

Location:	4521 Howe Street.
Assessor's Parcel Number:	013- 1129-005-00 & 012-1129-006-00
Proposal:	Appeal of the Interim Zoning Manager's approval of a project to merge two lots and subdivide the one lot into a (4) four Mini-Lot development; remove an existing single-family dwelling, and construct four (4) detached single-family dwellings with a common driveway.
Appellants:	Lewis Lopez & Heather Barrett Juliana Germak & Sean Trepanier
Phone Number:	(510) 449-8766
Owner and Applicant:	Tom Anthony/ John Newton Design & Development
Case File Number:	APL18007 (PLN17084/TPM10678)
Planning Permits Required:	Regular Design Review to construct four detached single-family dwellings; Minor Conditional Use Permit to allow a Mini-Lot subdivision and a Shared Access Facility (common driveway) to access the required parking spaces; Tentative Parcel Map Subdivision to merge two existing lots into one lot and create four (4) mini-lots.
General Plan:	Mixed Housing Type Residential
Zoning:	RM-2 Mixed Housing Type Residential-2 Zone
Environmental Determination:	Exempt, Section 15303 of the State CEQA Guidelines; Construction of new dwellings; Section 15315: Minor Land Division; and Section 15183: Projects Consistent with a Community Plan, General Plan or Zoning
Historic Status:	Not a historic property
City Council District:	1
Date Filed:	March 26, 2018
Staff Recommendation:	Deny the Appeal and uphold the Zoning Manager's decision
Finality of Decision:	Final (Not Appealable pursuant to OMC Sec. 17.132.030)
For Further Information:	Contact case planner Jason Madani, Planner III at (510) 238-4790 or jmadani@oaklandnet.com

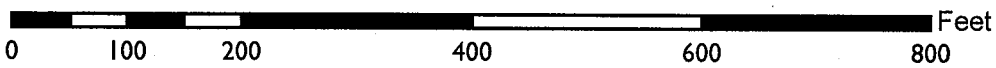
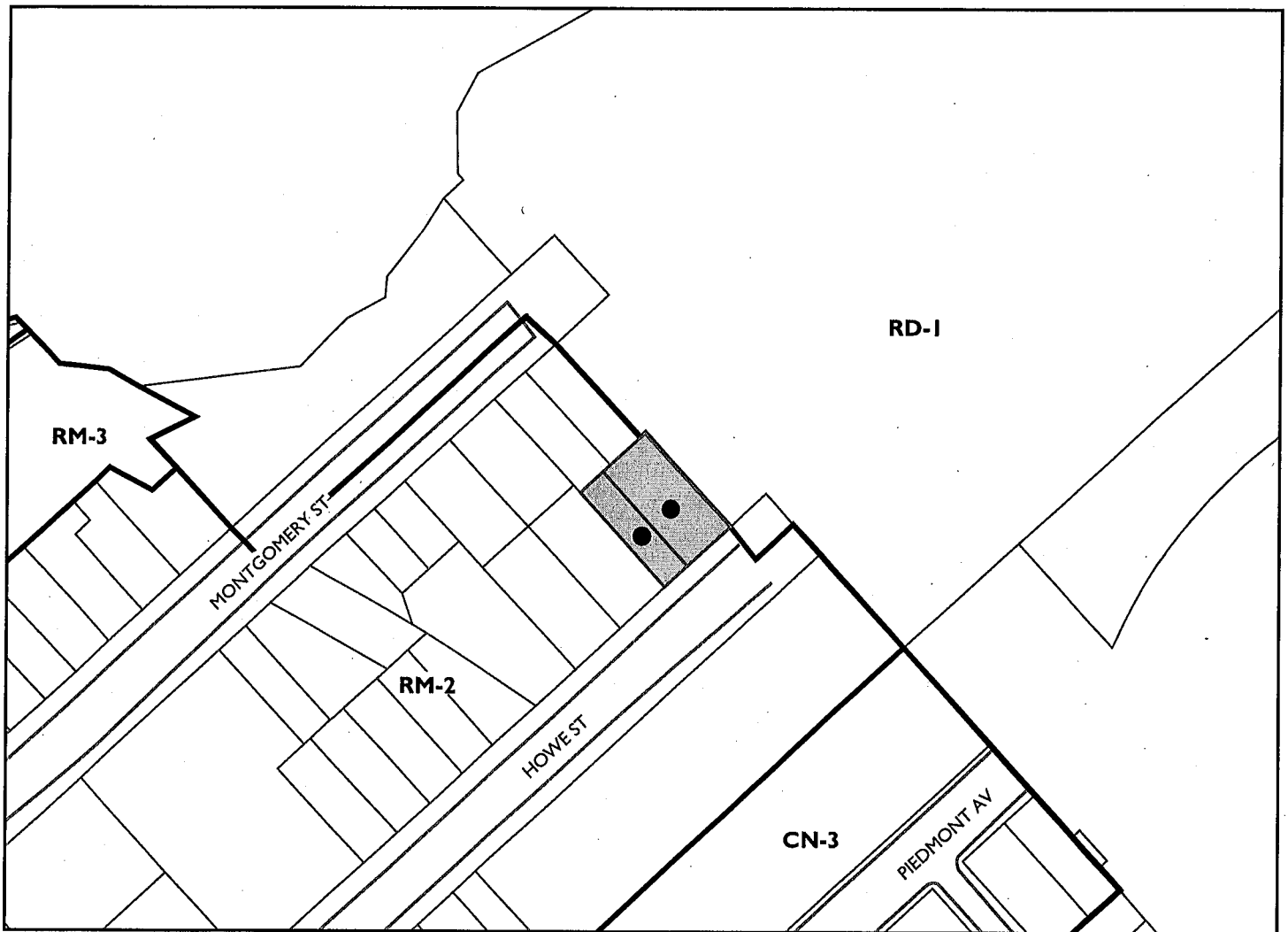
SUMMARY

The project applicant submitted a Planning application on March 30, 2017 to merge two lots and subdivide one lot into a four Mini-Lot development; demolish an existing single-family dwelling, and construct four detached single-family dwellings with a common driveway. The project required the following Planning permits: a Minor Conditional Use Permit (CUP) to allow a Mini-Lot subdivision and a Shared Access Facility (common driveway) to access the required parking spaces; Regular Design Review to construct the detached single-family dwellings; and a Tentative Parcel Map to merge two existing lots into one lot and create the Mini-lots.

Staff reviewed the application and met several times with the owners and neighbors to discuss the project and address potential issues through design changes. The Interim Zoning Manager issued an approval of the project on March 14, 2018 concluding that the proposed project met the required Findings and was consistent with the Planning Code and Oakland General Plan.

The 10-day Appeal period ended on March 26, 2018 at 4:00 PM and a timely Appeal was filed on that

CITY OF OAKLAND PLANNING COMMISSION



Case File: APL18007 (PLN17084/TPM10678)
Appellants: Lewis Lopez & Heather Barrett
Juliana Germak & Sean Trepanier
Address: 4521 Howe Street
Zone: RM-2

same day by the homeowners of 4501 Howe Street (multi-family building to the left of the project site) representing Lewis Lopez, Heather Barrett, Juliana Germak and Sean Trepainer (*Attachment A*). The Appellant requests that the Planning Commission overturn the Interim Zoning Manager's decision on the basis that project does not comply with appropriate Findings or the General Plan policies noted in the decision letter.

Per Section 17.132.020 of the City of Oakland Planning Code, the Appellant must state where an error or abuse of discretion was made by the Zoning Manager or where the Zoning Manager's decision is not supported by evidence in the record. The arguments raised by the Appellant are summarized below in the Basis for the Appeal portion of this report, along with City staff's response to each argument.

Staff recommends that the Planning Commissions deny the Appeal and uphold the Interim Zoning Manager's decision for the reasons stated in this report including the Appellant's failure to assert error, abuse of discretion or lack of substantial evidence for the Zoning Manager's decision.

PROPERTY DESCRIPTION

The project consists of two lots containing a two-story single-family dwelling with 12'-3' wide driveway located at 4521 Howe Street. The subject lots are rectangular, 86'-5" wide and 124'-9" deep for a total of 10,812 square-feet. There are eight trees (Monterey Cypress, Coast Live Oak, multi-stem Loquat trees, Lombardy Poplar, and Podocarpus) located on the lots.

The subject site is located between 4501 Howe Street (a multi-unit condominium building) and several building's owned by St. Mary's Cemetery. The Cemetery entrance is two lots further down the street. The neighborhood consists of two and three-story single-family homes of various Arts and Craft architectural styles.

BACKGROUND / OUTREACH

On March 30, 2017, the applicant submitted an application for development review to the Planning Bureau. On April 7, 2017, a seventeen-day public notice period began including mailings to all property owners within a three-hundred-foot radius and a public notice posted on site. Several property owners including the Appellant's submitted letters expressing concerns primarily related to density; building height; building orientation related to privacy, view, solar, and light impacts; tree removal and biodiversity; adherence to parking, setbacks and landscape standards; and architectural style. These issues are also discussed in the *Basis for the Appeal* portion of this report (*Attachment A*).

Staff attended a community meeting and met the neighbors on multiple occasions both at the City and at the project site to address neighborhood concerns and Planning Code requirements regarding this project. Various revisions to the proposal were made at the direction of staff to increase the distance between buildings at the ground level, and upper floor, reduce building height for Unit 6B, increase window sills height, and off-set the location of windows to minimize privacy impacts to adjacent building.

GENERAL PLAN ANALYSIS

The subject site is located in the Mixed Housing Type Residential land use classification of the Land Use and Transportation Element (LUTE) of the City's General Plan. The intent of this classification is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhouses and small multi-unit buildings, and neighborhood businesses where appropriate. This classification permits one unit for every 2,500 square feet of lot area and would allow a maximum of four units on the 10,812 square foot parcel. Furthermore, as noted in the decision letter, the proposed project meets the following LUTE policies.

Objective N3: Encourage the construction, and enhancement of housing resources in order to meet the current and future needs of the Oakland community. The project will construct three addition units to add to Oakland's housing stock.

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the City of Oakland. The project will construct three addition units to add to Oakland's housing stock.

Objective N6- Encourage a mix of housing costs, unit sizes, types and ownership structures. The proposal provides a mix of three and four bedroom residential units as corrected from the decision letter.

Policy N6.1 Mixing Housing Types. The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes. The proposal includes a mix of housing types (small mini-lots), and unit sizes (three and four bedroom residential units) which will be available to households with a range of incomes.

Policy N7.1 Ensuring Compatible Development. New residential development in Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development. As detailed in the decision letter, the proposal is compatible in terms of density, scale, design, and existing or desired character of surrounding development.

As such, the proposal will conform with Mixed Housing Type Residential land use classification and City's Design Review Guidelines with regards to neighborhood compatibility context.

ZONING ANALYSIS

The property is located in the Mixed Housing Type Residential Zone - 2 (RM-2 Zone). The intent of the RM-2 Zone is: "to create, maintain, and enhance residential areas characterized by a mix of single-family homes, duplexes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate." The RM-2 Zone permits one unit for every 2,500 square feet of lot area and would allow a maximum of four (4) units on the 10,812 square foot parcel. Mini-lots are permitted in the RM-2 Zone.

Staff reviewed the application submitted March 30, 2017 for a Minor CUP to allow a Mini-Lot subdivision and a Shared Access Facility (common driveway) to access the required parking spaces; Design Review to construct four detached two to three-story single-family dwellings; and a Tentative Parcel Map to merge two existing lots into one lot and create four mini-lots (*Attachment B*). The proposed project complies with the required setbacks, height, parking and open space requirements. The proposed Shared Access Facility has adequate width of 9', and 18' of backing out distance from garage to the front property line of parcels # 1 and #2. The one-car garages, located on parcels # 3 & #4, are less than 100' from Howe Street and do not require a turn-around for maneuverability. Therefore, Shared Access Facility is consistent with the guidelines for development and evaluation of shared access facilities. The project also involved removal of one Monterey Cypress; one Coast Live Oak; and two multi-stem Loquat trees within the project's buildable area as well as one Podocarpus located within 10' of the proposed construction. The Tree Removal Permit (T17-038) was approved by City of Oakland, Public Works Agency Tree Services Division on June 27, 2017. The Tree Permit was not appealed.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Staff found that the project was consistent with Section 15303 of the State CEQA Guidelines for projects involving new construction of small structures (single-family

dwellings); Section 15315: Minor Land Divisions; and Section 15183: projects consistent with a Community Plan, General Plan or Zoning. The proposal met this description. The project is, therefore, exempt from environmental review.

BASIS FOR THE APPEAL

The Appellants filed a timely Appeal of the Zoning Manager's Determination on March 26, 2018. The Appellant requests that the Planning Commission overturn the Interim Zoning Manager's decision approving the project. The Appeal alleges that:

- 1) The existing single-family home to be demolished is not dilapidated and someone has been living in the home.
- 2) The proposed homes do not respect and will adversely affect privacy.
- 3) The project will impact light, views, etc.
- 4) The project does not support a mix of households with a range of incomes.
- 5) The proposed design greatly changes the look of the neighborhood.
- 6) The proposed buildings do not provide ample setbacks.
- 7) The proposed project does not reduce the mass of the buildings and will negatively impact the street.

Following are the Appellant's bases for appealing the Interim Zoning Manager's decision, as distilled from the Appeal letter (**Attachment A**) into Issues described below and shown in normal type. Staff's responses, which relate to Findings from the decision letter (**Attachment B**), are shown in *italics*.

An Appeal shall cite the error or abuse of discretion by the Interim Zoning Manager and/or where their decision is not supported by evidence in the record. The Planning Commission determines whether the proposal conformed to applicable criteria and may uphold, reverse, or modify the approval.

Appellant Issue 1:

The project proposes the demolition of a "dilapidated vacant house". The house is not dilapidated and is not vacant as described in the CUP Finding A. The developer's family members have been living in the charming home.

Staff Response:

The existing single-family dwelling, located at 4521 Howe Street, was constructed in 1921. No building permit has been issued since 1997 except an electrical permit. It was not staff's intention to mischaracterize the existing conditions of the house. However, while the house is likely well built, the lack of a building permit history from 1921 to 1997 indicates that the house could benefit from additional maintenance and is likely not consistent with current building codes. However, even if staff's description of the existing conditions was incorrect, the building is not considered a historic property and may still be demolished to facilitate the proposed development.

The Applicant's proposal will increase the City's overall housing stock by three (3) additional dwellings. The developer may choose to allow a family member to continue to occupy one of the Mini-lot dwellings.

Appellant Issue 2:

The proposed homes do not respect privacy and will adversely affect our homes as described in the CUP Finding A.

Staff Response:

The project will not adversely impact abutting residences in terms privacy. The required setback in the RM-2 Zone is 5' and the intent of the side setback is to reduce privacy and other impacts on adjacent properties while acknowledging the urban and contextual setting. Staff worked with the applicant and adjacent neighbors to re-design the project to increase the building setback at ground floor by 9'-6" and 7' at the second floor for the rear unit (6B). This provides a 15'-7" separation between building located at 4501 Howe Street and unit 6B and is three times the setback required. The front unit (6A) is 10'-6" and 12' from 4501 Howe Street. There will be five trees planted between buildings to also minimize potential privacy impacts. Furthermore, the windows of 6B are offset from neighboring windows and set high on the façade at 5'-6" and 6'-7" above floor line.

In sum, the City has worked with the applicant to redesign the project to provide additional setbacks than required, additional planting, and windows are offset and high to avoid privacy impacts. These methods are consistent with the guidelines and reasonable efforts to reduce privacy impacts while avoiding large blank walls on the facades.

Appellant Issue 3:

We appeal staff's finding that the project will not impact our residence. The appellant notes light and air in this argument as described in the CUP Finding E1.

Staff Response:

The project requires a CUP for a Mini-lot development and a Shared Access Facility. The Findings for approval include the following criteria governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines in relation to solar access, privacy and view blockage:

- 1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height*

Staff made this Finding in the decision letter. The proposed dwelling units are oriented such that most of their bedroom windows have a side view to the proposed vacant project site and the forested hills of St. Mary Cemetery.

The City's Guidelines note that a project shall make a reasonable effort to maintain the most significant views from primary living spaces of existing residences on lots in close proximity to the project site. View protection is considered for view that are located within view corridors, subject to view protection techniques.

Per the City Guidelines this is not considered a significant view as it does not include a view of the downtown skylines, a bridge, a panoramic view of a major natural feature, or structural landmark. However, even if this was considered a significant view, the view does not meet the criteria within a view corridor as the view is from the side, there is no cross-slope greater than 20% and there is less than 10' of change in elevation between the abutting residences. Therefore, the project will not result in a view impact.

*Light is addressed through shadow analysis and adherence to the setbacks. A project shall make a reasonable effort to minimize solar access impacts on actively used outdoor or indoor areas of abutting properties. A solar access impact exists when more than 50% of an actively used indoor area's exterior walls facing the project or when more than 50% of an actively used outdoor area for the spring and fall equinox during at least two of the following three times of day: 9:00 am, 12 pm, and 3.00 pm. The proposed houses are located northeast of the adjacent multi-building. Their adjacent walls are largely self-shadowed facing to Unit 6B since the sun comes predominantly from the south. The applicant substantially revised Unit 6B to reduce the second floor height and massing to reduce potential solar impact. The proposed house has very little shadow impact on the adjacent building per the analysis. The lowest rear windows of the adjacent unit are also generally shadowed already by the existing Oak tree in the rear yard. A shadow study prepared by the applicant indicates that the proposal is compliant with Criterion 2 of Solar Access Impacts on neighboring properties (**Attachment D**). As discussed above, the project provides 9'-6" setback from side property line at ground floor, and 7' setback at second floor, where 5' side yard setback is required in RM-2 Zone to increase day light between buildings. This provides approximately 15'-7" separation between building located at 4501 Howe Street thus reducing potential light impacts. Finally, the site is located in an urban sitting where most of homes provide 10' separation between building in RM-2 Zone. This project will provide 12' to 15'-7" setback between buildings.*

Privacy issues are addressed above.

Therefore, the project will not adversely impact abutting residences in terms of solar access or view blockage.

Appellant Issue 4:

The project will not support the City's criteria of mixed housing types, unit sizes, and lot sizes which are available to households with a range of incomes and the project does not meet Policy 6.1.

Staff Response:

The LUTE notes: The General Plan contains many policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan.

The proposal is to merge two lots into one lot and subdivide one lot into a four Mini-Lot development and then construct four detached single-family dwellings on the resulting smaller lot. These smaller lots are will be available to households with a range of incomes. While, these homes are market rate and the project does not provide affordable units, the smaller lots are generally offered at a price more affordable than the typical lot. In addition, the project includes a range of bedrooms which also generally are differentiated in price. This is the intent and purpose of a Mini-lot development.

Finally, the Policy only provides support for a mix of housing costs, unit sizes, types and ownership structures to be built in Oakland. This policy does not mandate that each new development project provide a range of costs, sizes, types, ownership structures within the development. To provide more affordable housing options, the City Council adopted impacts fees which the applicant will need to pay for each dwelling unit to the City of Oakland for future affordable housing projects.

Appellant Issue 5:

The appellant asserts that the project design greatly changes the look of the neighborhood and the project does not meet Policy N7.1 Ensuring Compatible Development. New residential development in Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development.

Staff Response:

Again, a project is not required to meet all the policies in the LUTE and, the Planning Commission, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. We believe it is.

Density

The subject site is located in the Mixed Housing Type Residential classification. This classification permits one unit for every 2,500 square feet of lot area and would allow a maximum of four (4) units on the 10,812 square foot parcel. As such, the project is consistent with the density permitted by the General Plan.

Context and Design

The City of Oakland Design Review Manual for One-and Two Residential Units, which is applicable to projects with one unit per lot, defines a two-story context as when at least 60% of the homes in the context area (five houses on each side and ten houses across street) are two stories. At least half of the surrounding houses must exhibit similar characteristics, such as; roof form, principal entryway, building setback, building and surface materials, windows, architectural detail, landscaping, site access and parking. Staff has visited the site and verified the neighborhood context. There are total of 16 out of 20 houses in the context area that are considered two-story structures on this block. Most of houses are of a traditional Arts and Crafts architectural style. Their main entrances off the front porch; pitch roof; front yard landscaping; exterior building materials consist of stucco, board and batten, horizontal sidings; high quality windows; similar front yard setbacks. The existing roof forms include pitched, hip, flat roofs, or shed. Furthermore, many of the surrounding lots have rear structures, making a mini-lot development with rear structures consistent with the neighborhood.

Scale

The building heights for the units range from 25'-4" to 29'-3" where 30' is allowed by Planning Code. The buildings are well related to the surrounding area in terms of setting. The proposed buildings are setback from the front property line to provide adequate front yard landscaping. The buildings provide ample setbacks from the side and rear property lines. The proposed design uses a traditional Arts and Crafts architectural style with the main entrance off the front porch similar to the surrounding structures. The building height of unit 6B, has been reduced to 25'-4" to reduce scale and mass to minimize visual impacts on the adjacent condominium building. Therefore, the proposed building height and building design is consistent with the majority other homes. The materials and roof pitches are also similar. The surface of the driveway will be finished with permeable decorative pavers with similar parking layout to the neighborhood.

In sum, the project meets Policy N.7.

Appellant Issue 6:

The project does not provide ample setbacks, and therefore does not minimize impacts. We argue that the

proposed buildings did not sufficiently reduce their building mass to not negatively impact our units and street. Furthermore, the project does not meet the Regular Design Review Findings 1 and 4 as described below:

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.

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

Staff Response:

As discussed in the Finding above, the project is consistent with the context in terms of setting, scale, height and materials and textures.

