. Construction Emissions**

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

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

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

**21. 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:
  - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of 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.
  - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction 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.
- g) Applicant shall use temporary power poles instead of generators where feasible.

**22. Noise Control**

***Ongoing throughout demolition, grading, and/or construction***

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

- a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- b) 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) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- d) 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.

**23. Noise Complaint Procedures**

*Ongoing throughout demolition, grading, and/or construction*

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

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

**24. 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 and submitted to the Building Services Division for review and approval. 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.

**25. Construction Management**

*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 Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. 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 at an approved location.
- 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.
- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.

**26. Erosion and Sedimentation Control**

*Ongoing throughout demolition grading, and/or construction activities*

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. 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.

**27. Hazards Best Management Practices**

*Prior to commencement of demolition, grading, or construction*

The project applicant and construction contractor shall ensure that Best Management Practices (BMPs) 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.

- 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 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 notification of 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.

**28. 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](http://www.oaklandpw.com/Page39.aspx) or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

*Ongoing*

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

**29. Pile Driving and Other Extreme Noise Generators**

*Ongoing throughout demolition, grading, and/or construction*

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will

be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

- a) Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- b) 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;
- c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- d) 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
- e) Monitor the effectiveness of noise attenuation measures by taking noise measurements.

**30. Lighting Plan**

*Prior to the issuance of an electrical or building permit*

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

**31. Tree Removal During Breeding Season**

*Prior to issuance of a tree removal permit*

To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 31, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

**32. Tree Removal Permit**

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

Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right-of-way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.

**33. Tree Protection During Construction**

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

Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- a) Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- c) No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- d) Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- e) If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Agency of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- f) All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

**34. Tree Replacement Plantings**

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

Replacement plantings shall be required for erosion control, groundwater replenishment, visual screening and wildlife habitat, and in order to prevent excessive loss of shade, in accordance with the following criteria:

- a) No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- b) Replacement tree species shall consist of Sequoia sempervirens (Coast Redwood), Quercus agrifolia (Coast Live Oak), Arbutus menziesii (Madrone), Aesculus californica (California Buckeye) or Umbellularia californica (California Bay Laurel) or other tree species acceptable to the Tree Services Division.
- c) Replacement trees shall be at least of twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- d) Minimum planting areas must be available on site as follows:
  - i. For Sequoia sempervirens, three hundred fifteen square feet per tree;
  - ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.
- e) In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- f) Plantings shall be installed prior to the issuance of a final inspection of the building permit, subject to seasonal constraints, and shall be maintained by the project applicant until established. The Tree Reviewer of the Tree Division of the Public Works Agency may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the project applicant's expense.

**35. Archaeological Resources**

*Ongoing throughout demolition, grading, and/or construction*

- a) 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.

- b) 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.
- c) 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 shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

**36. 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.

**37. 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.

**38. Drainage Plan for Projects on Slopes Greater than 20%**

*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 drainage plan to be reviewed and approved by the Building Services Division. The drainage plan shall include measures to reduce the post-construction volume and velocity of stormwater runoff to the maximum extent practicable. Stormwater runoff shall not be augmented to adjacent properties or creeks. The drainage plan shall include and identify the following:

- i. All proposed impervious surface on the site;
- ii. Anticipated directional flows of on-site stormwater runoff;
- iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces;
- iv. Source control measures to limit the potential for stormwater pollution; and
- v. Stormwater treatment measures to remove pollutants from stormwater runoff.

**39. Erosion, Sedimentation, and Debris Control Measures**

*Prior to issuance of demolition, grading, or construction-related permit*

The project applicant shall submit an erosion and sedimentation control plan for review and approval by the Building Services Division. All work shall incorporate all applicable "Best Management Practices (BMPs) for the construction industry, and as outlined in the Alameda Countywide Clean Water Program pamphlets, including BMP's for dust, erosion and sedimentation abatement per Chapter Section 15.04 of the Oakland Municipal Code. The measures shall include, but are not limited to, the following:

- a) On sloped properties, the downhill end of the construction area must be protected with silt fencing (such as sandbags, filter fabric, silt curtains, etc.) and hay bales oriented parallel to the contours of the slope (at a constant elevation) to prevent erosion into the street, gutters, stormdrains.
- b) In accordance with an approved erosion control plan, the project applicant shall implement mechanical and vegetative measures to reduce erosion and sedimentation, including appropriate seasonal maintenance. One hundred (100) percent degradable erosion control fabric shall be installed on all graded slopes to protect and stabilize the slopes during construction and before permanent vegetation gets established. All graded areas shall be temporarily protected from erosion by seeding with fast growing annual species. All bare slopes must be covered with staked tarps when rain is occurring or is expected.
- c) Minimize the removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Maximize the replanting of the area with native vegetation as soon as possible.
- d) Install filter materials acceptable to the Engineering Division at the storm drain inlets nearest to the project site prior to the start of the wet weather season (October 15); site dewatering activities; street washing activities; saw cutting asphalt or concrete; and in order to retain any debris flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding.

- e) Ensure that concrete/granite supply trucks or concrete/plaster finishing operations do not discharge wash water into the creek, street gutters, or storm drains.
- f) Direct and locate tool and equipment cleaning so that wash water does not discharge into the street, gutters, or stormdrains.
- g) Create a contained and covered area on the site for storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by the wind or in the event of a material spill. No hazardous waste material shall be stored on site.
- h) Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- i) Remove all dirt, gravel, refuse, and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- j) Broom sweep the street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping. At the end of each workday, the entire site must be cleaned and secured against potential erosion, dumping, or discharge to the street, gutter, stormdrains.
- k) All erosion and sedimentation control measures implemented during construction activities, as well as construction site and materials management shall be in strict accordance with the control standards listed in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Board (RWQB).
- l) All erosion and sedimentation control measures shall be monitored regularly by the project applicant. The City may require erosion and sedimentation control measures to be inspected by a qualified environmental consultant (paid for by the project applicant) during or after rain events. If measures are insufficient to control sedimentation and erosion then the project applicant shall develop and implement additional and more effective measures immediately.

**40. Site Design Measures for Post-Construction Stormwater 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:

- i. Minimize impervious surfaces, especially directly connected impervious surfaces;
- ii. Utilize permeable paving in place of impervious paving where appropriate;
- iii. Cluster buildings;
- iv. Preserve quality open space; and
- v. Establish vegetated buffer areas.

***Ongoing***

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

**41. 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.

**42. 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 Sewer and Stormwater Division. 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**

**43. Exterior finishes and treatments of driveway retaining walls**

*Prior to application for a building permit*

The applicant shall submit samples of exterior materials, finishes, and treatments for the "soil nail" driveway retaining walls. Planting strips shall be incorporated where appropriate to minimize visual impacts of exposed driveway retaining walls.

**44. On-Going Owner Responsibility**

*Prior to recordation of final map, and Ongoing*

Applicants for a shared access facility shall submit, for approval, an agreement for access facility maintenance, parking restrictions, and landscape maintenance. Upon staff approval, the proposed agreement shall be recorded by the applicant within thirty (30) days with the Alameda County Recorder. In addition, applicants for a shared access facility shall provide documentation of continuing liability insurance coverage. Documentation of insurance coverage shall include the written undertaking of each insurer to give the city thirty (30) days' prior written notice of cancellation, termination, or material change of such insurance coverage.

**45. Certification**

*Ongoing*

Prior to construction, applicants for a shared access facility shall retain a California registered professional civil engineer to certify, upon completion, that the access facility was constructed in

accordance with the approved plans and construction standards. This requirement may be modified or waived at the discretion of the Director of Public Works, based on the topography or geotechnical considerations. An applicant may also be required to show assurance of performance bonding for grading and other associated improvements. In addition, prior to the installation of landscaping, an applicant shall retain a landscape architect or other qualified individual to certify, upon completion, that landscaping was installed in accordance with the approved landscape plan.

**46. Building Services and Fire Prevention Bureau comments**

*Prior to Application of building permits and Ongoing*

The applicant shall incorporate the attached comment and conditions of approval from the Building Services and Fire Prevention Bureau (See Attachment C).

**47. Submittal of Final Map and Final Map Requirements**

*Within two years of the effective date of approval, and ongoing*

A Final Map shall be submitted to the Building Services Department, within 2 years of the approval of this permit. The Final Map shall include: all easements for right-of-way provided for public services or utilities; all property which is offered for dedication for public use; and all property that may be reserved by deed or covenant for common use of the property owners in the subdivision, in a form acceptable to the City Engineer and acceptance language by the City Engineer, along with all other supplementary maps or plans required as conditions of approval. The applicant shall record the Final Map and a written legal description of the reconfigured parcels as part of the deed with the Alameda County Recorder's Office and proof of such recordation shall be provided to the Planning Department prior to issuance of Building Permits. Failure to file a Final Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

**48. Certification of Parcel Map**

*Ongoing*

A Parcel Map may be certified by the City Engineer at the expiration of the ten-day appeal period from the date of this approval.