In regards to design and massing on a hillside, lots on Howe Street are gently sloping. The project involves soil excavation to construct the buildings and driveways. The parcel is 20% slope.

The original building design submitted has been revised as follows to reduce privacy and other impacts on adjacent neighbors:

As discussed above, the project provides ample setbacks.

The project was re-designed to the mass through the following changes:

- *Increase the building setback from the property line at ground floor by 9'-6" and 7' for the upper level for upper unit 6B;*
- *Add a second floor bay projection to reduce building mass for unit 6A; and*
- *Add two-story bay to articulate front façade for unit 6A.*

Furthermore, the building elevations are articulated to minimize perceived bulk and visual impacts on the street and neighboring properties. Specifically, the design incorporates various architectural elements and detailing such as, eaves, and fascia panels to reduce the scale, bulk and massing of the building. These elements are also used on nearby residences. The proposed building exterior material is combination of smooth stucco, horizontal and vertical sidings and dual-pane aluminum-clad wood with painted wood trim and recessed from the exterior walls which is also a method per the City's Guidelines to reduce the bulk and mass. In sum, the proposed project will create a design that is well-related to the setting, meets the context and Findings.

Appellant Issues noted in the comment letters:

The Appellants also alleges that the concerns brought up in the comment letters submitted during and after the public comment period were not addressed. Issues not addressed above are summarized and discussed below.

Tree removal, biodiversity, and temperature

The site includes large oak trees and many wildlife species are found on the lot including birds, deer, turkeys, frogs and other species.

Staff Response:

The project applicant applied for a tree removal permit. This permit was granted and not appealed. However, the City included several conditions related to tree replacement planting and nesting bird surveys before tree removal. These conditions have been used to effectively on numerous projects to mitigate impacts to trees and nesting birds.

In regards to temperature, this is not a factor in the City's guidelines. However, the applicant will be planting five new trees adjacent along the side property line and the neighbors may plant addition trees on their yard to address this issue.

In regards to bio-diversity, the lot is located two lots in from the entrance to St. Mary's Cemetery. The Cemetery provides a large open space where deer and other animals may forage and are relatively undisturbed. In contrast, the lot is surrounded by development on all sides. Furthermore, the lot in and of itself is not large enough to solely provide habitat for the species noted in the letters. Finally, while, there is intermittent connection between the Cemetery, Ostrander Park, Temescal Regional Park and the regional parks along the Oakland hills, there are no further open areas further down Howe or Pleasant Valley.

Parking and Driveways

The project is not meeting the parking standards.

Staff Response:

Per Planning Code Section 17.116.060, one parking space is required per unit and as further noted in Limitation 16 in the RM-2 Zone. The project provides adequate parking.

The project will include two driveways to access the front and rear units. The proposed 9' wide driveways are located along the side property to create buffer between the neighboring buildings. The proposed driveways are divided by a landscaped island to allow access to two off-street parking spaces on-site. The garage is set back 18' from the edge of pavement as required by Planning Code. The proposed common driveway has adequate width and 18' backing out and does not require a turn-around.

Landscape/ buffering

The project does not provide accurate details regarding trees, walls and grades and doesn't provide adequate buffering.

Staff Response:

The proposed buildings are sited on the uphill slope of the lot and respond to the terrain with distinct volumes that step with hillside. The proposal will involve grading occurring mainly within the building footprint and driveway area. The grading plan must be reviewed and approved by the Building Services Division. There are adequate open spaces within the development, and landscaping is provided for each residential unit. The landscape plan will include new shrubs and trees between unit 6B along the side and front yards and between buildings within the court yard to create buffer between proposed buildings as well as neighbors. The project provides adequate open space and buffering.

CONCLUSION

The appellant fails to cite any error or abuse of discretion by the Interim Zoning Manager and / or when the decision is not supported by evidence in the record. There is no reasonable basis for overturning staff's determination, as reflected in the Findings for Approval. Staff recommends that the Planning Commission uphold the Interim Zoning Manager's decision and deny the Appeal.

RECOMMENDATIONS

1. Affirm staff's environmental determination.
2. Uphold the Zoning Manager's decision and Deny the Appeal.

Prepared by:



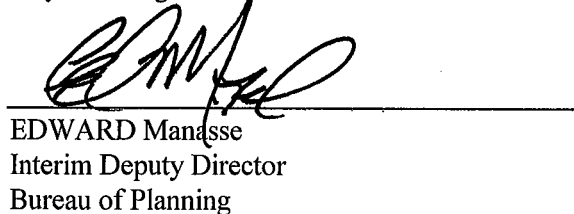
Jason Madani
Planner III

Reviewed by:



ROBERT MERKAMP
Interim Zoning Manager

Approved for forwarding to the
City Planning Commission:



EDWARD Manasse
Interim Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Appeal letter dated and submitted on March 26, 2018 and supporting documents
- B. Administrative decision letter with conditions of approval by Interim Zoning Manager (approval) dated March 14, 2018 and approved plans
- C. Neighborhood context photos
- D. Shadow analysis

LEGAL NOTICE:

ANY PARTY SEEKING TO CHALLENGE THIS DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE ANNOUNCEMENT OF A FINAL DECISION, PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.

Attachment A

25 March 2018

City of Oakland Planning Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Appealed Project: PLN17-084/TPM 10678

To whom it may concern,

As homeowners at 4501 Howe street we (Lewis lopez, Heather Barrett, Juliana Germak, Sean Trepanier) are appealing project PLN17-084. We feel our concerns have been disregarded during the process and oppose the development as it stands for the following reasons:

- Section 17.134.050 General Use Permit Criteria (A, E1, Policy N6.1, Policy N7.1)
 - (A) It proposes the demolition of a 'dilapidated vacant house.' The house is not dilapidated, and is not vacant. The developer's family members have been living in the charming home. The proposed homes do not respect privacy and will adversely affect our homes.
 - (E1) We appeal the staff's finding 1 that the proposed project will not adversely impact our residence (light, view etc). It will and we feel these concerns were not seriously reviewed.
 - (Policy N6.1) The project does not support the city's criteria of mixed housing types available to households with a range of incomes. The homes being built will only service higher incomes.
 - (Policy N7.1) We argue that the proposed design does greatly change the look of the neighborhood.
- Section 17.136.050(A) Regular Design Review Findings (1,4)
 - (1) We argue that the proposed buildings do not provide ample setbacks from the side property and does not minimize impacts.
 - (4) We argue that the proposed buildings did not sufficiently reduce their building mass to not negatively impact our units and street.

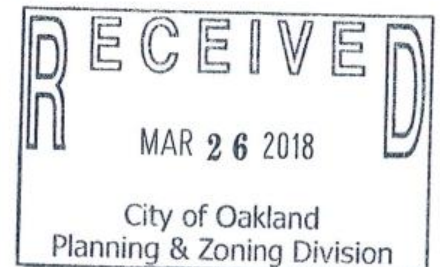
Attached are previous letters outlining concerns in detail and producing other ideas for planning options. The March 14th, 2018 Case file document is included as well with the main areas of concern highlighted. We request a more serious and thorough review.

Respectfully,

Lewis Lopez & Heather Barrett
4501 Howe Street, Unit 3
Oakland, CA 94611
Lewislopez617@gmail.com
Heather.e.barrett09@gmail.com
(510)449-8766

Juliana Germak & Sean Trepanier
4501 Howe Street, Unit 4
Oakland, CA 94611
juliana.germak@gmail.com
Sean.trepanier@gmail.com
(646)823-7660

For reference please see highlighted areas in staff report.





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

PROJECT INFORMATION

Case No. of Appealed Project: PLN 17-084/TM 10678
Project Address of Appealed Project: 4521 Howe Street
Assigned Case Planner/City Staff:

APPELLANT INFORMATION:

Printed Name: Lewis Lopez Phone Number: 510-449-8766
Mailing Address: 4501 Howe St. #3 Alternate Contact Number: 646-823-7660
City/Zip Code Oakland 94611 Representing: Lewis Lopez, Heather Barrett,
Email: lewislopez617@gmail.com Juliana Gormak, Sean Trepanier

An appeal is hereby submitted on:

[X] AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING
COMMISSION OR HEARING OFFICER)

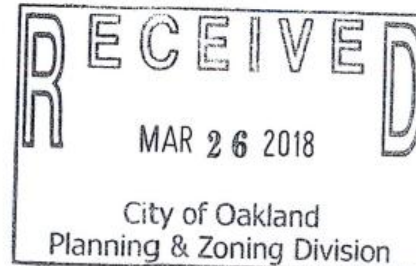
YOU MUST INDICATE ALL THAT APPLY:

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

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

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

(continued on reverse)



(Continued)

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

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

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

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

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

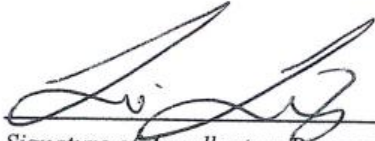
The appeal is based on the following: *(Attach additional sheets as needed.)*

Cover letter and supplemental documents attached.

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

(Continued on reverse)

(Continued)



Signature of Appellant or Representative of
Appealing Organization

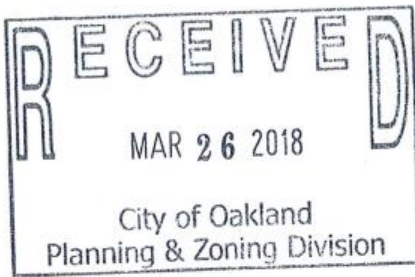
March 26, 2018

Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:



April 23, 2017

Jason Madani, Case Planner
City of Oakland Planning Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

RE: Proposed Development at 4521 Howe Street – PLN17084

Mr. Madani,

We, the Home Owners Association for 4501 Howe Street, are writing to express our comments and concerns regarding the proposed development at 4521 Howe Street, planning department case no. PLN17084. As the immediately adjacent neighbors to the proposed project, we possess intimate knowledge of the lots to be joined and developed. We also stand as the property most impacted by the proposed new development.

After reviewing the applicant's submittal package, we have the following concerns that we ask be addressed:

- **Access to light, views and privacy** - Our condo building is oriented such that all units have all our bedroom windows facing the vacant adjacent undeveloped lot. Our only source of light along our eastern elevation comes from those windows. Current views from each unit include the adjacent established trees and the forested hills of St. Mary's cemetery with the Oakland Hills beyond. We have concern about how the applicant is addressing privacy and how the new homes would affect our access to natural light and views. Homesite 6B is proposed to be located 5' from the property line between our lots and approx. 10' from our building. This distance, combined with the height of the proposed homes, would significantly reduce access to light, our existing views and our bedroom privacy, particularly for units 2, 3, & 4 in our building. We believe alternative site plan solutions exist within the Mini-Lot guidelines that would allow for a larger buffer between homesite 6B and our building and we ask that those be discussed and explored publicly. We request a shade and privacy study for how the new homes will impact our units and our existing window locations.
- **Removal of existing trees** – Currently there are beautiful existing established trees on site that appear slated to be removed. Notable among these are an existing Coastal Live Oak at the northwest corner (a protected species in "Oak"land) and a Monterey Cypress along the street frontage. These beautiful trees not only provide privacy between units, but also serve as a habitat for wildlife. We frequently see local deer and wild turkeys use the lot as an extension of the cemetery wildlife corridor. These trees positively impact our property values and represent the few remaining established trees on our block following the development of adjacent properties by the same applicant. The application package lacks sufficient information like tree drip lines and extent of canopy to properly understand impacts the new homes would have on any trees to remain. The applicant's package also appears to misrepresent which trees are to be removed and which trees are to remain, and do not correspond with the trees the applicant/city has red-tagged for removal on site, for example, the Coastal Live Oak listed for protection on the site plan is actually red-tagged for removal at the moment. An additional tree that is shown to be on our property has also been red-tagged. The site plan also does not demonstrate how and where replacement trees would be located, in compliance with Oakland Tree Ordinances. We ask that City planning and Tree Services review measures to protect the existing native trees and that they require more detailed plans and analysis of impacts from the proposed development.
- **Parking standards** – The application currently shows a single car parking garage for each unit. This appears to be short of the 1.5 spaces per unit requirement noted for the RM-2 zone in the City of Oakland zoning standards chart. The application does not have a table

demonstrating compliance with zoning standards. Plans lack sufficient dimensional information to confirm that the garage spaces provide the required clearance for a vehicle as well as trash and recycling bins. With the development certain to add to street parking demand, it is important that the proposed garages remain useable for both trash and vehicles. We request that City planning staff require more information to demonstrate that the proposed project is following zoning guidelines and functional design principles.

- **Landscape buffer** – The applicant's package lacks sufficient detail to understand the retaining wall and landscape buffer proposed between our adjacent lots. We request more details including an elevation of what the fencing and retaining walls would look like as well as site cross sections showing retaining wall relationships to our existing building at each unit.
- **Construction impacts** – We request the city review standards for construction dates and times related to this project. We have homeowners that work nights. Current development on our street by the applicant has gone well beyond estimated timelines and schedules for repairing impacts to our property have been vague and not upheld by the applicant to date.
- **Architecture** – We appreciate the attention to detail and quality of design the applicant has included on the previous developments on Howe Street and look forward to the same level of execution on this project.

To date, our group of homeowners has not been engaged by the applicant or their project designer and we have not had an opportunity to voice our concerns or address solutions with them. We look to City staff to guide this process and ask that until the above items have been discussed and addressed, staff not approve the project for development.

With respect,
4501 Howe Street Home Owners Association:

Sue Fishkoff
HOA President, Homeowner

Heather Barrett
HOA Vice-President, Homeowner

Brooke Finan
HOA Vice-President, Homeowner

Juliana Germak
HOA Secretary, Homeowner

Sean Trepanier
HOA Treasurer, Homeowner

Philomena Elias
Homeowner

Lewis Lopez
Homeowner

Jonathan Boriack
Homeowner



April 23, 2017

Jason Madani, Case Planner
City of Oakland Planning Department
250 Frank H. Ogawam Plaza, Suite 2114
Oakland, CA 94612

RE: Proposed Development at 4521 Howe Street – PLN17084

Dear Mr. Madani,

We are the owners of 4501 Howe Street, Unit 4. We are writing to express our comments and concerns regarding the proposed development at the directly adjacent lot at 4521 Howe Street. We are opposed to the project as it is currently proposed.

After reviewing the applicant's proposal, we have the following concerns relating to the applicant's responses on the form entitled "CUP Findings for a Second or Third Unit" that we ask be addressed:

- In response to Sections A and B, the applicant simply states that the proposed development is consistent with neighborhood **density and design** with no mention of adjoining properties and its adverse effects on those. Building four new, multi-story homes on a property that currently only contains one small, single-family residence will dramatically increase residential density. The plans for these houses show that they would be substantially larger and closer together than houses traditionally on this block.
- In response to Section C, the applicant states that the designs will **minimize shading** and should not **impact views** of adjacent houses. This statement cannot be supported by the plans that have been submitted. We have all our bedroom windows facing the vacant adjacent undeveloped lot. Our only source of light along our eastern elevation and during the morning and early afternoon hours comes from those windows. Current views from our unit include the adjacent established trees and the forested hills of St. Mary's cemetery and the Oakland Hills beyond. The applicant shows no concern for our access to direct sunlight and the views that we currently enjoy. Homesite 6B is proposed to be located 5' from the property line between our lots and approx. 10' from our bedroom windows. This distance, combined with the height of the proposed homes, would significantly reduce access to light, our existing views and our bedroom privacy.
- The applicant's responses to Sections D and E do not accurately represent the impact that the proposed project will have on our **privacy**. The plans show Homesite 6B only 10' from our windows, which does not allow for a decent amount of privacy. Any modifications to the existing plan, such as adding fences or landscaping to address privacy concerns, would ultimately adversely impact our access to natural light.

In addition to our concerns relating to the "CUP Findings for a Second or Third Unit" document, we would also to communicate the following concerns:

- **Removal of existing trees** – Currently there are beautiful existing, established trees on site that appear slated to be removed. There is a Coastal Live Oak tree directly outside our bedroom window that provides privacy and also serves as a shelter for wildlife. We frequently see local deer and wild turkeys use the lot as an extension of the cemetery wildlife corridor. These trees positively impact our property value and represent the few remaining established trees on our block following the development of adjacent properties by the same applicant. The developer has already removed all the trees from the adjacent lot on the other side of our property. Our block used to be filled with large, old-growth trees that contributed to the character of the neighborhood. The removal of these trees results in a complete change to

neighborhood character and our quality of life. The applicant's package also misrepresents which trees are to be removed and which trees are to remain and does not correspond with the trees the applicant/city has red-tagged for removal on site. For example, the Coastal Live Oak listed for protection on the site plan is actually red-tagged for removal at the moment. An additional tree that is shown to be on our property has also been red tagged. We ask that City planning and Tree Services review measures to protect these trees and that they require more detailed plans and analysis of impacts from the proposed development.

- **Construction impacts** – We request the city review standards for construction dates and times related to this project. The developer is currently working on other projects on our block that have gone well beyond estimated timelines. He has communicated plans to develop the lot on the other side of our property, however, the only progress over a period of two years has been the removal of trees and pouring of a cement foundation. The lot currently sits empty and collects garbage and construction debris, which is an eyesore and environmental hazard. The developer has made previous representations that have proven to be false. For example, without informing our HOA, he tore down our fence adjoining his property and erected a construction fence in its place. He originally said the fence would be replaced in a timely fashion, but we have been trying to get him to replace the fence for over six months now. We are concerned with the timeliness of the multiple projects and the way in which it negatively impacts our quality of life.

In sum, the proposed project at 4521 Howe Street does not accurately represent the impacts it would have on adjacent properties and the block as a whole. We ask that the current plans be rejected and that any future plans only allow for fewer homes that preserve the character of our neighborhood and protect our access to light and views. We also refer you to the letter submitted by the 4501 Howe Street Home Owners Association that communicates the collective views of all members of our condo community.

Sincerely,

Juliana Germak and Sean Trepanier
4501 Howe Street, Unit 4
Oakland, CA 94611

Juliana.germak@gmail.com / 646-823-4023
Sean.trepanier@gmail.com / 646-823-7660

Re: Proposal to build four single-family homes on two existing lots at 4521 Howe St, Oakland CA

We are owners of 4501 Howe St, unit 3, which is directly adjacent to the proposed construction project at 4521 Howe St. My husband and I purchased our home with the knowledge that we have an incredible view of the St. Mary's cemetery and Oakland hills. Our 2 bedrooms have large windows looking out at a 'sliver' of land and a lot with a quaint adjacent home. A member of our HOA previously owned the sliver of land so it would never be developed. Unfortunately when they moved the land was sold, unbeknownst to the HOA, to a developer who has purchased most of the properties on our block.

We are writing to express our vehement opposition to the project as planned for the following reasons:

1. **Environmental Impact:** The lot has an incredibly high **biodiversity** of species for an urban setting. This is rare and should be acknowledged as well as respected. As a wildlife ecologist, I value that I look out our bedroom window and see black-tailed deer resting at the base of the coast live oak tree (Photos 1-4) and wild turkeys foraging (Photo 5). There is a myriad of other species (Appendix 1), and we can even hear tree frogs at night during the rains. What urban city can boast this? Oakland, the land of oaks. California's ecosystem is founded on oak trees. They serve as the food source and habitat for many species, and one could argue they are a keystone structure, one that is essential for the health of a community ¹. The deer and other species feed on the acorns, while birds nest in the branches. For many oaks it can take thirty-plus years before they produce acorns. Therefore a **mature oak tree** is an integral part to the California food web ¹. Current plans do not show this oak tree as remaining. Removal of this tree, or even building too close to the root system, would be devastating to the wildlife in the area. The fact that this sliver of land is to be developed with their current plan would also eliminate the habitat 'corridor' it creates, allowing for movement of species ². The land's development would completely eliminate the current habitat and cause fragmentation. The developer's plans to replant non-native trees are discouraging. It would not support the current wildlife as the oak does, nor would they provide shade to our building. Not to mention they would require more water than a native drought tolerant species.
2. **Temperature:** This developer has already removed all the trees on the property he purchased on the southwest side of our building. These trees provided shade to our front decks, which are now **unbearably hot** in the summer months. This has become a health concern for pets in the units that are without air conditioning, and it is not possible to use our deck during summer. Within the first month of their removal, our bamboo floors expanded and buckled under the heat. Thus, the front of our units have already been adversely affected by one of the developers' projects.
3. **Our right to Light:** The two homes to be constructed closest to our building will significantly reduce access to **natural sunlight**. Units 1,2,3 and 4 in our 5-unit HOA now enjoy natural light from bedroom windows facing northeast. This is the only natural light available, except for the few windows in our living rooms. Building



homes 10 to 17 feet from our bedroom windows, and 2-3 stories high, will cut off that light entirely. The building plans show that this will most heavily affect our unit 3, which is unacceptable for us.