**Applicant and/or Contractor Statement**

I have read and accept responsibility for the Conditions of Approval, as approved by Planning Commission action on \_\_\_\_\_ Date. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

Signature of Owner/Applicant: \_\_\_\_\_ (date)

Signature of Contractor: \_\_\_\_\_ (date)

## CITY OF OAKLAND

### MEMORANDUM

TO: Zoning Division  
ATTN: Maurice Brenyah-Addow  
FROM: Building Services SA  
Date: June 7, 2010

RE: TENTATIVE PARCEL MAP NO. 8784 LOCATED AT  
WESTOVER DRIVE (APN 048D-7282-060, 061 and 062-4)

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In order for Building Services to recommend approval of the subject Tentative Parcel Map No. 8784, the Planning Commission must first use their authority pursuant to Section 16.04.060 of the Oakland Municipal Code to waive the provisions pertaining to the proposed Private Access Easement. The proposed Common Driveway doesn't not meet the criteria set by the Share Access Facilities Guideline For Development and Evaluation regarding the required width, slope turnaround, or the maximum height of retaining walls.

Assuming the issues stated above are resolved to the satisfaction of the City, the following conditions of approval are requested to be attached to the approval of the Tentative Parcel Map:

1. A Common Driveway Easement will need to be reserved on the proposed Lots 1 through 4. A clause reserving the easement shall be included under the owner's statement on the parcel map.
2. An emergency vehicle access easement needs to be dedicated along the Common Driveway Easement for the benefit of the proposed Lots 1 through 4. A clause dedicating this easement shall be included under the owner's statement on the parcel map.
3. A grading permit for the construction of the Common Driveway will need to be approved, and grading bonds need to be posted prior to the approval of the parcel map for recordation.
4. The on-site storm drain shall be designed in such a way that storm runoff is retained on-site to the extent that is practicable. Prior to its discharge into the City's storm drain system, any runoff from the proposed Common Drive and other impervious areas shall be treated using grass swales and/or other measures. Using inlet filters in lieu of other alternatives to treat the run off is not acceptable. A copy of the Storm Water Pollution Prevention Plan (SWPPP) as well as a copy of the Notice of Intent needs to be submitted to the City for review if these documents are required by the State of California.

5. The site is located within a zone of required investigation for earthquake-induced landslides as shown on the Seismic Hazard Zone Maps issued by the State Geologist. A Site Investigation Report needs to be submitted and approved by the City. The report shall be prepared by a certified engineering geologist and/or a Civil Engineer participating within the area of his or her competence, which documents the result of an investigation of the site for seismic hazards and recommends mitigation measures to reduce the risk of identified seismic hazards to acceptable levels.
6. The proposed subdivision is subject to storm drainage impact review as well as sanitary sewer impact review and mitigation fee assessment as described in the attached sheet provided by the City of Oakland Public Works Agency. The owner needs to complete the attached forms and submit it together with supporting documents to Gus Amirzehni of the City of Oakland Public Works Agency.

SHAHRAM AGHAMIR  
CIVIL ENGINEER

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CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 4314 •  
Public Works Agency  
Engineering Design & ROW Management Division

OAKLAND, CALIFORNIA 94612  
(510) 238-3437  
FAX (510) 238-7227

**SUBMITTAL REQUIREMENTS FOR  
SANITARY SEWER IMPACT REVIEW  
& MITIGATION FEE ASSESSMENT**

Applicant/Project Name \_\_\_\_\_

First Check Submittals<sup>1</sup>

Date received \_\_\_\_\_

Reviewed by \_\_\_\_\_

- 1. Site and vicinity map depicting building footprint, public sanitary sewer main(s), location and size of service lateral connection(s).
- 2. Description of existing or pre-existing site use, improvements, and conditions.
- 3. Description of proposed development.
- 4. Engineering calculations of the estimated existing or pre-existing wastewater base flow in gallons-daily (gpd).
- 5. Engineering calculations of the proposed wastewater base flow in gallons-daily (gpd).
- 6. Engineering calculations of the proposed wet-weather peak flow (including infiltration/inflow and groundwater components) in gallons-daily (gpd).

Subsequent Submittals

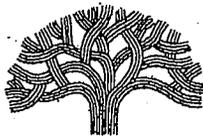
Date requested \_\_\_\_\_

Date received \_\_\_\_\_

Reviewed by \_\_\_\_\_

- 7. Delineation of wastewater tributary area for the system servicing the proposed development.
- 8. Engineering calculations of the estimated wet-weather peak flow for the tributary area.
- 9. Routing/modeling of the estimated wet-weather peak flow through the existing system from the proposed development to the nearest trunk/interceptor system.