4. **Our views and property values:** My husband and I purchased this home because of the view and wildlife. Without the view, the home does not have the same worth, period. Not only will our **home's value decrease**, the loss of view would adversely affect our quality of life. Our view is one way to stay sane and de-stress. As the developer's projects down the block have progressed, our driveway has experienced damage due to giant cement trucks trying to turn around. Our concrete is now cracked and our water valve is at risk of being crushed since they drive over it when turning around. With more trucks using our driveway, the only one available, our property will continue to degrade.
5. **Privacy:** This brings to question, how can we enjoy our bedrooms with neighbors 10 feet away looking in? We didn't want to live in an East coast brownstone when we purchased our home, we don't want to live in one now. It is safe to say that most people do not enjoy neighbors looking in. This would **negatively affect** our home values, not to mention the loss of our amazing view. Even adding a fence would just mean we stare into stained wood. Our neighborhood is urban and yet currently has appropriate privacy and respectable density to lot size. This is what makes our street desirable. With construction of a building 10 feet from our bedroom window, the number of construction workers able to look into our homes during the process will be intolerable.
6. **Density Impact:** Building four three-story single-family homes on a property presently containing one small home will substantially increase **residential density** to the detriment of its neighbors. Since construction of 10 new homes, parking has become a nightmare on the once quiet and empty street. The construction, plus added density, will cause parking issues for our units and visitors of the St. Mary's cemetery.
7. **Historical value:** The property closest to the cemetery already has a unique early 20th century home, with a one of a kind angled window at the front. It unfortunately isn't listed as a historical home, but it does have history and boasts **unique architecture**. Another project down the street from a different developer is maintaining the two older homes and renovating them to their potential glory. It seems a shame that this home cannot be given a similar fate while preserving the aesthetic and quality of life on our Oakland block.
8. **Quality of Life:** The density issue, loss of view, decrease in home values, increase in heat, loss of natural light, and loss of privacy all negatively impact our lives. What is not mentioned above is that we have been living through this developer's ongoing project for almost 3 years, and it is still unfinished. The block has been under construction since fall of 2014. The developers' timelines are grossly underestimated. We have had to endure **chronic noise pollution** and the stress and disruption this brings. Noise pollution is a critical issue in scientific literature focused on stress response, known to cause physical issues such hypertension and

impact sleep schedules ³. My husband works nights, so when construction begins at 8:00 am sharp next to our building, this affects his sleep and his ability to work effectively on the job. The developer is already planning a project at our Southwest side, which is still stagnant. How much more disturbance can we expect from work at the backside of our home?

9. **The Developer:** The developer has not engaged with our HOA to discuss the plans, density, or design. The entire project has been a terrible surprise. He also has not shown that he is capable of finishing projects in a timely manner. We have lived next to a pit for almost 1.5 years with excessive noise. We were promised a fence within 2 months and it's already been 6. The developers projected timelines are consistently inaccurate and his **Minor Conditional Use Permit for the RM-2 zone does not include consideration of the concerns listed above.**

As Oakland residents, we take pride in our city and our community, one that can boast wildlife and history in an urban setting. Does this tiny plot of land deserve to be grossly filled? No. Will this one plot drastically change the housing shortage? No. Will the price of this developer's 1.6 million dollar homes eliminate most Oaklanders from purchasing? Yes. This proposed project would negatively impact the lives of 8 Oakland homeowners at 4501 Howe st. **We urge that the proposed project not be permitted in its present form, and that current density regulations be respected.**

Respectfully,
Heather Barrett & Lewis Lopez
4501 Howe St, unit 3
Oakland, CA 94611
Heather.e.barrett09@gmail.com

Literature Cited:

- (1) Tews, J., Brose, U., Grimm, V., Tielbörger, K., Wichmann, M.C., Schwager, M. and Jeltsch, F., 2004. Animal species diversity driven by habitat heterogeneity/diversity: the importance of keystone structures. *Journal of biogeography*, 31(1), pp.79-92
- (2) Conrad, J.M., Gomes, C.P., van Hove, W.J., Sabharwal, A. and Suter, J.F., 2012. Wildlife corridors as a connected subgraph problem. *Journal of Environmental Economics and Management*, 63(1), pp.1-18.
- (3) Ng, C.F., 2000. Effects of building construction noise on residents: A quasi experiment. *Journal of environmental psychology*, 20(4), pp.375-385. Ng, C.F., 2000. Effects of building construction noise on residents: A quasi experiment. *Journal of environmental psychology*, 20(4), pp.375-385.

Wildlife List
Black-tailed deer
Wild Turkey
Hooded Orioles
Black phoebes
House finches
Golden crowned sparrows
Dark-eyed juncos
White-breasted nuthatches
Tit-mice
Brown creepers
California towhees
Anna's hummingbirds
Screech owl
Fox squirrel
California ground squirrel
Mole sp.
Honey bees
Bumble bee sp.
Western fence lizard
Ensatina salamanders

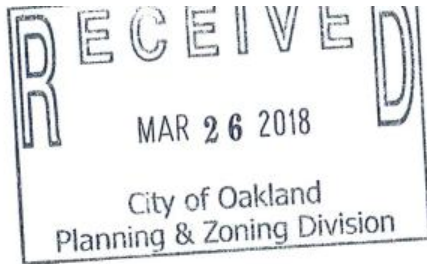
Appendix 1: List of wildlife seen by Unit 3 owners inhabiting or foraging in the lot or live oak tree.



Photos 1-4: Visuals of the deer that utilize the small lot at our Northeast side from our bedroom window and street: Deer feeding, resting, fawns using the back as a corridor through other properties, and crossing to the cemetery.



Photo 5: Turkey displaying and feeding in front of our bedroom window under the oak tree.
Photo 6: Our view from our master bedroom window



April 23, 2017

Jason Madani, Case Planner
City of Oakland Planning Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

RE: Proposed Development at 4521 Howe Street – PLN17084

Mr. Madani,

I am a homeowner who lives next door to the proposed project at 4521 Howe Street (PLN-17084) and am writing to express my comments and concerns related to the project as currently designed and submitted to the City for approval.

As a licensed California architect (C-22129), and LEED accredited professional, I am in general support of the development of urban infill sites within our great city, and appreciate developers, both public and private, that are willing to add quality housing to our community. That said, I have some major concerns related to the project site plan and orientation, its lack of content, and its compliance, or lack thereof, with City Zoning Ordinance and Municipal Code requirements.

After reviewing the applicant's submittal package, I have identified the following items that I request City Planning staff address with the applicant prior to project approval. Please review these in addition to comments I've made to the applicant's package (attached):

- **Site Landscape Plan –**
 - The site plan provided in the package is factually incorrect and lacking in detail necessary for public comment and City approval.
 - The landscape plan is also in direct conflict with the tree removal plans submitted to the Tree Services department. Trees noted for protection on the landscape plan were just red-tagged by Tree Services this week, including a tree on our lot.
 - No replacement trees are noted on the landscape plan, in accordance with Oakland Municipal Code Section 12.36.060, part B. The new trees noted on the plans don't meet the replacement tree varieties required by City.
 - Site Plan should show drip lines of existing trees to remain to understand the impact of the proposed building footprints.
 - Landscape plan does not reflect all existing trees on site.
 - Landscape plan incorrectly identifies existing tree species.
- **Parking standards –**
 - The application currently shows a single car parking garage for each unit.
 - This is short of the 1.5 spaces per unit requirement noted for the RM-2 zone in the City of Oakland Planning Code Table 17.17.03 and Section 17.17.050.
 - The application does not have a table demonstrating compliance with those planning standards.
 - Plans lack sufficient dimensional information to confirm that the garage spaces provide the required clearance for a vehicle as well as trash and recycling bins.
- **Landscape buffer –**
 - The applicant's package lacks sufficient detail to understand the retaining wall and landscape buffer proposed between our adjacent lots as required per Oakland Municipal Code Section 17.136.050.
 - At the minimum, I request that the applicant provide elevations of proposed retaining walls and fences, as well as cross-sections of the retaining walls to understand their relationship to our existing building and grades.

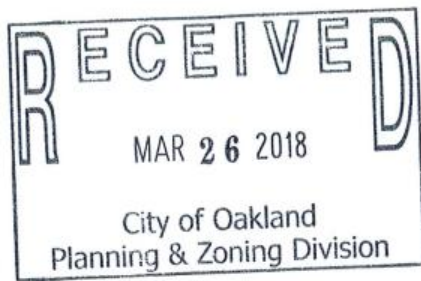
- **Building Orientation to Preserve Access to Light and Privacy –**
 - The site plan as designed has not addressed neighbor concerns related to our existing access to light and privacy.
 - While the applicant has located a driveway between Home 6A and our lot, Home 6B sits the minimum distance off of the property lines and would significantly reduce access to light for three of our condo units.
 - Alternate site plan layouts exist that take into account actual site context and would allow for greater access to light and privacy for both existing neighbors as well as the new homes. See example site plan layout in attached exhibit.
 - Mini-lot development guidelines from the Planning Code 17.142.012 state “floor area may be located without reference to lot lines within the development”. It would be within guidelines to reduce setbacks between the new units to allow for a greater buffer between Home 6B and our existing condo units. I request the Planning department work with the applicant to look at alternative site plans.
 - The site plan shows a property line down the middle, but that contradicts the scope of work which is to combine two lots and then subdivide for a 4-unit mini-lot development. I don't understand why a middle lot line is shown.
 - The property on the opposite of the project is a cemetery with no living homeowners. I request Planning staff encourage and approve a variance to allow the side setback along that property line to be reduced from 5' down to 3', thus allowing the new homes to shift further from our existing building. The 3' dimension is still within California Title 24 minimums for residential units and would still allow the applicant to develop homes with non-rated exterior walls and unlimited openings.

Given the above items noted, I believe the applicant is not meeting the requirements for a Conditional Use Permit as applied for and I ask that the Planning Director deny the permit as currently designed. I request Planning Staff encourage the applicant and designer work with them, Tree Services and adjacent neighbors to look at alternative site layouts that provide the same density and lot coverage, but respond more harmoniously with the site context and seek to address concerns over access to light and privacy.

With respect,



Jonathan Muir Boriack, AIA, LEED AP
Homeowner
4501 Howe Street, Unit 2
Oakland, CA 94611



CITY OF OAKLAND



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

Planning and Building Department
Bureau of Planning

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

March 14, 2018

John Newton
Design & Development
5666 Telegraph Avenue Ste. #A
Oakland, CA 94609

RE: Case File No. PLN17-084/ TPM10678, 4521 Howe Street: APNs: 013-1129-005-00 & 012-1129-006-00

Dear Mr. Newton:

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

The following table summarizes the proposed project:

Proposal:	The proposal is to merge two lots into one lot and subdivide one lot into a (four) Mini-Lot development; remove an existing single-family dwelling, and construct four detached single-family dwellings with a common driveway.
Planning Permits Required:	Regular Design Review to construct four detached single-family dwellings; Minor Conditional Use Permit to allow a Mini-Lot subdivision and a Shared Access Facility (common driveway) to access the required parking spaces; Tentative Parcel Map Subdivision to merge two existing lots into one lot and create four (4) mini-lots.
General Plan:	Mixed Housing Type Residential
Zoning:	RM-2 Zone.
Environmental Determination:	Exempt: Section 15303 of the State CEQA Guidelines: construction of new dwellings; Section 15315, of the State CEQA Guidelines: Minor Land Division Section; Section 15183 of the State CEQA Guidelines: Projects consistent with a Community Plan, General Plan or Zoning.
Historic Status:	Non-Historic Property
City Council District:	1

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on March 26, 2018**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Jason Madani Planner II**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **\$1,622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports

the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

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

If you have any questions, please contact the case planner, Jason Madani, Planner II at (510) 238-4790 or jmadani@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Acting Zoning Manager

cc: Jonathan Muir Boriack, 4501 Howe Street #2
Brooke Finan 4501 Howe Street #2 Oakland CA. 94611
Sue Fishkoff: 4501 Howe Street HOA, Oakland CA 94611
Heather Barrett & Lewis Lopez, 4501 Howe Street #3, Oakland, CA 94611
Ryan M Frame: ryanmframe@icloud.com
Juliana Germak and Sean Trepanier, 4501 Howe Street, #4, Oakland CA 94611
Bradford R. Hise & John R. Downey: 4465 Howe Street Oakland, CA 94611

Property owner: Tom Anthony: 5666 Telegraph Avenue, Oakland CA 94611

Attachments:

- A. Findings for CUP, Design Review, Subdivision
- B. Conditions of Approval, including Standard Conditions of Approvals
- C. Notice of Exemption

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the Section 17.134.050, General Use Permit criteria, Section 17.102.320, Conditional Use Permit for waiver of certain requirements in mini-lot developments, Section 17.102.090, Conditional Use Permit for Shared Access Facilities, 17.136.050, Regular Design Review criteria, of the Oakland Planning Code, and Section 16.04.010, Purpose, Section 16.24.040, Lot Design Standards, and Section 16.08.030 Tentative Maps of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

Section 17.134.050 General Use Permit criteria.

Except as different criteria are prescribed elsewhere in the zoning regulations, a conditional use permit shall be granted only if the proposal conforms to all of the following general use permit criteria, as well as to any and all other applicable use permit criteria:

- 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 proposal is to demolish dilapidated vacant house and construct four detached two-story single-family dwellings on a 10,812 square feet parcels. Two Conditional Use Permits are required for the proposed project: 1) To allow a mini-lot development and 2) for a Shared Access Facility to provide vehicular access to the four proposed mini lots. The mini-lot development allows the site to be improved as four residential dwellings on four separate lots. The project provides one off-street parking space for each dwelling, for a total of four parking spaces on the site. The proposed building footprints are below the 40% allowed lot coverage. The building design successfully steps the massing with upslope site.

The location and operating characteristics of the project are compatible with the abutting properties. The buildings are located away from property lines and will be residential in use, the same as the abutting properties. The building envelopes were reduced to provide a larger setback and reduce privacy impacts. As such, the proposal will not adversely affect the livability of neighboring lots. The large open space areas are well integrated into the overall design, provide adequate separation between the units, and reduce potential privacy impacts between dwellings. The proposed homes are three stories, like surrounding homes. The proposed project design is compatible with other homes located on Howe Street and will enhance neighborhood characteristics as well.

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

The proposed development allows the site to be developed within the prescribed density and at the same time allows each single-family dwelling to have its own lot. Each home will also have its own parking space. The proposed driveway is divided by a landscaped island to allow access to the front and rear units. The garage is set back 18'-0" from the edge of pavement as required by code (18' minimum). As a condition of approval, the common driveway access easement will be required to incorporate pavers and landscape strips to enhance the shared space and contribute to the visual quality of the proposed development. In addition, each home is three-stories and includes a mix of materials and architectural details which reduce the bulk and mass of the units. As such, the project's location, design and planning will provide a convenient and attractive living environment.

- 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 surrounding area is characterized by a mix of single-family, medium-density residences, and condominium developments. The proposed four units will be in keeping with the character of the community and will provide additional housing for the City of Oakland.

- D. That the proposal conforms to all applicable regular design review criteria set forth in the Regular Design Review procedure at Section 17.136.050;**

The project conforms to the Regular Design Review criteria at Section 17.136.050. See findings below.

- E. For proposals involving a One- or Two-Family Residential Facility: If the conditional use permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:**

- 1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**

Staff has made finding 1. **The project will not adversely impact abutting residences in terms of solar access, view blockage or privacy. Potential solar access and privacy impacts were addressed by re-designing the project to increase the building setback at ground floor by 9'-6" for the rear unit. This provides 15'-7" separation between building located at 4501 Howe Street thus reducing potential solar access and privacy impacts. Large setbacks are already provided between the front units and the other rear unit and neighbor properties.**

- 2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.**

Staff did not make finding 2.

- F. 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 Mixed Housing Type Residential classification of the Land Use and Transportation Element (LUTE) of the General Plan. The intent of this classification is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhouses and small multi-unit buildings, and neighborhood businesses where appropriate. This classification permits one unit for every 2,500 square feet of lot area and would allow a maximum of four (4) units on the 10,812 square foot parcel. Furthermore, the proposed project meets the following LUTE policies.

Objective N3: Encourage the construction, and enhancement of housing resources in order to meet the current and future needs of the Oakland community.

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the City of Oakland.

Objective N6- Encourage a mix of housing costs, unit sizes, types and ownership structures. The proposal provides a mix of one, two and three bedroom residential units.

Policy N6.1 Mixing Housing Types. The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes.

Policy N7.1 Ensuring Compatible Development. New residential development in Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development.

Therefore, the proposed project is consistent with the intended character, land uses, and densities of the General Plan.

Section 17.102.320 Conditional Use Permit for waiver of certain requirements in Mini-lot Developments

A. Basic Provisions. Subject to the provisions of subsections B and C of this section, the maximum height and minimum yard, lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a mini-lot development, and floor area, parking, and other facilities may be located within said development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

1. That there is adequate provision for maintenance of the open space and other facilities within the development; and

The proposed mini-lot development involves a private access easement that will be improved as a Shared Access Facility for vehicular ingress and egress to the two rear lots and also serves as a utilities easement. A condition of approval has been added requiring a maintenance agreement that ensures that adequate maintenance for all common areas is in place.

2. That the total development meets all the requirements that would apply to it if it were a single lot.

The proposed development complies with the density, setbacks, height limits, useable open space, off-street parking, and all other requirements that would apply if the site were developed as a single lot.

B. Zones in Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only in the S-1 or S-2 zone or in any residential or commercial zone other than RH zones or the RD-1 zone.

The subject site is in the RM-2 Zone, and therefore, complies with above criterion.

C. Maximum Size for Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only if the total land area of the mini-lot development is less than sixty thousand (60,000) square feet.

The subject site is 10,812 square feet, and therefore, complies with the above criterion.

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.

The proposed application involves a Minor Conditional Use Permit pursuant to Section 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 adequate width (9') and 18' back out distance from garage to the front property line of parcels # 1 and #2. The one car garages, located on parcel # 3 & #4, are less than 100' from Howe Street and do not require a turn-around for maneuverability. Therefore, Shared Access Facility is consistent with the guidelines for development and evaluation of shared access facilities.

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 width of the proposed Shared Access Facility is 9 feet where they serve two residential rear units for total of two parking spaces. The proposed driveway provides adequate emergency and non-emergency ingress and egress provide adequate maneuverability for turning. The relatively short length of the shared access facility also provides easy access to both rear residential units.

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 proposed Shared Access Facility is located on the gentle slope of site. The project involves grading with small retaining walls. The maximum driveway slope is consistent with City standards. The surface of the driveway is required to be finished with permeable decorative pavers for visual appeal as well as to minimize stormwater runoff. Landscape strips shall be required to be provided at appropriate areas to soften the edges of the easement.

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.

As a condition of approval, the applicant is required to prepare and submit a maintenance agreement for the proposed development to the Bureau of Planning for review and approval prior to issuance of a certificate of occupancy for the first unit.

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.

Staff has added a condition of approval to this report for the project to meet this criterion.

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 setting is in this neighborhood on Howe Street containing single-family homes and multi-units on gently sloped lots. Front yards are generally landscaped or with driveways and garages or front entrance located close to the street due to the slope. The buildings are largely two and three-story and in a traditional Art and Crafts or modern architectural style. The existing neighborhood's facades and textures include stucco, wood siding and Board and Batten. The existing roof forms include pitched, hip, flat roofs, or shed.

The proposal is to remove an existing single family structure and construct four detached dwelling units located on a 10,812 square foot parcel. The proposed design uses a traditional Arts and Crafts architectural style with the main entrance off the front porch. The project involves excavation of earthwork within subject site to construct the buildings and driveways. The original building design submitted has been revised as follows to reduce privacy and other impacts on adjacent neighbors:

- Increase the building setback from the property line at ground floor by 9'-6" for upper unit 6B;
- Add a second floor bay projection to reduce building mass for unit 6A;
- Add two-story bay to articulate front façade for unit 6A.

The buildings are well related to the surrounding area in terms of setting. The proposed buildings are setback from the front property line to provide adequate front yard landscaping. The buildings provide ample setbacks from the side property and rear property lines minimize potential impacts with respect to solar and privacy of the adjacent neighboring properties. Furthermore, many of the surrounding lots have rear structures, making a mini-lot development with rear structures consistent with the neighborhood. There are four parking spaces are provided on the site with driveways located in the front and along the sides in a similar manner as neighboring lots. The building elevations are articulated to minimize perceived bulk and visual impacts on the street and neighboring properties. Specifically, the design incorporates various architectural elements and detailing such as, eaves, and fascias to reduce the scale, bulk and massing of the building. These elements are also used on nearby residences. The building height is 25'-4" to 28'-3" tall and is below maximum 30' height limit in the RM-2 zone. The proposed building exterior material is combination of smooth stucco, horizontal and vertical sidings and dual-pane aluminum-clad wood with painted wood trim and recessed from the exterior walls. In sum, the proposed project will create a design that is well-related to the setting, and would not have significant impacts on adjacent buildings with respect to views and solar amenities. The proposed design will complement the surrounding residential buildings.

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

The desirable neighborhood character includes two to three story residential buildings on lots with front yard landscaping and off-street parking.

As detailed above, Staff has worked with the project designer to achieve building compositions that provide visual interest to better relate to the surrounding area in their setting, scale, height, materials and textures. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

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

The proposed buildings are sited on the uphill slope of the lot and respond to the terrain with distinct volumes that step with hillside. The proposal will involve grading occurring mainly within the building footprint and driveway area. The grading plan must be reviewed and approved by the Building Services Division. There are adequate open spaces within the development, and landscaping is provided for each residential unit. The project will remove four mature trees (56" dbh Monterey Cypress, 4.5" dbh Coast Live Oak, 11" and 13" Loquat Multi stem trees and one Podocarpus tree) within buildable area but will preserve 2 Coast live Oak and one Lombardy Poplar within site.

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

The proposed design breaks up the building into moderately scaled volumes and portion of walls that are benched into the hillside to bring living spaces closer to grade. As a result, the proposal will reduce visual building mass as seen from adjacent neighboring properties. The total building envelope has been lowered and scaled back on both sides of the building to reduce the building mass.

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

See Conditional Use Permit finding F above.

Section 16.04.010, Purpose:

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

The subject site is located in the Mixed Housing Type Residential classification of the Land Use and Transportation Element (LUTE) of the General Plan. The intent of this classification is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhouses and small multi-unit buildings, and neighborhood businesses where appropriate. This classification permits one unit for every 2,500 square feet of lot area and would allow a maximum of four units on the 10,812 square foot parcel. As shown above in Conditional Use Permit Finding F, the project meets the General Plan's goals and policies.

Section 16.24.040 Lot design standards.