<sup>1</sup> The first check submittals are needed to initiate a sanitary sewer impact review by the Public Works Agency. Additional information as listed under subsequent submittals may be required upon review of the first check submittals.



CITY OF OAKLAND  
Oakland Fire Department  
Fire Prevention Bureau

250 Frank Ogawa Plaza, Suite 3341  
Oakland, CA 94612  
(510) 238-3851 - VOICE  
(510) 238-6739 - FAX

## MEMORANDUM

**To:** Office of Planning and Zoning  
**Attn:** Maurice Brenyah-Addow  
**From:** Philip Basada  
**Date:** June 3, 2010  
**Re:** TPM 8784 – Subdivide 3 lots into 4

**Summary.** The Fire Prevention Bureau Code Enforcement Unit had reviewed the previous design to develop 3 parcels into 4 lots of single family home sites in the high fire severity zone of the Oakland Hills. This project was further reviewed by the Chief with subsequent meetings at City Hall. Fire Code provisions and concerns on water supply, but most importantly fire apparatus access and mutual response agreements with Fire Departments from other cities are the main considerations that differentiate the following conditions from the initial design.

The applicant proposes to subdivide the properties into four new residential lots located in the Wildfire Prevention Assessment District. The proposed development will create about 475 feet of dead-end access road coming from Westover Drive.

The hills areas are prone to wild fires due to limited vegetation controls and existing non-rated buildings having non-rated roof covering. The proposed access road will exceed the 400-foot maximum limit where a two on-site water supplies (hydrants) are required per currently adopted Fire Code Ordinance.

The project conditions set by the Fire Department are not intended to supersede the more restrictive conditions enforced by other city agencies, especially fire apparatus access roads uniformly adopted by surrounding cities where Oakland Fire Department has mutual response shared responsibilities. The applicant shall meet the more restrictive municipal code provisions required by other City of Oakland agencies unless adequate alternatives are accepted by the Advisory Agency.

**If the project is to be approved by the Advisory Agency, please attach the following conditions of approval:**

1. **Utilities and Service Systems, Hydrant Spacing:**
  - a. The dead-end access road shall be provided with two on-site hydrants with available fire flow of at least 1000 gpm at 20 psi. On-site water

supply mains and hydrants shall be provided along the fire apparatus access road at 400-foot maximum spacing. Ref: 2007 CFC Appendices B and C.

- b. No overhead power cables or utilities that may interfere with fire truck ladder rescue or fire fighting shall be installed in front of any new building proposed for this development. All utilities shall be undergrounded to eliminate hazards posed to rescue and fire fighting personnel. Ref.: 2001 CFC Section 901.4.3.

**2. Fire Apparatus Access Roads, Off-Street Parking, Fire Crew Access to individual lots:**

- a. Construction documents. Construction plans for fire access roads and plans for water supply and distribution systems shall be submitted to Oakland Fire Department and CEDA Engineering Services for review and approval prior to construction. Ref.: 2007 CFC 501.3, 501.4.
- b. The proposed 18-foot wide driveway as described in proposed map subdivision is subject to City Ordinance 12871 restrictions as a fire access road due to the number of dwelling units served. Ref.: Ord. 12871, Section 4714.2:

*Add: 4714.2 Driveways.* Driveways with an all-weather surface shall be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of 12 feet and a minimum unobstructed height of 13 feet 6 inches. Driveways in excess of 150 feet in length shall be provided with turnarounds. Driveways in excess of 200 feet in length and less than 20 feet in width shall be provided with turnouts in addition to turnarounds. An all-weather surface shall be any surface material acceptable to the code official.

A driveway shall not serve in excess of two dwelling units.

**Exception:** When such driveways meet the requirements for an access road in accordance with this chapter.

- c. Construction of buildings. Access roads (and on site hydrants) shall comply with the City's Ordinance 12871 amendments to the 2007 California Fire Code.
- d. Fire apparatus access road widths shall adopt the fire department's access guidelines as adopted in the amended 2007 CFC Appendix D. The new Fire Code Appendix D as adopted by the City of Oakland is applied to new and existing roads to allow not only the OFD ladder and engine apparatuses from the City's fire stations but also those from other cities where the city's Fire Department has mutual response agreements with. The proposed access road does not comply with the

City's fire code ordinance because no more than 150 feet of continuous access road can have 18% slopes without tapering down to 15 percent for at 150 feet long.

- e. Fire watch and fire apparatus access shall be provided per 2007 CFC Chapter 5 and Appendix C during all phases of construction, especially upon delivery of combustible construction materials at the site.
- f. All new fire apparatus roads shall not exceed 18 percent slope. The apparatus turnaround shall not exceed 5 percent slope.
- g. Each building on a lot shall be provided with approved steps on grade that leads to the farthest exterior walls on grade when property slopes exceed 15 percent.
- h. The applicant shall follow the City's Public Works Agency if the PWA road design standards are more restrictive than the new 2007 CFC Appendix D as amended. The following shall be on minimum improvements on public streets, when required by PWA:
  - i. 26 feet effective road width: 0'-0" parking on either side of the street where buildings served are 30 feet or more in height relative to the lowest grade of fire apparatus access per 2007 CFC Appendix D, as amended.
  - ii. 26 feet effective road width: 0'-0" parking on either side of the street where the public road is served by hydrant/s per 2007 CFC Appendix D, as amended.
- i. A secondary private access road is not required per City's fire code ordinance because the proposed dead end shared access road facility does not exceed 600 feet in length.

The above conditions may be modified to include Public Works Agency design standards, only when such conditions are more restrictive. An effective road width having no less than 20 feet for fire apparatus and equipment staging shall be maintained in the shared private access road. Ref.: 2007 California Fire Code Appendix D, 2007 CFC Section 901.4.3.

### 3. Vegetation Management

- a. The Vegetation Management Unit enforces the rules applicable to the Wildfire Assessment District boundaries. However, certain trees may be regulated as noted below.
- b. The trees selected shall be maintained to allow fire apparatus access: 20 feet of unobstructed road width and 13'6" clear height along the proposed shared access facility.
- c. Provide and maintain 30-foot fire breaks and defensible spaces from combustible vegetation to each structure. Ref.: 2007 CFC 4701.1
- d. Please contact the Fire Prevention Bureau's Vegetation Management Unit at (510) 238-7388 and ask for Assistant Fire Marshall Leroy Griffin or Inspector Camille Rodgers on current regulations in the fire hazard areas.

**4. Building Permits**

- a. Each new building proposed in this development shall comply as required per City Ordinance for new construction in the fire hazard areas of the Oakland Hills.
  - b. All new buildings shall be equipped with an approved sprinkler system. Residential sprinklers shall be sized to deliver an amount of flow equivalent to the 4 most hydraulically demanding heads.
  - c. Only UL-listed fire alarm service providers (per NFPA 72 standards) shall monitor each residential sprinkler system when a burglar alarm or a fire alarm system is provided.
  - d. The access road and water supply availability shall meet or exceed the provisions of 2007 CFC Appendices C and D, as amended. The paved access road shall have screeds to minimize apparatus slippage.
-

L. KIRK MILLER  
577 Forest Street  
Oakland, CA 94618  
Phone: 415-505-0106  
Email: [kirk@kirkmiller.net](mailto:kirk@kirkmiller.net)

September 20, 2019

Robert Merkamp  
Zoning Manager  
Department of Planning and Building  
250 Frank H. Ogawa Plaza  
Oakland, CA 94612-2032

Maurice,  
Would you please, via email,  
send me an invoice for the  
Planning Commission extension, as  
you did last year?  
A copy of that invoice is attached.  
Thanks.  
Kirk.

RE: Extension of Planning Approval  
Case File No.: TPM8784 & CU05-440  
Three vacant lots NW of 5860 Westover Drive  
APNs: 048D-7282-060-00, 048D-7282-061-00, &  
048D-7282-062-4-00

Dear Mr. Merkamp:

The extension of the planning permit approval for the above referenced properties expires on December 31, 2019, per last year's extension by the Planning Commission.

A further one-year extension of the approval from the Planning Commission is hereby requested.

In the new year it became evident that it would not be possible to proceed with the project as designed and approved, due to circumstances beyond my control.

The Westover Drive site is difficult. It took some time to explore many alternative access alternatives. We are now in the process of applying for a revision to the existing approvals, as opposed to a new and completely independent application.

Via a copy of this letter to Maurice, with notes, I will ask him to prepare the invoice for the extension request, as he has done in the past.

If you have any questions or concerns, please do not hesitate to contact me, or to have Maurice to do so.

Sincerely yours,



L. Kirk Miller, FAIA

cc: Maurice Brenyah-Addow

**Attachment B**