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:

- 1. Lots created in conjunction with approved private access easements; or**
- 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

Of the proposed four mini-lots, two lots have frontage on a public street (Howe Street). The other two lots are being created in conjunction with a proposed Private Access Easement (Shared Access Facility), which provides vehicular access to the two lots. The widths of the portions of the two Private Access Easements are at least 9 feet.

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.

All four proposed lots have side lot lines that run at right angles to the street.

C. All applicable requirements of the zoning regulations shall be met.

The proposal will alter the existing lot configuration by creating four lots from two parcels to create four mini-lots. The subject 10,812 square-foot site complies with the RM-2 setbacks in its entirety, however the mini-lot standards waive certain zoning requirements such as minimum lot size, width for the new individual micro lots. With approval of the Conditional Use Permit for the mini-lot, all zoning requirements are met.

D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:

1. Where the area is still considered acreage;
2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.

The mini-lot standards waive certain zoning requirements such as minimum lot size, prevalent size and width requirements for the new individual micro lots (See mini-lot findings above).

E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.

There are no natural out-croppings of rock, creeks, etc. that need preservation at the subject site or other known amenities. There are several trees that will be removed with the project; however, the applicant has applied and been granted a Tree Removal and Preservation Permit.

Section 16.08.030 Tentative Map (Pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act)

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

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

As shown above in Conditional Use Permit Finding F, the project meets the General Plan's goals and policies.

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

See findings above regarding consistency with the General Plan. There is no specific plan that governs this area.

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

There are no known physical constraints that make the site unsuitable for the proposed type of development. The area is surrounded by development and is already served by utilities.

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

There are no known physical constraints that would make the site unsuitable for the proposed four detached single-family dwellings. The proposal will involve grading occurring mainly within the building footprint and driveway area. The grading plan must be reviewed and approved by the Building Services Division. In addition, a Tree Removal and Preservation Permit was granted. Finally, the number of units is within the allowed General Plan and Zoning density. Therefore, the proposed four (4) unit development is physically suitable for the site.

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

The subject site is located in an urbanized area surrounded by development and contains an existing residence. There are no known fish or wildlife habitat at the site.

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

The attached standard conditions of approval will ensure that best management practices related to air quality, water quality, noise and traffic, are followed during construction of buildings. No serious public health problems are anticipated from the proposed subdivision

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

There are no public easements on the project site.

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

Energy efficient techniques such as south facing fenestration has been incorporated into the site planning and home designs to take advantage of natural solar heating and cooling opportunities.

ATTACHMENT B: CONDITIONS OF APPROVAL

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

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **February 5th 2018**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

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

3. Compliance with Other Requirements

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

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project

in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.

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

6. Signed Copy of the Approval/Conditions

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

7. Blight/Nuisances

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

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

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

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

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

Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

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

12. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Landscape Plan

a. *Landscape Plan Required*

Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. *Landscape Installation*

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The

financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. *Landscape Maintenance*

Requirement: 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. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Lighting

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

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

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

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

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.
- e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").

- i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

17. Tree Removal During Bird Breeding Season

Requirement: To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed 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 the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence 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 California Department of Fish and Wildlife, 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.

When Required: Prior to removal of trees

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

18. Tree Permit

a. *Tree Permit Required*

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

b. *Tree Protection During Construction*

Requirement: 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:

- i. 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 project's consulting arborist. 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.
- ii. 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, filing, 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 project's consulting arborist 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.
- iii. 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 project's consulting arborist 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 project's consulting arborist. 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.
- iv. 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.
- v. 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 Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. 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.
- vi. 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.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

c. *Tree Replacement Plantings*

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. 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.
- ii. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye), *Umbellularia californica* (California Bay Laurel), or other tree species acceptable to the Tree Division.

- iii. Replacement trees shall be at least 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.
- iv. Minimum planting areas must be available on site as follows:
 - For Sequoia sempervirens, three hundred fifteen (315) square feet per tree;
 - For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

19. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration 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, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

20. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event 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 California Health and Safety Code. 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 and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

22. Soils Report

Requirement: The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

23. Hazardous Materials Related to Construction

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

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

24. Erosion and Sedimentation Control Measures for Construction

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

25. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

26. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets "No Dumping – Drains to Bay;"
- b. Minimize the use of pesticides and fertilizers;

- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
- f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
- g. Dumpster drips from covered trash, food waste, and compactor enclosures;
- h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
- j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

27. NPDES C.3 Stormwater Requirements for Small Projects

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

28. Architectural Copper

Requirement: The project applicant shall implement Best Management Practices (BMPs) concerning the installation, treatment, and maintenance of exterior architectural copper during and after construction of the project in order to reduce potential water quality impacts in accordance with Provision C.13 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The required BMPs include, but are not limited to, the following:

- a. If possible, use copper materials that have been pre-patinated at the factory;
- b. If patination is done on-site, ensure rinse water is not discharged to the storm drain system by protecting storm drain inlets and implementing one or more of the following:
- c. Discharge rinse water to landscaped area;
- d. Collect rinse water in a tank and discharge to the sanitary sewer, with approval by the City; or haul off-site for proper disposal;
- e. During maintenance activities, protect storm drain inlets to prevent wash water discharge into storm drains; and
- f. Consider coating the copper with an impervious coating that prevents further corrosion.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

29. Construction Days/Hours

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

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

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

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

30. Construction Noise

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

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

31. Extreme Construction Noise

a. Construction Noise Management Plan Required

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

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

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

32. Operational Noise

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

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

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

a. Obstruction Permit Required

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

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Traffic Control Plan Required

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

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. Repair of City Streets

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

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

34. Bicycle Parking

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

35. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in

accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

36. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

37. Green Building Requirements

a. Compliance with Green Building Requirements During Plan-Check

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit.

- **Green building point requirement** per the appropriate checklist approved during the Planning entitlement process.
- All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
- The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. *Compliance with Green Building Requirements During Construction*

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. *Compliance with Green Building Requirements After Construction*

Requirement: Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation and attain the minimum required certification/point level. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Bureau of Planning the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.

When Required: After project completion as specified

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

38. 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 submittal for the map shall include all common areas, pathways, and dedicated sewer and storm drain easements in a form acceptable to the City Engineer and acceptance language by the City Engineer. 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.

39. Engineering and Fire Services comments

Ongoing

The project shall comply with the Engineering Services (see attachment) and Fire Prevention Bureau Requirements.

40. Common Driveway surface material

Prior issuance of building permit

The applicant shall submit revised site plan and approved by Planning Department staff showing that the proposed common driveway surface area shall be finished with permeable decorative pavers for visual appeal as well as an environmentally superior alternative that will minimize stormwater run-off. Landscape strips shall be provided at appropriate areas to soften the edges of the easement.

41. Common Driveway Access Easement

Prior to finalization of Parcel Map

a. The property owner shall submit easement agreement for common driveway and two off-street parking spaces between Parcel #2 and Parcel # 3 and Parcel # 1 and Parcel #4 for Planning Bureau approval and record with the Alameda County Recorder's Office.

b. Each parcel shall provide one (1) designated non tandem off-street parking spaces, one parking space per unit.

42. Tree Removal Permit (T17038)

Prior to issuance of building permits

A Tree Removal/Preservation permit application shall be approved by the Tree Services Division for removal or construction within ten feet of all protected trees on the site and adjacent properties.

43. Encroachment Permit

Prior to issuance of building permit.

The applicant shall obtain any encroachment permits, waiver of damages or other approvals required by the Bureau of Building, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way.

44. Window and Door Details.

Prior to issuance of building permit.

The applicant shall submit to the Planning and Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations, and final architectural details of the front and side elevations.

45. Meter Shielding.

Prior to issuance of building permits.

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

46. Street Trees.

Prior to issuance of building permit.

The applicant shall provide street trees in front of the building on How Street (2 street trees) with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Planning and Building Department.

47. Landscaping and Irrigation

Ongoing

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with

new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

48. Architectural Detailing and Building Materials

Ongoing.

All cement plaster stucco shall be smooth finish and applied wet at the job site.

49. Limit to 4 single family dwellings

Ongoing

Consistent with the site plan approval in conjunction with the conditional Use Permit for this 4-lot, 4-unit mini-lot development, the total dwelling unit count, shall be 4. No Second nor secondary units are permitted on the resulting mini-lots.

Applicant Statement

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

Name of Project Applicant

Signature of Project Applicant

Date

City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

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

Project Title: PLN17-084/TPM10678

Project Applicant: John Newton

Project Location: 4521 Howe Street

Project Description: The proposal is to merge two lots into one lot and subdivides one lot into a (four) Mini-Lot development; removal of an existing single-family dwelling, and construction of four new detached single family dwellings with a common driveway.

Exempt Status:

Statutory Exemptions

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- Other: {Sec.15315}

Categorical Exemptions

- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- In-fill Development {Sec. 15332}
- General Rule {Sec.15061(b)(3)}

Other

- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- _____ (Sec. _____)

Reasons why project is exempt: The proposal is to merge two lots into one lot and subdivide one lot into a (four) Mini-Lot development; remove of an existing single-family dwelling, and construct of four detached single-family dwellings with a common driveway will not have a significant impact on the environment and is exempt from environmental review.

Lead Agency: City of Oakland, Planning and Building Department, Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person:

Phone: 510-238-6283

Signature (Robert D. Merkamp for Darin Ranelletti, Environmental Review Officer)

Date:

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

*ENVIRONMENTAL DECLARATION

(CALIFORNIA FISH AND GAME CODE SECTION 711.4)

LEAD AGENCY NAME AND ADDRESS

FOR COUNTY CLERK USE ONLY

City of Oakland – Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
Contact: Jason Madani, Planner II

FILE NO: _____

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: (PLEASE MARK ONLY ONE CLASSIFICATION)

1. NOTICE OF EXEMPTION / STATEMENT OF EXEMPTION

A - STATUTORILY OR CATEGORICALLY EXEMPT

\$ 50.00 - COUNTY CLERK HANDLING FEE

2. NOTICE OF DETERMINATION (NOD)

A - NEGATIVE DECLARATION (OR MITIGATED NEG. DEC.)

\$ 2,280.75 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

B - ENVIRONMENTAL IMPACT REPORT (EIR)

\$ 3,168.25 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

3. OTHER: _____

A COPY OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH EACH COPY OF AN ENVIRONMENTAL DECLARATION BEING FILED WITH THE ALAMEDA COUNTY CLERK.

BY MAIL FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND TWO (2) SELF-ADDRESSED ENVELOPES.

IN PERSON FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND ONE (1) SELF-ADDRESSED ENVELOPES.

ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING.

FEES ARE EFFECTIVE JANUARY 1, 2018

MAKE CHECKS PAYABLE TO: ALAMEDA COUNTY CLERK

Attachment B

CITY OF OAKLAND



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

Planning and Building Department
Bureau of Planning

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

March 14, 2018

John Newton
Design & Development
5666 Telegraph Avenue Ste. #A
Oakland, CA 94609

RE: Case File No. PLN17-084/ TPM10678, 4521 Howe Street: APNs: 013-1129-005-00 & 012-1129-006-00

Dear Mr. Newton:

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

The following table summarizes the proposed project:

Proposal:	The proposal is to merge two lots into one lot and subdivide one lot into a (four) Mini-Lot development; remove an existing single-family dwelling, and construct four detached single-family dwellings with a common driveway.
Planning Permits Required:	Regular Design Review to construct four detached single-family dwellings; Minor Conditional Use Permit to allow a Mini-Lot subdivision and a Shared Access Facility (common driveway) to access the required parking spaces; Tentative Parcel Map Subdivision to merge two existing lots into one lot and create four (4) mini-lots.
General Plan:	Mixed Housing Type Residential
Zoning:	RM-2 Zone.
Environmental Determination:	Exempt: Section 15303 of the State CEQA Guidelines: construction of new dwellings; Section 15315, of the State CEQA Guidelines: Minor Land Division Section; Section 15183 of the State CEQA Guidelines: Projects consistent with a Community Plan, General Plan or Zoning.
Historic Status:	Non-Historic Property
City Council District:	1

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on March 26 2018**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Jason Madani Planner II**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **\$1,622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports

the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

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

If you have any questions, please contact the case planner, Jason Madani, Planner II at (510) 238-4790 or jmadani@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Acting Zoning Manager

cc: Jonathan Muir Boriack, 4501 Howe Street #2
Brooke Finan 4501 Howe Street #2 Oakland CA. 94611
Sue Fishkoff: 4501 Howe Street HOA, Oakland CA 94611
Heather Barrett & Lewis Lopez, 4501 Howe Street #3, Oakland, CA 94611
Ryan M Frame: ryanmframe@icloud.com
Juliana Germak and Sean Trepanier, 4501 Howe Street, #4, Oakland CA 94611
Bradford R. Hise & John R. Downey: 4465 Howe Street Oakland, CA 94611

Property owner: Tom Anthony: 5666 Telegraph Avenue, Oakland CA 94611

Attachments:

- A. Findings for CUP, Design Review, Subdivision
- B. Conditions of Approval, including Standard Conditions of Approvals
- C. Notice of Exemption

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the Section 17.134.050, General Use Permit criteria, Section 17.102.320, Conditional Use Permit for waiver of certain requirements in mini-lot developments, Section 17.102.090, Conditional Use Permit for Shared Access Facilities, 17.136.050, Regular Design Review criteria, of the Oakland Planning Code, and Section 16.04.010, Purpose, Section 16.24.040, Lot Design Standards, and Section 16.08.030 Tentative Maps of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

Section 17.134.050 General Use Permit criteria.

Except as different criteria are prescribed elsewhere in the zoning regulations, a conditional use permit shall be granted only if the proposal conforms to all of the following general use permit criteria, as well as to any and all other applicable use permit criteria:

- 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 proposal is to demolish dilapidated vacant house and construct four detached two-story single-family dwellings on a 10,812 square feet parcels. Two Conditional Use Permits are required for the proposed project: 1) To allow a mini-lot development and 2) for a Shared Access Facility to provide vehicular access to the four proposed mini lots. The mini-lot development allows the site to be improved as four residential dwellings on four separate lots. The project provides one off-street parking space for each dwelling, for a total of four parking spaces on the site. The proposed building footprints are below the 40% allowed lot coverage. The building design successfully steps the massing with upslope site.

The location and operating characteristics of the project are compatible with the abutting properties. The buildings are located away from property lines and will be residential in use, the same as the abutting properties. The building envelopes were reduced to provide a larger setback and reduce privacy impacts. As such, the proposal will not adversely affect the livability of neighboring lots. The large open space areas are well integrated into the overall design, provide adequate separation between the units, and reduce potential privacy impacts between dwellings. The proposed homes are three stories, like surrounding homes. The proposed project design is compatible with other homes located on Howe Street and will enhance neighborhood characteristics as well.

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

The proposed development allows the site to be developed within the prescribed density and at the same time allows each single-family dwelling to have its own lot. Each home will also have its own parking space. The proposed driveway is divided by a landscaped island to allow access to the front and rear units. The garage is set back 18'-0" from the edge of pavement as required by code (18' minimum). As a condition of approval, the common driveway access easement will be required to incorporate pavers and landscape strips to enhance the shared space and contribute to the visual quality of the proposed development. In addition, each home is three-stories and includes a mix of materials and architectural details which reduce the bulk and mass of the units. As such, the project's location, design and planning will provide a convenient and attractive living environment.

- 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 surrounding area is characterized by a mix of single-family, medium-density residences, and condominium developments. The proposed four units will be in keeping with the character of the community and will provide additional housing for the City of Oakland.

- D. That the proposal conforms to all applicable regular design review criteria set forth in the Regular Design Review procedure at Section 17.136.050;**

The project conforms to the Regular Design Review criteria at Section 17.136.050. See findings below.

- E. For proposals involving a One- or Two-Family Residential Facility: If the conditional use permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:**

- 1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**

Staff has made finding 1. The project will not adversely impact abutting residences in terms of solar access, view blockage or privacy. Potential solar access and privacy impacts were addressed by re-designing the project to increase the building setback at ground floor by 9'-6" for the rear unit. This provides 15'-7" separation between building located at 4501 Howe Street thus reducing potential solar access and privacy impacts. Large setbacks are already provided between the front units and the other rear unit and neighbor properties.

- 2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.**

Staff did not make finding 2.

- F. 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 Mixed Housing Type Residential classification of the Land Use and Transportation Element (LUTE) of the General Plan. The intent of this classification is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhouses and small multi-unit buildings, and neighborhood businesses where appropriate. This classification permits one unit for every 2,500 square feet of lot area and would allow a maximum of four (4) units on the 10,812 square foot parcel. Furthermore, the proposed project meets the following LUTE policies.

Objective N3: Encourage the construction, and enhancement of housing resources in order to meet the current and future needs of the Oakland community.

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the City of Oakland.

Objective N6- Encourage a mix of housing costs, unit sizes, types and ownership structures. The proposal provides a mix of one, two and three bedroom residential units.

Policy N6.1 Mixing Housing Types. The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes.

Policy N7.1 Ensuring Compatible Development. New residential development in Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development.

Therefore, the proposed project is consistent with the intended character, land uses, and densities of the General Plan.

Section 17.102.320 Conditional Use Permit for waiver of certain requirements in Mini-lot Developments

A. Basic Provisions. Subject to the provisions of subsections B and C of this section, the maximum height and minimum yard, lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a mini-lot development, and floor area, parking, and other facilities may be located within said development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

1. That there is adequate provision for maintenance of the open space and other facilities within the development; and

The proposed mini-lot development involves a private access easement that will be improved as a Shared Access Facility for vehicular ingress and egress to the two rear lots and also serves as a utilities easement. A condition of approval has been added requiring a maintenance agreement that ensures that adequate maintenance for all common areas is in place.

2. That the total development meets all the requirements that would apply to it if it were a single lot.

The proposed development complies with the density, setbacks, height limits, useable open space, off-street parking, and all other requirements that would apply if the site were developed as a single lot.

B. Zones in Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only in the S-1 or S-2 zone or in any residential or commercial zone other than RH zones or the RD-1 zone.

The subject site is in the RM-2 Zone, and therefore, complies with above criterion.

C. Maximum Size for Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only if the total land area of the mini-lot development is less than sixty thousand (60,000) square feet.

The subject site is 10,812 square feet, and therefore, complies with the above criterion.

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.

The proposed application involves a Minor Conditional Use Permit pursuant to Section 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 adequate width (9') and 18' back out distance from garage to the front property line of parcels # 1 and #2. The one car garages, located on parcel # 3 & #4, are less than 100' from Howe Street and do not require a turn-around for maneuverability. Therefore, Shared Access Facility is consistent with the guidelines for development and evaluation of shared access facilities.

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 width of the proposed Shared Access Facility is 9 feet where they serve two residential rear units for total of two parking spaces. The proposed driveway provides adequate emergency and non-emergency ingress and egress provide adequate maneuverability for turning. The relatively short length of the shared access facility also provides easy access to both rear residential units.

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 proposed Shared Access Facility is located on the gentle slope of site. The project involves grading with small retaining walls. The maximum driveway slope is consistent with City standards. The surface of the driveway is required to be finished with permeable decorative pavers for visual appeal as well as to minimize stormwater runoff. Landscape strips shall be required to be provided at appropriate areas to soften the edges of the easement.

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.

As a condition of approval, the applicant is required to prepare and submit a maintenance agreement for the proposed development to the Bureau of Planning for review and approval prior to issuance of a certificate of occupancy for the first unit.

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.

Staff has added a condition of approval to this report for the project to meet this criterion.

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 setting is in this neighborhood on Howe Street containing single-family homes and multi-units on gently sloped lots. Front yards are generally landscaped or with driveways and garages or front entrance located close to the street due to the slope. The buildings are largely two and three-story and in a traditional Art and Crafts or modern architectural style. The existing neighborhood's facades and textures include stucco, wood siding and Board and Batten. The existing roof forms include pitched, hip, flat roofs, or shed.

The proposal is to remove an existing single family structure and construct four detached dwelling units located on a 10,812 square foot parcel. The proposed design uses a traditional Arts and Crafts architectural style with the main entrance off the front porch. The project involves excavation of earthwork within subject site to construct the buildings and driveways. The original building design submitted has been revised as follows to reduce privacy and other impacts on adjacent neighbors:

- Increase the building setback from the property line at ground floor by 9'-6" for upper unit 6B;
- Add a second floor bay projection to reduce building mass for unit 6A;
- Add two-story bay to articulate front façade for unit 6A.

The buildings are well related to the surrounding area in terms of setting. The proposed buildings are setback from the front property line to provide adequate front yard landscaping. The buildings provide ample setbacks from the side property and rear property lines minimize potential impacts with respect to solar and privacy of the adjacent neighboring properties. Furthermore, many of the surrounding lots have rear structures, making a mini-lot development with rear structures consistent with the neighborhood. There are four parking spaces are provided on the site with driveways located in the front and along the sides in a similar manner as neighboring lots. The building elevations are articulated to minimize perceived bulk and visual impacts on the street and neighboring properties. Specifically, the design incorporates various architectural elements and detailing such as, eaves, and fascias to reduce the scale, bulk and massing of the building. These elements are also used on nearby residences. The building height is 25'-4" to 28'-3" tall and is below maximum 30' height limit in the RM-2 zone. The proposed building exterior material is combination of smooth stucco, horizontal and vertical sidings and dual-pane aluminum-clad wood with painted wood trim and recessed from the exterior walls. In sum, the proposed project will create a design that is well-related to the setting, and would not have significant impacts on adjacent buildings with respect to views and solar amenities. The proposed design will complement the surrounding residential buildings.

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

The desirable neighborhood character includes two to three story residential buildings on lots with front yard landscaping and off-street parking.

As detailed above, Staff has worked with the project designer to achieve building compositions that provide visual interest to better relate to the surrounding area in their setting, scale, height, materials and textures. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

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

The proposed buildings are sited on the uphill slope of the lot and respond to the terrain with distinct volumes that step with hillside. The proposal will involve grading occurring mainly within the building footprint and driveway area. The grading plan must be reviewed and approved by the Building Services Division. There are adequate open spaces within the development, and landscaping is provided for each residential unit. The project will remove four mature trees (56" dbh Monterey Cypress, 4.5" dbh Coast Live Oak, 11" and 13" Loquat Multi stem trees and one Podocarpus tree) within buildable area but will preserve 2 Coast live Oak and one Lombardy Poplar within site.

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

The proposed design breaks up the building into moderately scaled volumes and portion of walls that are benched into the hillside to bring living spaces closer to grade. As a result, the proposal will reduce visual building mass as seen from adjacent neighboring properties. The total building envelope has been lowered and scaled back on both sides of the building to reduce the building mass.

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

See Conditional Use Permit finding F above.

Section 16.04.010, Purpose:

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

The subject site is located in the Mixed Housing Type Residential classification of the Land Use and Transportation Element (LUTE) of the General Plan. The intent of this classification is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhouses and small multi-unit buildings, and neighborhood businesses where appropriate. This classification permits one unit for every 2,500 square feet of lot area and would allow a maximum of four units on the 10,812 square foot parcel. As shown above in Conditional Use Permit Finding F, the project meets the General Plan's goals and policies.

Section 16.24.040 Lot design standards.

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:

- 1. Lots created in conjunction with approved private access easements; or**
- 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

Of the proposed four mini-lots, two lots have frontage on a public street (Howe Street). The other two lots are being created in conjunction with a proposed Private Access Easement (Shared Access Facility), which provides vehicular access to the two lots. The widths of the portions of the two Private Access Easements are at least 9 feet.

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.

All four proposed lots have side lot lines that run at right angles to the street.

C. All applicable requirements of the zoning regulations shall be met.

The proposal will alter the existing lot configuration by creating four lots from two parcels to create four mini-lots. The subject 10,812 square-foot site complies with the RM-2 setbacks in its entirety, however the mini-lot standards waive certain zoning requirements such as minimum lot size, width for the new individual micro lots. With approval of the Conditional Use Permit for the mini-lot, all zoning requirements are met.

D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:

1. Where the area is still considered acreage;
2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.

The mini-lot standards waive certain zoning requirements such as minimum lot size, prevalent size and width requirements for the new individual micro lots (See mini-lot findings above).

E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.

There are no natural out-croppings of rock, creeks, etc. that need preservation at the subject site or other known amenities. There are several trees that will be removed with the project; however, the applicant has applied and been granted a Tree Removal and Preservation Permit.

Section 16.08.030 Tentative Map (Pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act)

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

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

As shown above in Conditional Use Permit Finding F, the project meets the General Plan's goals and policies.

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

See findings above regarding consistency with the General Plan. There is no specific plan that governs this area.

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

There are no known physical constraints that make the site unsuitable for the proposed type of development. The area is surrounded by development and is already served by utilities.

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

There are no known physical constraints that would make the site unsuitable for the proposed four detached single-family dwellings. The proposal will involve grading occurring mainly within the building footprint and driveway area. The grading plan must be reviewed and approved by the Building Services Division. In addition, a Tree Removal and Preservation Permit was granted. Finally, the number of units is within the allowed General Plan and Zoning density. Therefore, the proposed four (4) unit development is physically suitable for the site.

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

The subject site is located in an urbanized area surrounded by development and contains an existing residence. There are no known fish or wildlife habitat at the site.

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

The attached standard conditions of approval will ensure that best management practices related to air quality, water quality, noise and traffic, are followed during construction of buildings. No serious public health problems are anticipated from the proposed subdivision

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

There are no public easements on the project site.

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

Energy efficient techniques such as south facing fenestration has been incorporated into the site planning and home designs to take advantage of natural solar heating and cooling opportunities.

ATTACHMENT B: CONDITIONS OF APPROVAL

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

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **February 5th 2018**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

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

3. Compliance with Other Requirements

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

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project

in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.

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

6. Signed Copy of the Approval/Conditions

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

7. Blight/Nuisances

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

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

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

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

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

Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

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

12. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Landscape Plan

a. Landscape Plan Required

Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. Landscape Installation

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The

financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. *Landscape Maintenance*

Requirement: 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. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Lighting

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

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

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

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

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.
- e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").

- i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

17. Tree Removal During Bird Breeding Season

Requirement: To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed 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 the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence 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 California Department of Fish and Wildlife, 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.

When Required: Prior to removal of trees

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

18. Tree Permit

a. Tree Permit Required

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Tree Protection During Construction

Requirement: 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:

- i. 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 project's consulting arborist. 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.
- ii. 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, filing, 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 project's consulting arborist 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.
- iii. 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 project's consulting arborist 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 project's consulting arborist. 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.
- iv. 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.
- v. 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 Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. 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.
- vi. 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.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

c. *Tree Replacement Plantings*

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. 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.
- ii. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye), *Umbellularia californica* (California Bay Laurel), or other tree species acceptable to the Tree Division.

- iii. Replacement trees shall be at least 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.
- iv. Minimum planting areas must be available on site as follows:
 - For Sequoia sempervirens, three hundred fifteen (315) square feet per tree;
 - For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

19. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration 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, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

20. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event 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 California Health and Safety Code. 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 and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

22. Soils Report

Requirement: The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

23. Hazardous Materials Related to Construction

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

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

24. Erosion and Sedimentation Control Measures for Construction

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

25. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

26. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets "No Dumping – Drains to Bay;"
- b. Minimize the use of pesticides and fertilizers;

- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
- f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
- g. Dumpster drips from covered trash, food waste, and compactor enclosures;
- h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
- j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

27. NPDES C.3 Stormwater Requirements for Small Projects

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

28. Architectural Copper

Requirement: The project applicant shall implement Best Management Practices (BMPs) concerning the installation, treatment, and maintenance of exterior architectural copper during and after construction of the project in order to reduce potential water quality impacts in accordance with Provision C.13 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The required BMPs include, but are not limited to, the following:

- a. If possible, use copper materials that have been pre-patinated at the factory;
- b. If patination is done on-site, ensure rinse water is not discharged to the storm drain system by protecting storm drain inlets and implementing one or more of the following:
- c. Discharge rinse water to landscaped area;
- d. Collect rinse water in a tank and discharge to the sanitary sewer, with approval by the City; or haul off-site for proper disposal;
- e. During maintenance activities, protect storm drain inlets to prevent wash water discharge into storm drains; and
- f. Consider coating the copper with an impervious coating that prevents further corrosion.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

29. Construction Days/Hours

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

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

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

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

30. Construction Noise

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

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.

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

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

31. Extreme Construction Noise

a. Construction Noise Management Plan Required

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

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

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

32. Operational Noise

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

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

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

a. *Obstruction Permit Required*

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

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. *Traffic Control Plan Required*

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

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. *Repair of City Streets*

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

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

34. Bicycle Parking

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

35. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in

accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

36. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

37. Green Building Requirements

a. Compliance with Green Building Requirements During Plan-Check

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit.

- **Green building point requirement** per the appropriate checklist approved during the Planning entitlement process.
- All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
- The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. Compliance with Green Building Requirements During Construction

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. Compliance with Green Building Requirements After Construction

Requirement: Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation and attain the minimum required certification/point level. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Bureau of Planning the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.

When Required: After project completion as specified

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

38. 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 submittal for the map shall include all common areas, pathways, and dedicated sewer and storm drain easements in a form acceptable to the City Engineer and acceptance language by the City Engineer. 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.

39. Engineering and Fire Services comments

Ongoing

The project shall comply with the Engineering Services (see attachment) and Fire Prevention Bureau Requirements.

40. Common Driveway surface material

Prior issuance of building permit

The applicant shall submit revised site plan and approved by Planning Department staff showing that the proposed common driveway surface area shall be finished with permeable decorative pavers for visual appeal as well as an environmentally superior alternative that will minimize stormwater run-off. Landscape strips shall be provided at appropriate areas to soften the edges of the easement.

41. Common Driveway Access Easement

Prior to finalization of Parcel Map

a. The property owner shall submit easement agreement for common driveway and two off-street parking spaces between Parcel #2 and Parcel # 3 and Parcel # 1 and Parcel #4 for Planning Bureau approval and record with the Alameda County Recorder's Office.

b. Each parcel shall provide one (1) designated non tandem off-street parking spaces, one parking space per unit.

42. Tree Removal Permit (T17038)

Prior to issuance of building permits

A Tree Removal/Preservation permit application shall be approved by the Tree Services Division for removal or construction within ten feet of all protected trees on the site and adjacent properties.

43. Encroachment Permit

Prior to issuance of building permit.

The applicant shall obtain any encroachment permits, waiver of damages or other approvals required by the Bureau of Building, for any privately constructed public improvements, or any permanent or temporary elements located in the public right of way.

44. Window and Door Details.

Prior to issuance of building permit.

The applicant shall submit to the Planning and Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations, and final architectural details of the front and side elevations.

45. Meter Shielding.

Prior to issuance of building permits.

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

46. Street Trees.

Prior to issuance of building permit.

The applicant shall provide street trees in front of the building on Howe Street (2 street trees) with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Planning and Building Department.

47. Landscaping and Irrigation

Ongoing

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with

new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

48. Architectural Detailing and Building Materials

Ongoing.

All cement plaster stucco shall be smooth finish and applied wet at the job site.

49. Limit to 4 single family dwellings

Ongoing

Consistent with the site plan approval in conjunction with the conditional Use Permit for this 4-lot, 4-unit mini-lot development, the total dwelling unit count, shall be 4. No Second nor secondary units are permitted on the resulting mini-lots.

Applicant Statement

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

Name of Project Applicant

Signature of Project Applicant

Date

City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

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

Project Title: PLN17-084/TPM10678

Project Applicant: John Newton

Project Location: 4521 Howe Street

Project Description: The proposal is to merge two lots into one lot and subdivides one lot into a (four) Mini-Lot development; removal of an existing single-family dwelling, and construction of four new detached single family dwellings with a common driveway.

Exempt Status:

Statutory Exemptions

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- Other: {Sec.15315}

Categorical Exemptions

- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- In-fill Development {Sec. 15332}
- General Rule {Sec.15061(b)(3)}

Other

- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- _____ (Sec. _____)

Reasons why project is exempt: The proposal is to merge two lots into one lot and subdivide one lot into a (four) Mini-Lot development; remove of an existing single-family dwelling, and construct of four detached single-family dwellings with a common driveway will not have a significant impact on the environment and is exempt from environmental review.

Lead Agency: City of Oakland, Planning and Building Department, Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person:

Phone: 510-238-6283

Signature (Robert D. Merkamp for Darin Ranelletti, Environmental Review Officer)

Date:

3/14/18

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

*ENVIRONMENTAL DECLARATION

(CALIFORNIA FISH AND GAME CODE SECTION 711.4)

LEAD AGENCY NAME AND ADDRESS

City of Oakland – Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
Contact: Jason Madani, Planner II

FOR COUNTY CLERK USE ONLY

FILE NO: _____

**CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:
(PLEASE MARK ONLY ONE CLASSIFICATION)**

1. NOTICE OF EXEMPTION / STATEMENT OF EXEMPTION

A - STATUTORILY OR CATEGORICALLY EXEMPT

\$ 50.00 - COUNTY CLERK HANDLING FEE

2. NOTICE OF DETERMINATION (NOD)

A - NEGATIVE DECLARATION (OR MITIGATED NEG. DEC.)

\$ 2,280.75 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

B - ENVIRONMENTAL IMPACT REPORT (EIR)

\$ 3,168.25 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

3. OTHER: _____

*****A COPY OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH EACH COPY OF AN ENVIRONMENTAL DECLARATION BEING FILED WITH THE ALAMEDA COUNTY CLERK.*****

BY MAIL FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND TWO (2) SELF-ADDRESSED ENVELOPES.

IN PERSON FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND ONE (1) SELF-ADDRESSED ENVELOPES.

ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING.

FEES ARE EFFECTIVE JANUARY 1, 2018

MAKE CHECKS PAYABLE TO: ALAMEDA COUNTY CLERK

TREE PERMIT DECISION

Attachment B

City of Oakland, Public Works Agency

Tree Services Division, 7101 Edgewater Drive, Oakland, CA 94621, (510) 615-5934
Chapter 12.36, Oakland Municipal Code, Protected Trees Ordinance

Permit # T17-038

Address: 4521 Howe St.

Parcel #

Expires: One year from date of issuance

Decision: 6/27/17

Applicant /Agent: John Newton

Permit Type: Development

Removal Approved		Preservation Required		Replacement Tree Required	In Lieu Fee- \$475 per tree
Tree Quantity	Identified As	Tree Quantity	Identified As		
1	Monterey Cypress 56" dbh	2	Coast Live Oak A) 4-stem 14",9",21",13" dbh B) 9" dbh		-
1	Coast Live Oak 4.5" dbh	1	Lombardy Poplar C) 18" dbh	1	
2	Loquat Multi stem trees 11" dbh, 13" dbh	1	Podocarpus 12.5" dbh		

SITE INSPECTION / FINDINGS

There is a 56 inch dbh Monterey cypress and a 4.5 inch dbh Coast live oak growing in the front area of 4521 Howe St. The Monterey cypress, listed as #1, has decay and termites in the main trunk. The large stem that grows to the south has a long strip of decay on the back side of the limb. The center stem in the tree is dead. The other stems in the tree have old wounds from limb failure with poorly attached new growth. This tree has poor structure with large areas of decay and is at a high risk of stem failure. The tree is in the foot print of new home listed on the plans as 6A and can be removed.

Chapter 12.36.060(B) of the Protected Trees Ordinance requires that a replacement tree be planted when a native tree is removed. A replacement tree is required of the Coast live oak, listed as #2, that is being removed. See item 18 below.

Tree listed as #3 is not on the property and cannot be removed. For the tree to be removed the property owner must give consent with a signed letter of approval.

Trees listed as #4 and #5 are small multi stemmed loquat trees that are in the foot print of new home listed on the plans as 6A.

Tree listed as #6 is not protected because it is dead.

PERMIT REVIEW – FINDINGS 12.36.050(A)

The applicant's request accomplished the following objective(s):

- 1. Insured the public health and safety as it related to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, or interference with utilities or sewers.
- 2. Avoided an unconstitutional regulatory taking of property.

- 3. Took reasonable advantage of views, including such measures mandated by the resolution of a view claim in accordance with the view preservation ordinance (Chapter 15.52 of the Oakland Municipal Code).
- 4. Pursued accepted, professional practices of forestry or landscape design. Submission of a landscape plan acceptable to the Director of Public Works shall constitute compliance with this criterion.
- 5. Implemented the vegetation management prescriptions in the S-11 site development review zone.
- None of the objectives above were accomplished by the proposed removal(s).*

PERMIT REVIEW – FINDINGS 12.36.050(B)

Any one of the following situations was grounds for permit denial, regardless of the findings in section (A) above:

- 1a. Removal could be avoided by reasonable redesign of the site plan, prior to construction.
- 1b. Removal could be avoided by trimming, thinning, tree surgery or other reasonable treatment.
- 2. Adequate provisions for drainage, erosion control, land stability or windscreen were not made.
- 3. The tree(s) were a member of a group of trees in which each tree was dependent upon the others for survival.
- 4. The value of the tree is greater than the cost of its preservation to the property owner. The value of the tree shall be measured by the Tree Reviewer using the criteria established by the International Society of Arboriculture, and the cost of preservation shall include any additional design and construction expenses required thereby. This criterion shall apply only to development-related permit applications.

There were no grounds to deny the permit based on criteria listed in OMC 12.36.050(B).

OAKLAND MUNICIPAL CODE SECTION 12.36.060 CONDITIONS OF APPROVAL

The following conditions were imposed. Conditions #17 - #19 were imposed if they were check marked:

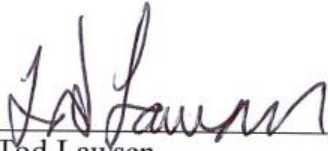
- 1. Defense, Indemnification and Hold Harmless.** To the maximum extent permitted by law, the applicant and its contractor shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City for or on account of any damage to property or bodily injury, including death, or damage sustained or arising out of, related to or caused by in any way from the performance of work in this tree permit matter. 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.
- 2. Defense, Indemnification and Hold Harmless.** 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 Oakland Public Works Agency and its respective agents, officers, employees and volunteers (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (a) an approval by the City relating to this tree permit matter, City's CEQA approvals and determination, and/or notices in the tree permit matter; or (b) implementation of such. 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.

3. **Letter of Agreement.** Within ten (10) calendar days of the filing of any Action as specified in conditions 1 or 2 above, the applicant and/or its contractor shall execute a Letter of 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 of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.
4. **Debris.** All debris created as a result of any tree removal work shall be removed from the property by the applicant within two weeks of debris creation, and such debris shall be properly disposed of by the applicant in accordance with all applicable laws, ordinances, and regulations.
5. **Dust.** 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 and photosynthesis.
6. **Fencing.** Tree protection fencing shall be chain link, installed on posts driven into the ground and shall be a minimum of 5 feet tall. The fencing shall be installed at the perimeter of the drip line or a lesser distance if demolition or construction does not allow it, for trees listed above in "Preservation Required".
7. **Hazards.** The removal of extremely hazardous, diseased, and/or dead trees shall be required where such trees have been identified by the City Arborist.
8. **Insurance.** Workers compensation, public liability, and property damage insurance shall be provided by any person(s) performing tree removal work authorized by a tree removal permit.
9. **Miscellaneous.** No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the drip line 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 the drip line any protected trees. 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.
10. **Nesting Birds.** 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.
11. **Permit.** Tree removal, as defined in the Protected Trees Ordinance, Section 12.36.020 of the Oakland Municipal Code, may not start unless and until the applicant has received this permit from Tree Services.

- 12. Posting.** The applicant shall post a copy of the tree removal permit in plain view on site while tree removal work is underway.
- 13. Pruning.** Construction personnel shall not prune trees or tree roots. Tree pruning of the crown or roots (if done) shall be performed by a licensed, insured tree work contractor that has an arborist on staff certified by the International Society of Arboriculture.
- 14. Recording.** The applicant/owner(s) shall record the conditions of approval attached to this permit with the Alameda County Recorder's Office in a form prescribed by the Director of Public Works.
- 15. Root Protection.** Roots shall be preserved and no activities shall affect the health and safety of existing trees. If roots are encountered, they may be cut only if they are less than two-inch diameter. Hand tools must be used to cut the roots; the use of excavators, backhoes, or similar equipment is prohibited. Roots larger than two-inch diameter may be cut only if inspected and approved in advance. All work must be done by a Certified Arborist from the International Society of Arboriculture or a Registered Consulting Arborist from the American Society of Consulting Arborists.
- 16. Tree Damage.** If any damage to a protected tree should occur during or as a result of work on the site, the property owner/contractor shall immediately notify the Tree Services Division of such damage. If, in the professional opinion of the City Arborist, such tree cannot be preserved in a healthy state, the Arborist shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Arborist to compensate for the loss of the tree that is removed.
- 17. Sidewalks.** The damaged sidewalk shall be repaired in compliance with the rules and regulations of the City of Oakland, including a sidewalk repair permit if more than 25 square feet of sidewalk is being repaired. Contact the Sidewalk Division at 238-3499 for more information.
- 18. Replacement Trees.** The property owner shall plant 1 replacement tree(s) on the property. The replacement trees shall be excellent quality nursery stock and maintained by the applicant until established. Any replacement planting which fails to become established within one year of installation shall be replanted at the applicant's expense. Plantings shall be installed prior to the issuance of a certificate of occupancy, subject to seasonal constraints. A photograph of the replacement trees, installed in the landscape of the property, shall be mailed or emailed to Tree Services within one week of the replacement trees being installed.
- A. The minimum size replacement tree shall be a twenty-four (24) inch box, except that three, fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate, if approved by the City Arborist.
- 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).
- C. Replacement trees shall be installed as shown on the landscape plan submitted with the tree removal permit application.
- 19. Other Conditions:**
- A. The property owner shall retain a consulting arborist for the project.
- i. The arborist shall be a Certified Arborist from the International Society of Arboriculture or a Registered Consulting Arborist from the American Society of Consulting Arborists.
- ii. The arborist shall recommend, implement, and monitor preservation measures for pre-construction, construction and post-construction phases. Site development shall not damage protected trees directly or indirectly.
- iii. Preservation measures shall include, but are not limited to:
1. Wood chip mulch
 2. Supplemental irrigation

3. Pruning
4. Tree Protection Zone with chain-link fencing
5. Hand digging to protect roots.

 6/27/17
Tod Lawsen Date

Arboricultural Inspector
Certified Arborist @ WE-6321A
ISA Tree Risk Assessment Qualified

 6/27/17
Giacomo Damonte Date

Acting Senior Forester
Certified Arborist @ WE-8155A
ISA Tree Risk Assessment Qualified

**This decision of the Public Works Agency, Tree Services Section may be appealed by the applicant, or the owner of any "adjoining" or "confronting" property, to the City Council within five (5) working days after the date of this decision and by 5:00 p.m. The term "adjoining" means immediately next to, and the term "confronting" means in front of or in back of. An appeal shall be on a form prescribed by and filed with the City Clerk, at One Frank H. Ogawa Plaza, second floor. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City or wherein such decision is not supported by the evidence in the record and must include payment of \$711.00, in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal this decision and raise any and all issues in your appeal may preclude you from challenging this determination in court.*

LANDSCAPE PLAN SCHEDULE

NOTE: DRIP IRRIGATION SYSTEM WILL BE INSTALLED TO PROVIDE WATER FOR TREES & SHRUBS AS INDICATED ON SITE PLAN

- (E) TREE TO BE REMOVED & TREE PERMIT I.D.
- (R) TREE TO REMAIN & TREE PERMIT I.D. IF APPLICABLE
- (X) NEW TREE
- (A) TREE: PRUNUS KRAUTERS (15 GAL) (FLOWERING PLUM)
- (B) TREE: ACER PALMATUM (15 GAL) (JAPANESE MAPLE)
- (C) TREE: PISTACIA CHINENSIS (15 GAL) (CHINESE PISTACHIO)
- (D) TREE: QUERCUS AGRIFOLIA (24" BOX) (COAST LIVE OAK)
- (E) ARCTOSTAPHYLOS MANZANITA 'DR HURD' (15 GAL) (DR HURD MANZANITA)
- (F) LYONOTHAMNUS FLORIBUNDUS ASPENIFOLIUS (15 GAL) (CATALINA IRONWOOD)
- (G) CEANOTHUS 'RAY HARTMAN' (15 GAL) (RAY HARTMAN CALIFORNIA LILAC)
- (H) CERCIS CANADENSIS L VAR MEXICANA (15 GAL) (MEXICAN REDBUD)
- NEW SHRUBS (MIXTURE OF THE FOLLOWING)
 - SHRUB: MYRTICA CALIFORNIA (PACIFIC WAX MYRTLE)
 - SHRUB: SALVIA LEUCANTHA (MEXICAN BUSH SAGE)
 - SHRUB: PLUMBAGO ROYAL CAPE (ROYAL CAPE)
 - SHRUB: CEANOTHUS JULIA PHELPS (JULIA PHELPS)

DESIGNER'S STATEMENT

THIS PLOT PLAN CORRECTLY REPRESENTS A PLOT PLAN MADE BY ME OR UNDER MY DIRECTION.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE ALL PROVISIONS OF APPLICABLE STATE LAWS AND LOCAL ORDINANCES HAVE BEEN COMPLIED WITH.

I HEREBY FURTHER STATE THAT ALL PROPOSED GRADES, ELEVATIONS, AND CONTOURS DELINEATED UPON THIS PLOT PLAN ARE BASED UPON A SURVEY BY RYAN C. ENGEL LIC. #9022 DATED NOVEMBER, 2016 THAT WAS INDICATED THEREON BY THE SURVEYOR THEREOF AS BEING BASED UPON CITY OF OAKLAND DATUM.

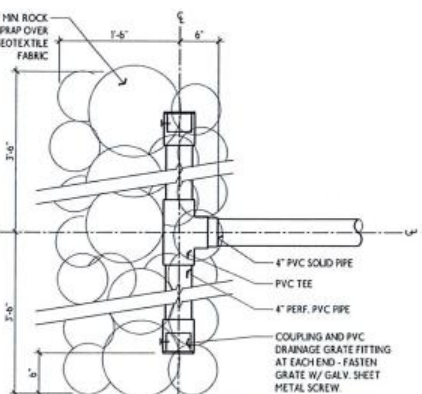
DESIGNER

JOHN NEWTON
 MARCH 24, 2017
 DESIGNER

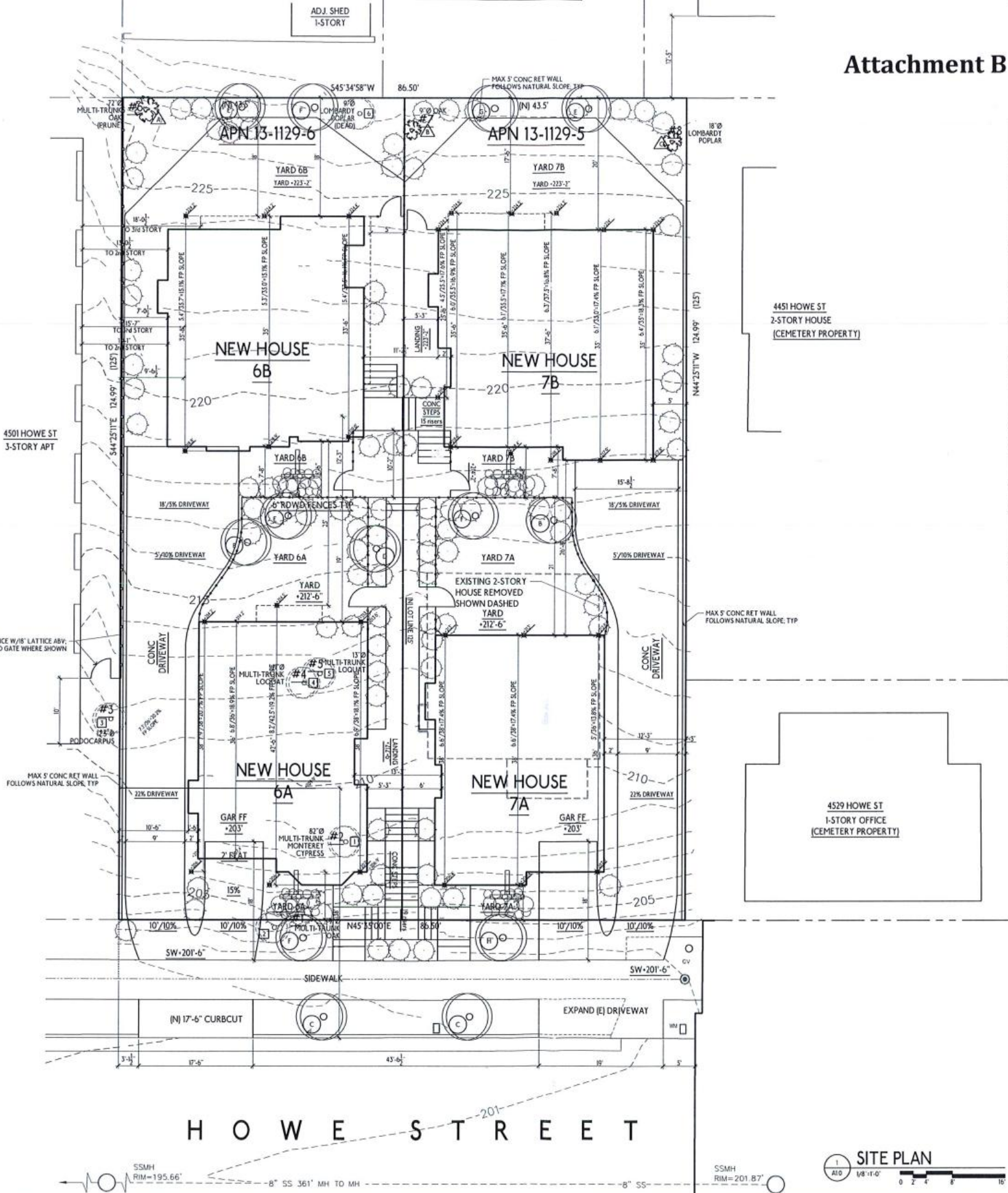
DRAINAGE



1. SITE RETAINING WALLS TO HAVE FRENCH DRAINS AT BASE TYP - HARD PIPE TO DAYLIGHT AT DISSIPATORS TYPICAL.
2. FOUNDATION TO HAVE FRENCH DRAIN AT BASE TYP - HARD PIPE TO DAYLIGHT AT DISSIPATORS TYPICAL.
3. ROOF DOWNSPOUTS W/4" Ø HARD PIPE CONNECTED TO DISSIPATORS TYP.

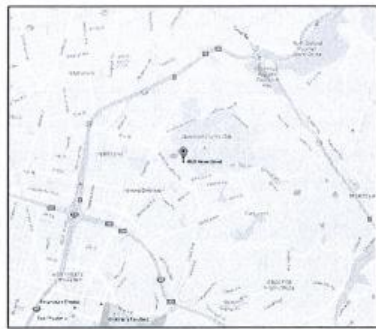


OUTFALL DISSIPATER



Attachment B

VICINITY MAP



SYMBOL LEGEND

- HEIGHT: [Symbol]
- SECTION: [Symbol]
- DETAIL: [Symbol]
- GRID LINE: [Symbol]
- DOOR: [Symbol]
- WINDOW: [Symbol]

PROJECT INFORMATION

ZONING: RM-2
 LOT SIZES: 10,812 SF TOTAL
 APN 13-1129-5 EXISTING SF: 3,750 SF
 APN 13-1129-5 PROPOSED SF: 5,406 SF
 APN 13-1129-6 EXISTING SF: 7,062 SF
 APN 13-1129-6 PROPOSED SF: 5,406 SF

CONSTRUCTION: TYPE 5 UNPROTECTED WOOD FRAME BUILDING OCCUPANCY: SINGLE FAMILY RESIDENCE R-3, U-1 SPRINKLER: YES

UNIT 6A
 FRONT HOUSE: 2,461 SF • 281 SF GARAGE, FOOTPRINT: 930 SF

UNIT 6B
 REAR HOUSE: 2,507 SF • 281 SF GARAGE, FOOTPRINT: 1,005 SF

UNIT 7A
 FRONT HOUSE: 2,397 SF • 261 SF GARAGE, FOOTPRINT: 908 SF

UNIT 7B
 REAR HOUSE: 2,856 SF • 310 SF GARAGE, FOOTPRINT: 1,066 SF

TOTAL FOOTPRINT APN 13-1129-5: 1,974 SF
 PROPOSED LOT COVERAGE APN 13-1129-5: 36.5%

TOTAL FOOTPRINT APN 13-1129-6: 1,935 SF
 PROPOSED LOT COVERAGE APN 13-1129-6: 35.7%

John Newton
 Design & Development
 5666 Telegraph Ave, Ste A
 Oakland, CA 94609
 (510) 526-7370

4 NEW HOUSE MINILOT DEVELOPMENT

Project Address:
 4521 Howe Street
 Oakland, CA 94611
 APN: 13-1129-5 & 13-1129-6

Owner:
 Tom Anthony
 5666 Telegraph Avenue
 Oakland, CA 94609
 (510) 701-3700

SITE PLAN & PROJECT INFO

REVISION		
No.	Description	Date
1	DESIGN REV	4/20/17
2	SITE REV	5/22/17

DESCRIPTION OF WORK

ADJUST LOT LINE BETWEEN TWO PARCELS, TEAR DOWN EXISTING HOUSE AT 4521 HOWE STREET, FOUR NEW HOUSES IN A MINILOT DEVELOPMENT ON THE TWO LOTS

CODE COMPLIANCE

- 2016 CALIFORNIA BUILDING CODE
- 2016 CALIFORNIA MECHANICAL CODE
- 2016 CALIFORNIA PLUMBING CODE
- 2016 CALIFORNIA ELECTRICAL CODE
- 2016 CALIFORNIA FIRE CODE
- 2016 CALIFORNIA ENERGY CODE
- 2016 CALIFORNIA RESIDENTIAL BUILDING CODE
- 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE

SHEET INDEX

- A1.0 SITE PLAN & PROJECT INFO
- A2.0 HOUSE 6A PLANS, SECTION & ELEVATIONS
- A2.1 HOUSE 6B PLANS, SECTION & ELEVATIONS
- A2.2 HOUSE 7A PLANS, SECTION & ELEVATIONS
- A2.3 HOUSE 7B PLANS, SECTION & ELEVATIONS

A1.0



John Newton
Design & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
(510) 526-7370

4 NEW HOUSE
MINILOT
DEVELOPMENT

Project Address:
4521 Howe Street
Oakland, CA 94611
APN: 13-1129-5 &
13-1129-6

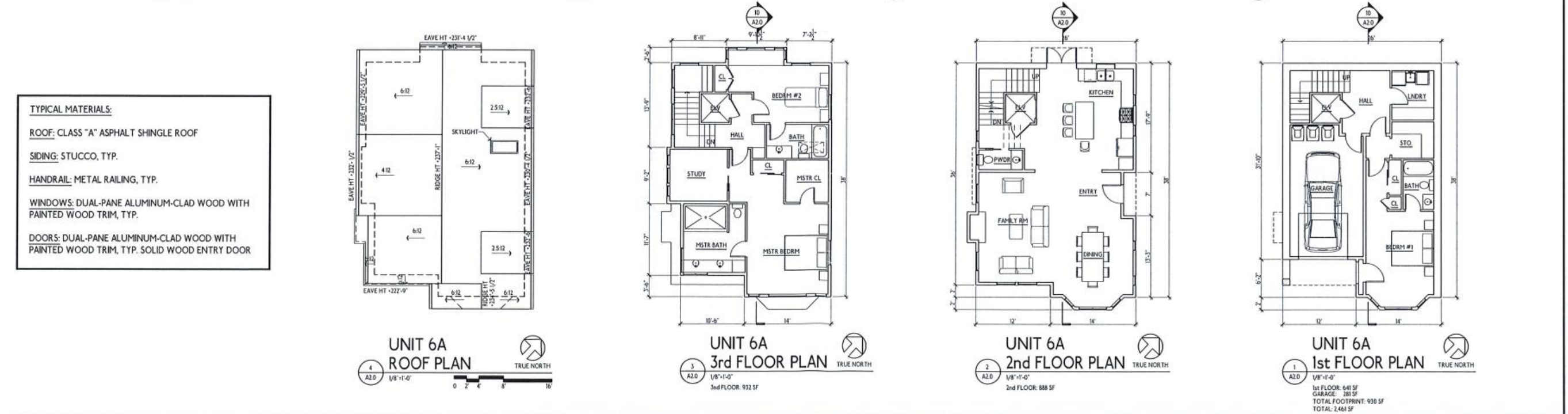
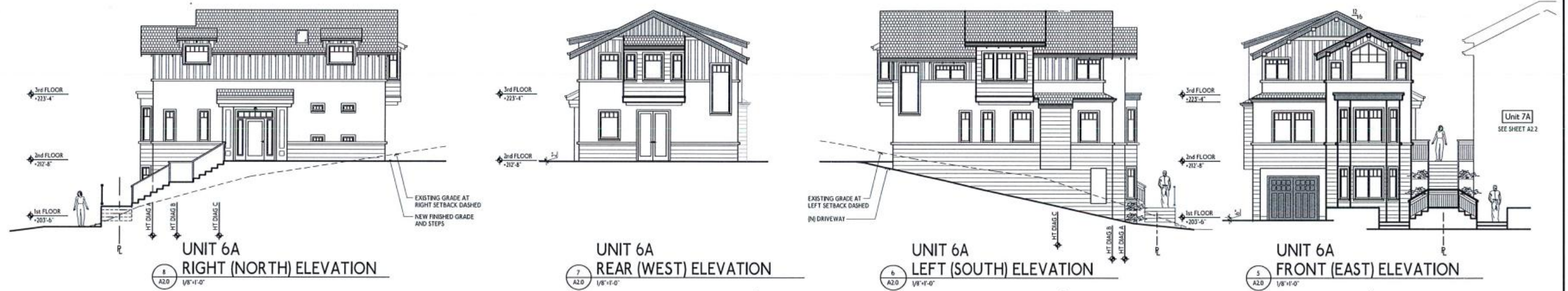
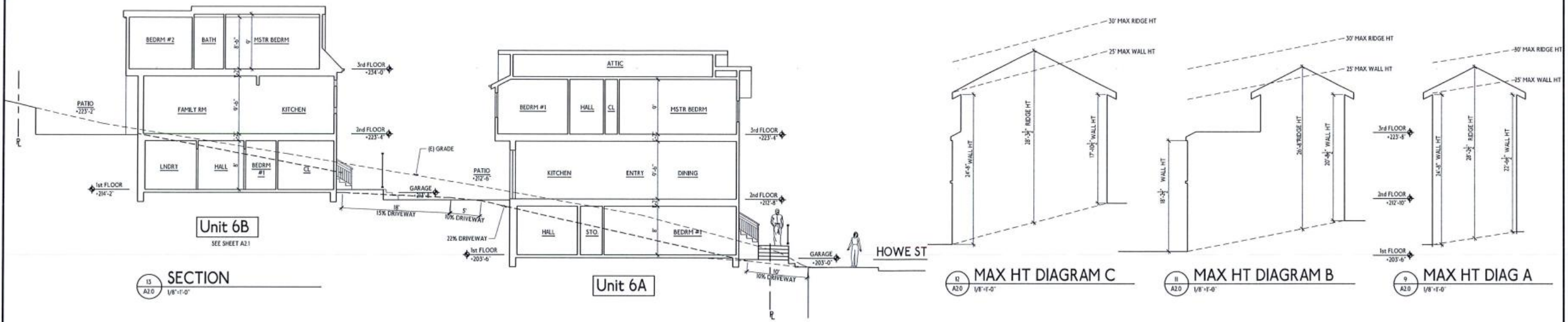
Owner:
Tom Anthony
5666 Telegraph Avenue
Oakland, CA 94611
(510) 701-3700

UNIT 6A
FLOOR PLANS,
ELEVATIONS &
SECTION

REVISION		
No.	Description	Date
1	DESIGN REV	4/20/17
2	SITE REV	5/22/17

PROJECT No.:
DRAWN BY: JMN
CHECKED BY: JMN
DATE: 2/2/18

A2.0



TYPICAL MATERIALS:

ROOF: CLASS "A" ASPHALT SHINGLE ROOF

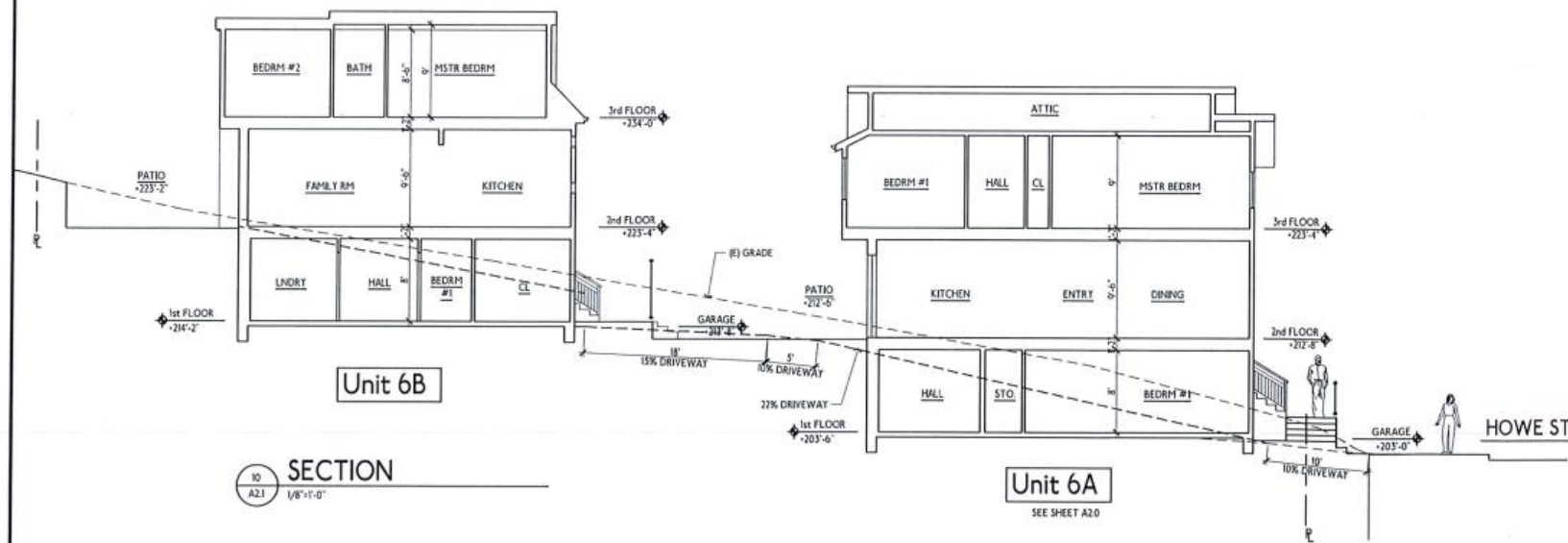
SIDING: STUCCO, TYP.

HANDRAIL: METAL RAILING, TYP.

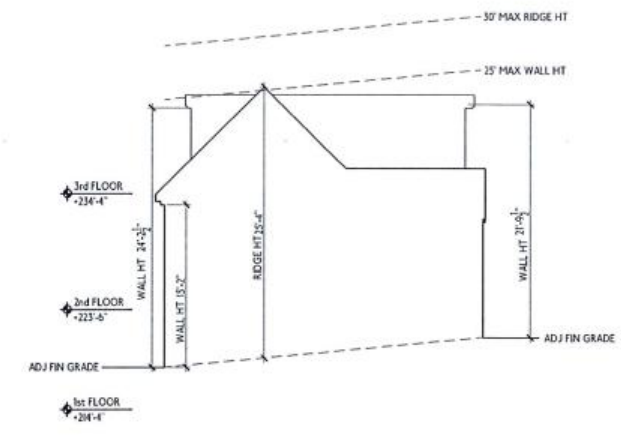
WINDOWS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP.

DOORS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP. SOLID WOOD ENTRY DOOR

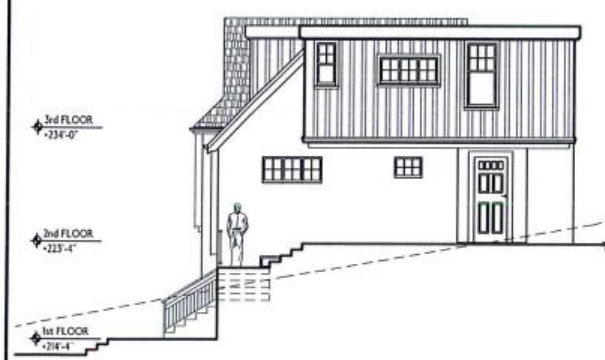




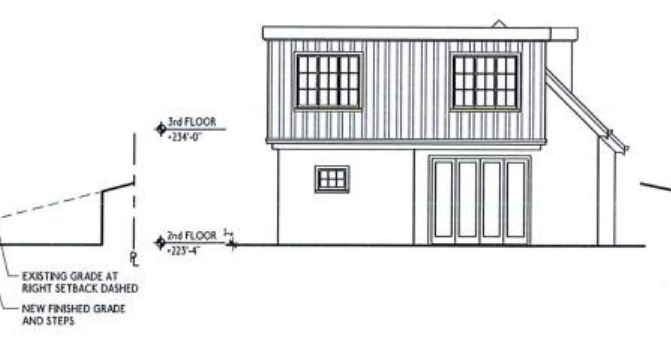
SECTION
A2.1 1/8"=1'-0"



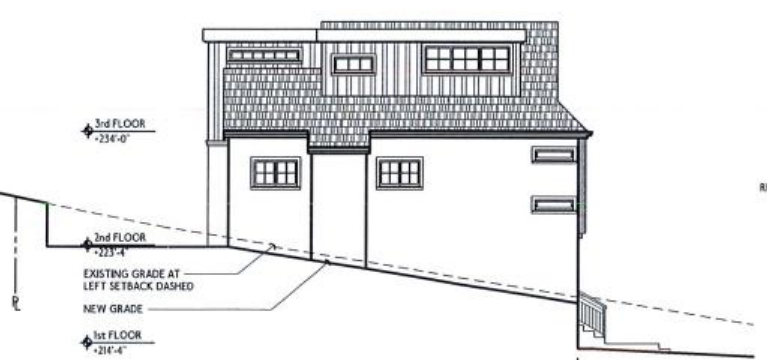
FRONT FACE UNIT 6B
MAX HT DIAGRAM
A2.1 1/8"=1'-0"



UNIT 6B
RIGHT (NORTH) ELEVATION
A2.1 1/8"=1'-0"



UNIT 6B
REAR (WEST) ELEVATION
A2.1 1/8"=1'-0"

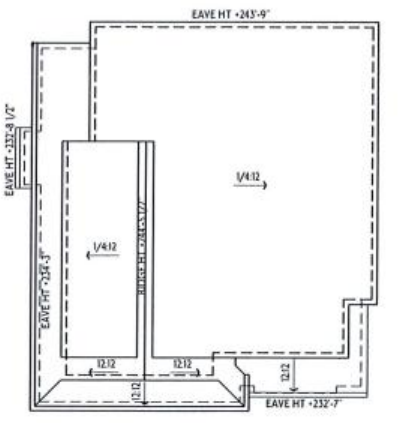


UNIT 6B
LEFT (SOUTH) ELEVATION
A2.1 1/8"=1'-0"

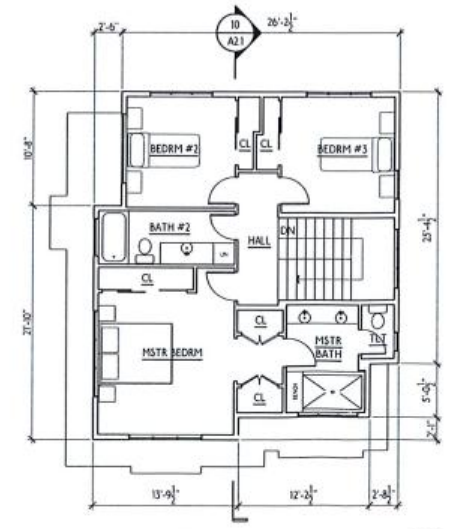


UNIT 6B
FRONT (EAST) ELEVATION
A2.1 1/8"=1'-0"

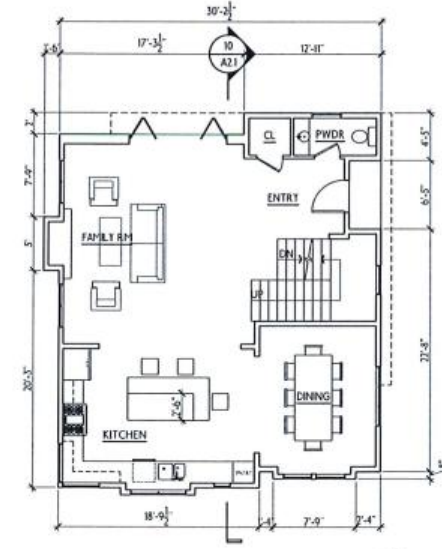
TYPICAL MATERIALS:
 ROOF: CLASS "A" ASPHALT SHINGLE ROOF, CLASS "A" BITUTHENE TORCH-DOWN MEMBRANE AT FLAT ROOF
 SIDING: STUCCO, TYP.
 HANDRAIL: METAL RAILING, TYP.
 WINDOWS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP.
 DOORS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP. SOLID WOOD ENTRY DOOR



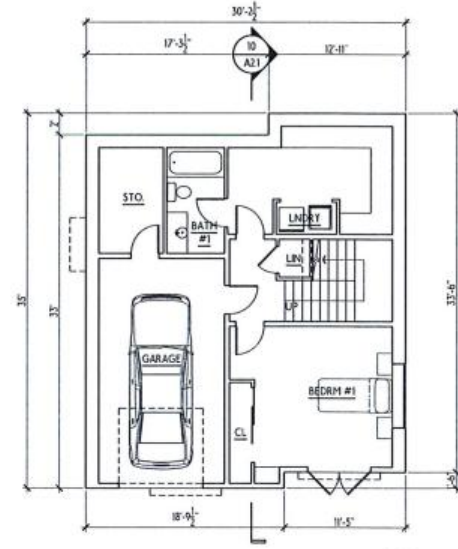
UNIT 6B
ROOF PLAN
A2.1 1/8"=1'-0"



UNIT 6B
3rd FLOOR PLAN
A2.1 1/8"=1'-0"



UNIT 6B
2nd FLOOR PLAN
A2.1 1/8"=1'-0"



UNIT 6B
1st FLOOR PLAN
A2.1 1/8"=1'-0"

1st FLOOR: 724 SF
 GARAGE: 281 SF
 TOTAL FOOTPRINT: 1005 SF
 TOTAL HOUSE: 1307 SF

John Newton
 Design & Development
 5666 Telegraph Ave, Ste A
 Oakland, CA 94609
 (510) 526-7370

4 NEW HOUSE
 MINILOT
 DEVELOPMENT
 Unit 6B

Project Address:
 4521 Howe Street
 Oakland, CA 94611
 APN: 13-1129-5 &
 13-1129-6

Owner:
 Tom Anthony
 5666 Telegraph Avenue
 Oakland, CA 94609
 (510) 701-3700

UNIT 6B
 FLOOR PLANS,
 ELEVATIONS &
 SECTION

REVISION

No.	Description	Date
Δ	DESIGN REV	4/20/17
Δ	SITE REV	5/22/17

PROJECT No.:
 DRAWN BY: JMN
 CHECKED BY: JMN
 DATE: 2/2/18

A2.1

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Oakland, CA 94609
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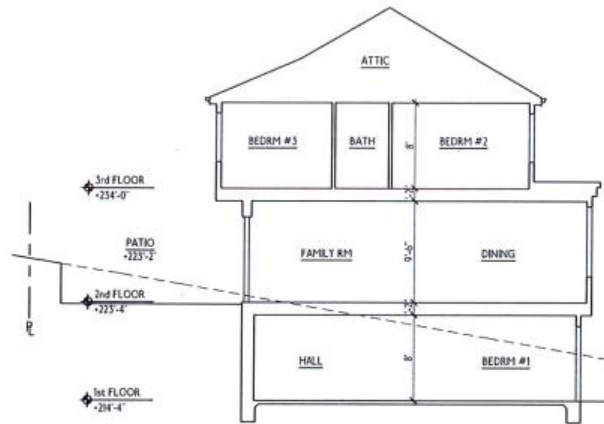
UNIT 7A
FLOOR PLANS,
ELEVATIONS &
SECTION

REVISION

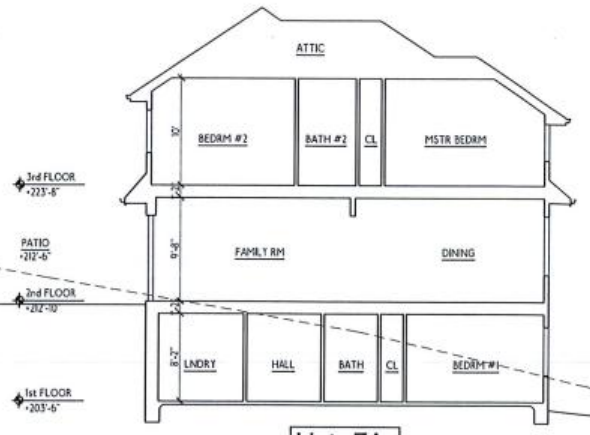
No.	Description	Date
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2	SITE REV	5/22/17

PROJECT No. :
DRAWN BY: JMN
CHECKED BY: JMN
DATE: 2/2/18

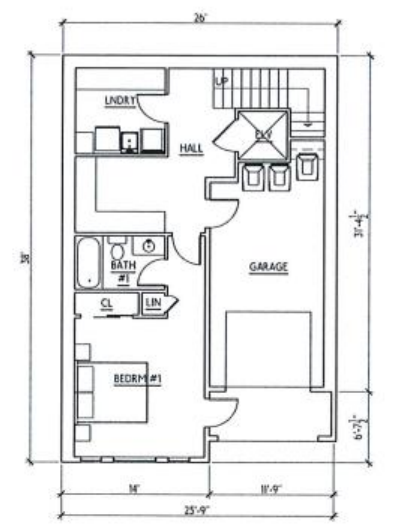
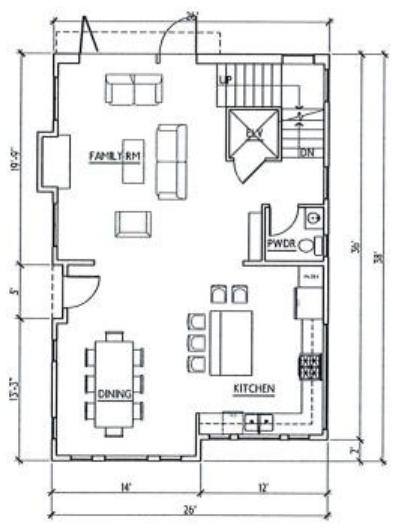
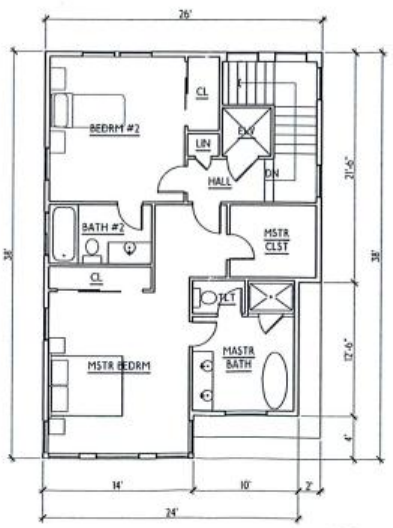
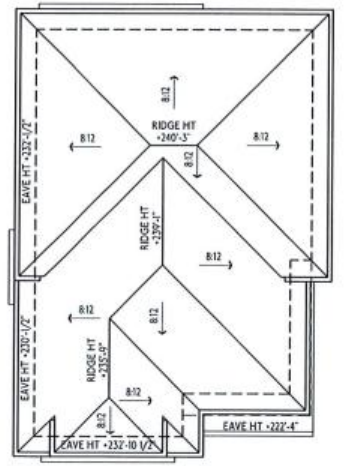
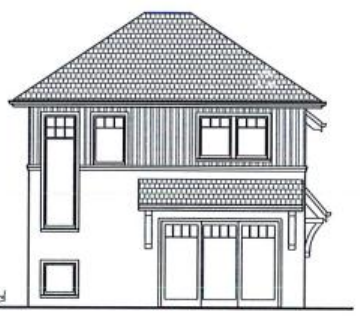
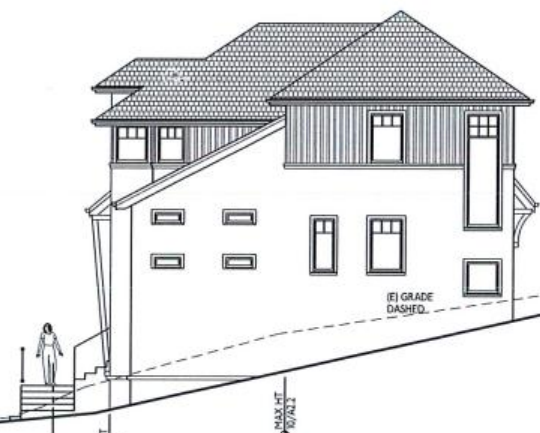
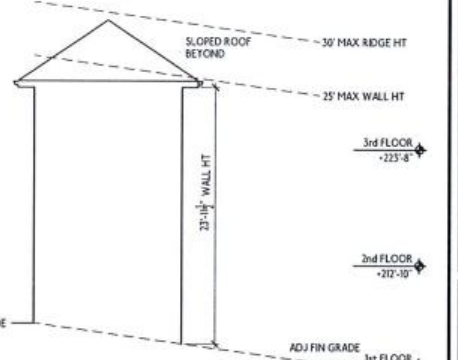
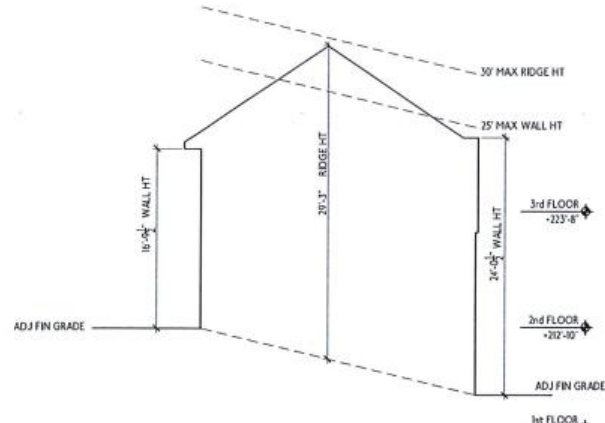
A2.2



Unit 7B
SEE SHEET A2.3
HOUSES 7A & 7B
SECTION
11
A2.2
1/8"=1'-0"



Unit 7A
SEE SHEET A2.2



TYPICAL MATERIALS:
ROOF: CLASS "A" ASPHALT SHINGLE ROOF
SIDING: STUCCO, TYP. PAINTED BOARD & BATTEN WOOD BATTENS OVER SMOOTH HARDIE SIDING WHERE SHOWN
HANDRAIL: METAL RAILING, TYP.
WINDOWS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP.
DOORS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP. SOLID WOOD ENTRY DOOR

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4 NEW HOUSE
MINILOT
DEVELOPMENT

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APN: 13-1129-5 &
13-1129-6

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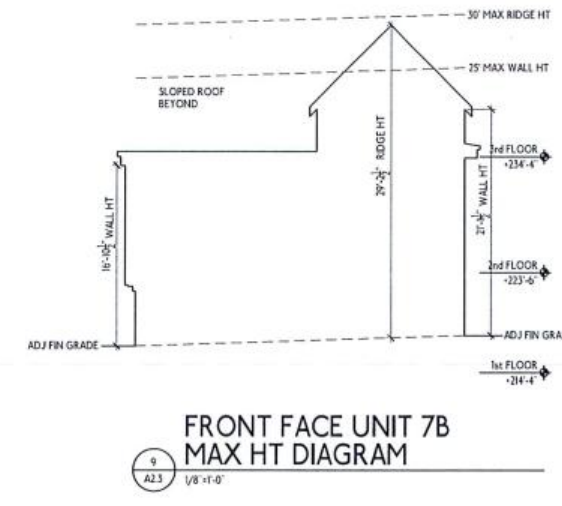
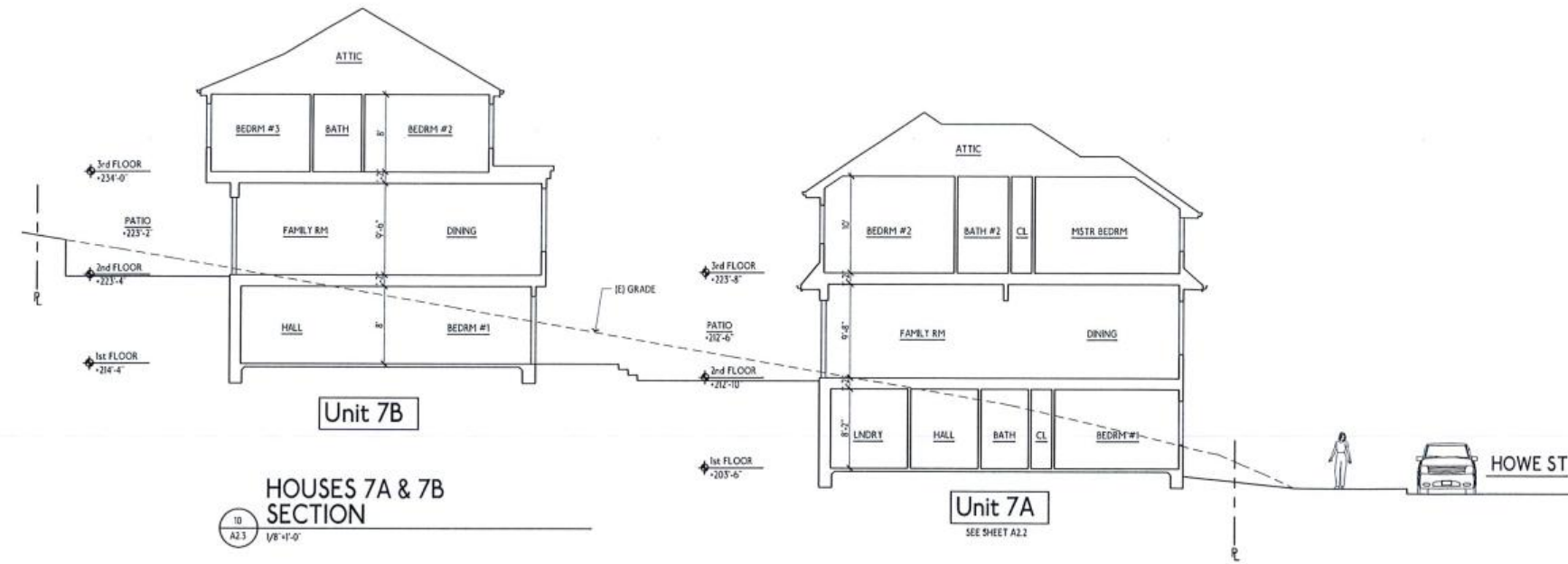
UNIT 7B
FLOOR PLANS,
ELEVATIONS &
SECTION

REVISION

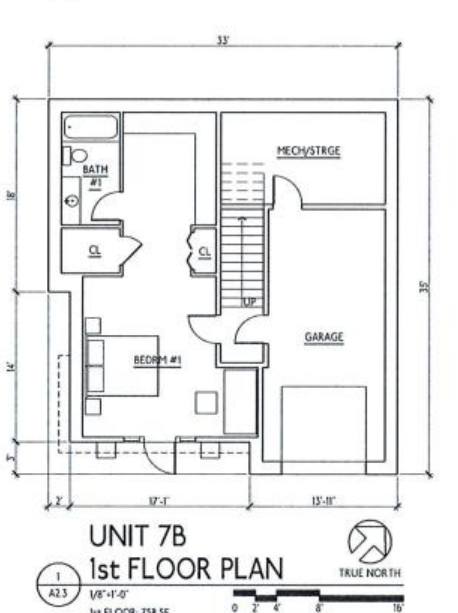
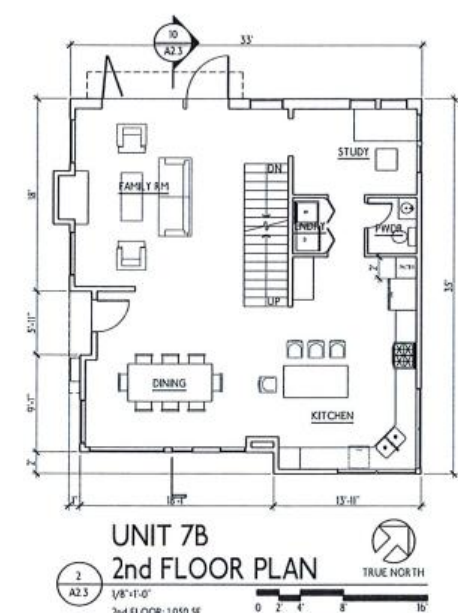
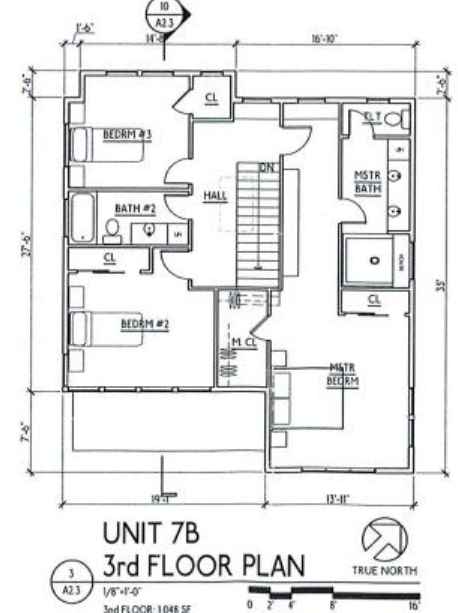
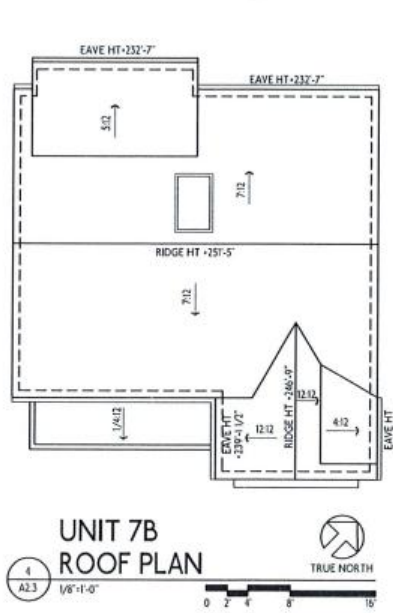
No.	Description	Date
1	DESIGN REV	4/20/17
2	SITE REV	5/22/17

PROJECT No.:
DRAWN BY: JMN
CHECKED BY: JMN
DATE: 2/2/18

A2.3

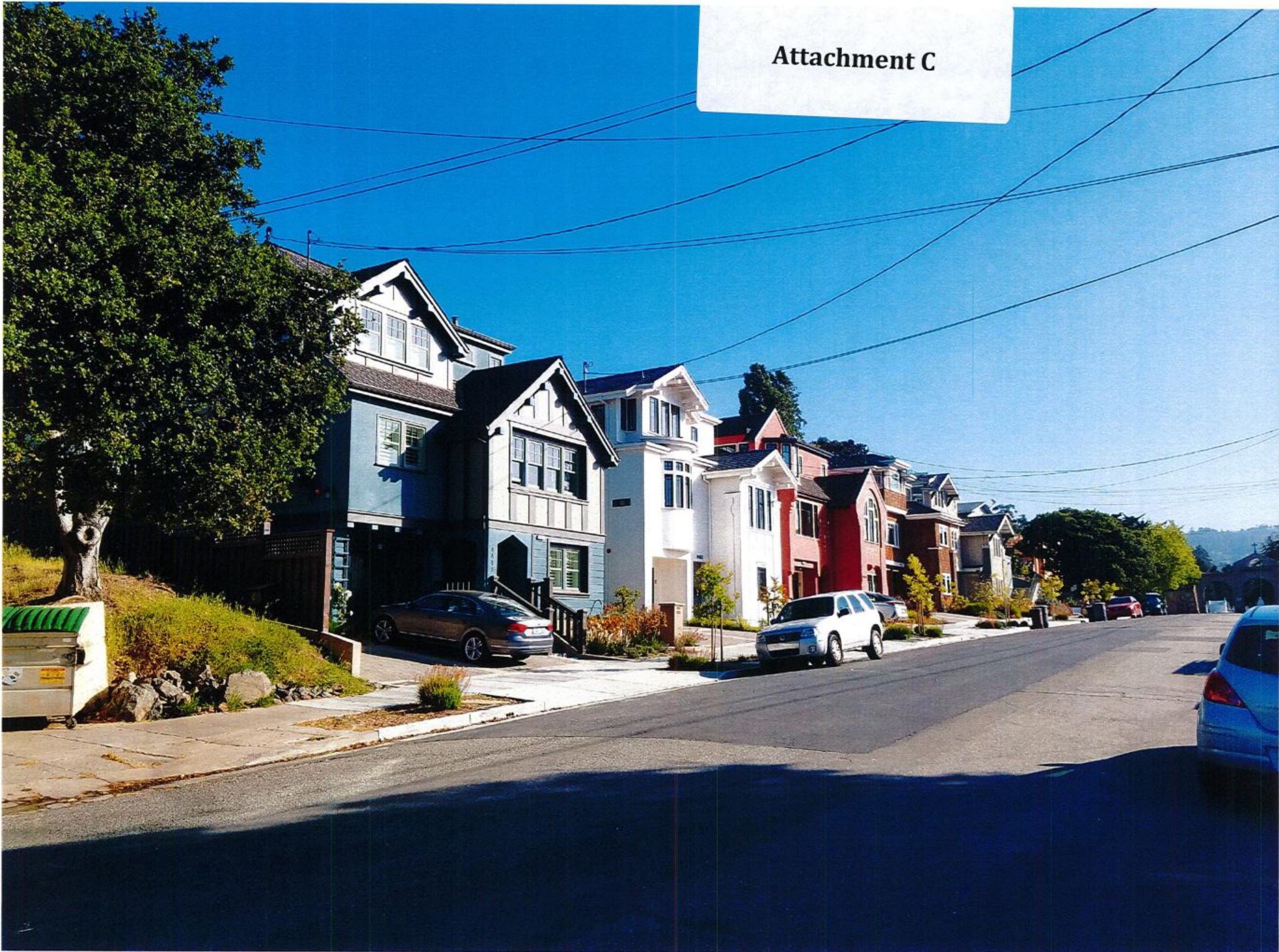


TYPICAL MATERIALS:
ROOF: CLASS "A" ASPHALT SHINGLE ROOF, CLASS "A" BITUTHENE TORCH-DOWN MEMBRANE AT FLAT ROOF
SIDING: STUCCO, TYP. PAINTED BOARD & BATTEN (WOOD BATTENS OVER SMOOTH HARDIE SIDING) & HARDIE LAP SIDING WHERE SHOWN
HANDRAIL: METAL RAILING, TYP.
WINDOWS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP.
DOORS: DUAL-PANE ALUMINUM-CLAD WOOD WITH PAINTED WOOD TRIM, TYP. SOLID WOOD ENTRY DOOR



1st FLOOR: 758 SF
GARAGE: 310 SF
TOTAL FOOTPRINT: 1066 SF
TOTAL HOUSE: 2896 SF

Attachment C







1161

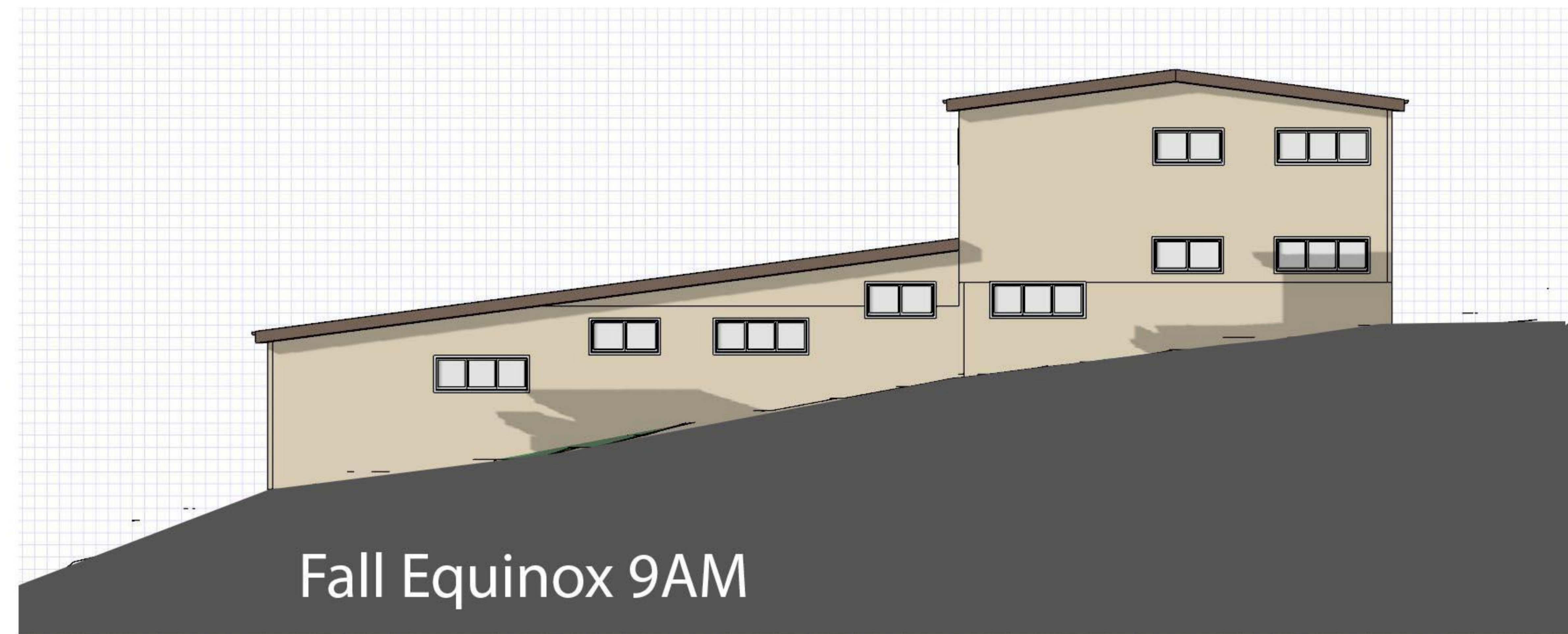




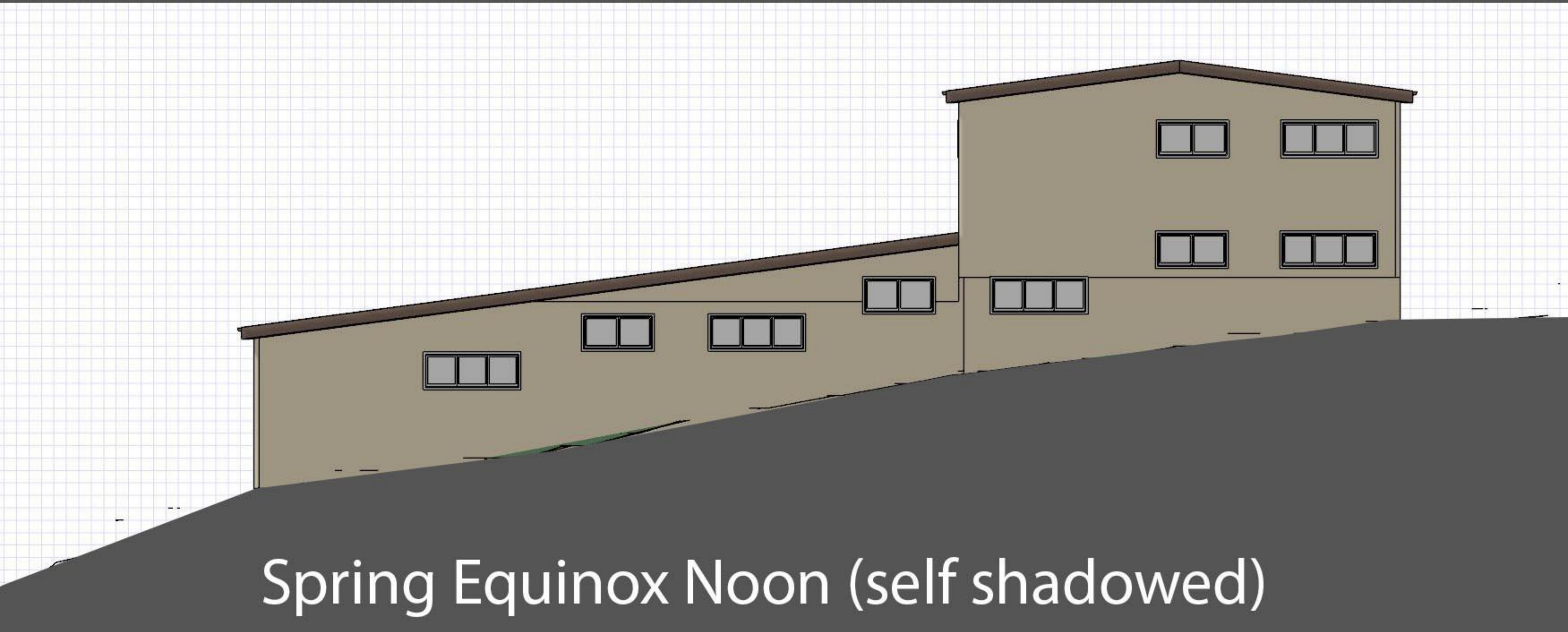
Shadow Study 4521 Howe Street (view to adj building at 4501 Howe Street)



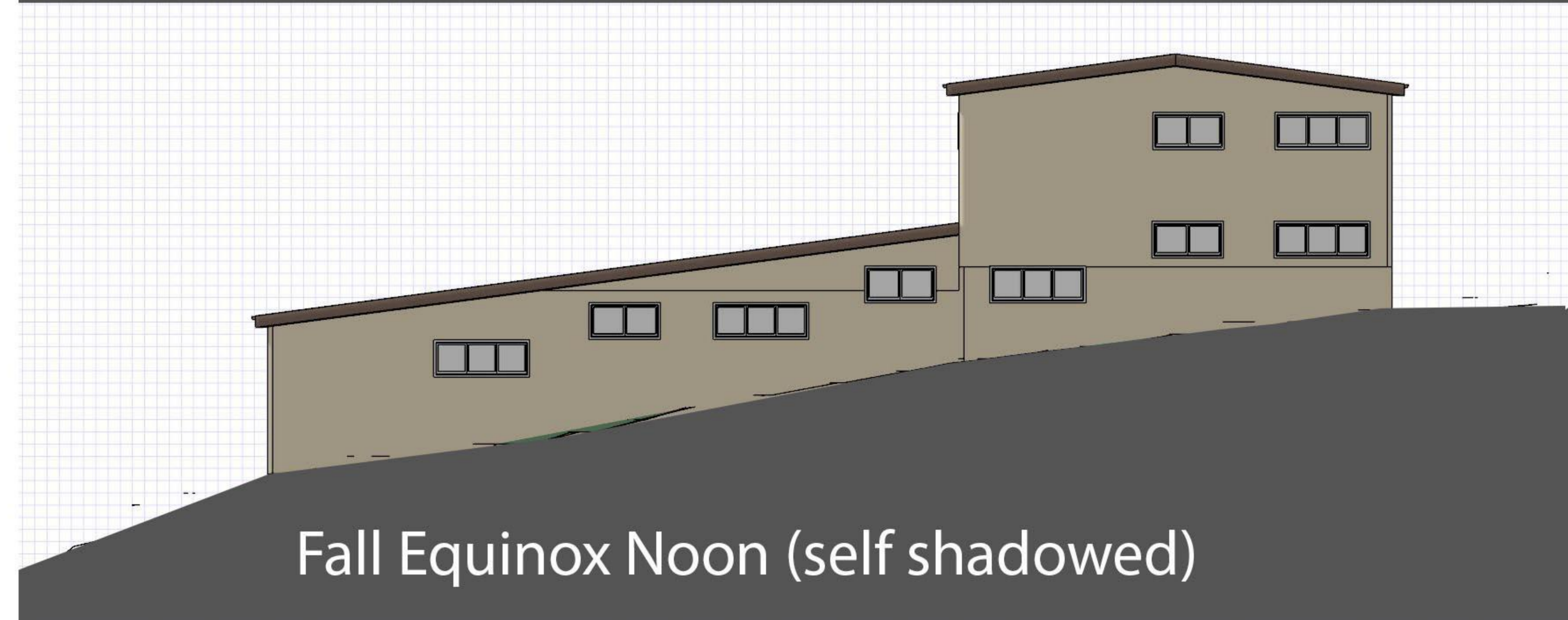
Spring Equinox 9AM



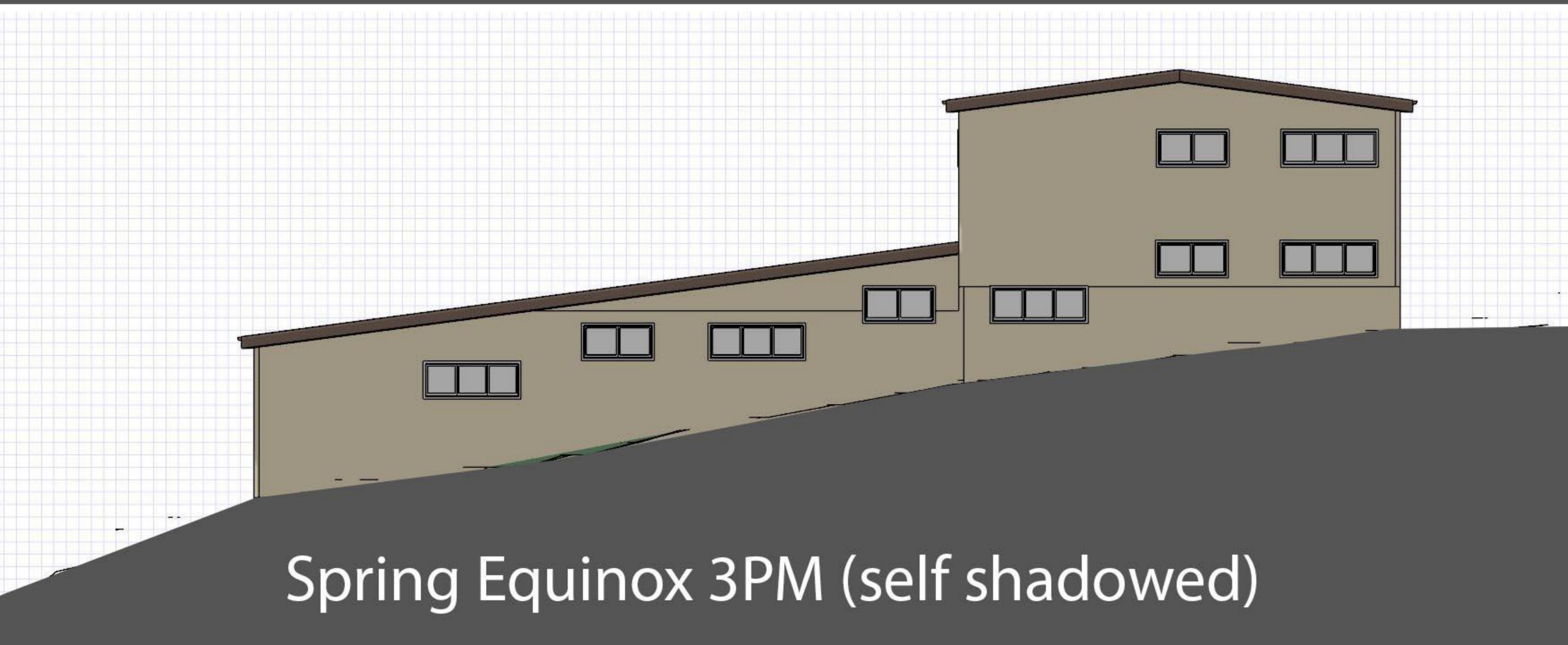
Fall Equinox 9AM



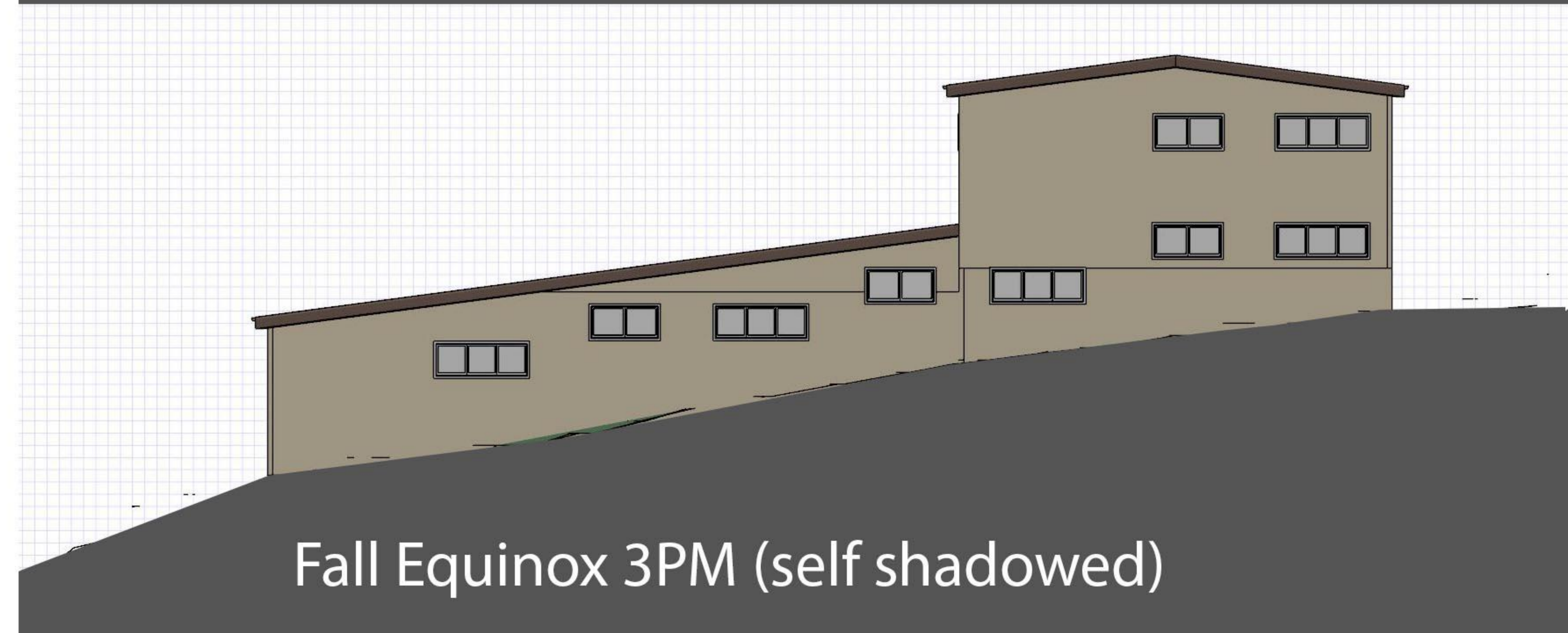
Spring Equinox Noon (self shadowed)



Fall Equinox Noon (self shadowed)



Spring Equinox 3PM (self shadowed)



Fall Equinox 3PM (self shadowed)