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**CITY OF OAKLAND
SUPPLEMENTAL AGENDA REPORT**

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: December 16, 2003

RE: A supplemental report and resolution denying an appeal of the Planning Commission approval of an application for Affordable Housing Associates to build an eight story building to contain ground floor commercial space, a "service enriched" housing facility, and 76 affordable housing units at 160 14th Street

BACKGROUND

As mentioned in the Agenda Report for this item, the City Council held a public hearing on November 18, 2003 regarding an appeal of a September 3, 2003 Planning Commission approval of a project located at 160 14th Street. After a full public hearing, the City Council decided that the conditions of approval regarding the design of the project required further clarification and refinement. The City Council voted to close the public hearing on the project and continue a decision on the design aspects of the proposal to the December 16, 2003 City Council meeting to allow time for a meeting between Vice Mayor Nancy Nadel, the applicant, and Planning Department Staff to resolve design issues.

On December 5, 2003 a meeting regarding design issues was held that included Vice Mayor Nadel, the applicant, the architect and Planning Department Staff. At that meeting, revised design related conditions of approval were agreed upon. They included:

- The covering of each of the structural concrete bands adjacent to the colored boards above the podium level except the uppermost band. The removal of the bands would fulfill part of Condition of Approval 10 on the September 3 Planning Commission Staff Report that required increased emphasis on the corner of the building closest to the intersection of 14th and Madison Streets. Preservation of the top band would fulfill the part of that same Condition of Approval requiring a more defined top;
- The addition of a projecting cap at the top edge of the building. This would also fulfill the part of Condition of Approval 10 requiring a more defined top element.
- Extending the corner windows nearest the intersection of 14th and Madison Streets to the roof parapet. This would fulfill the part of Condition of Approval 10 concerning emphasizing the corner of the building closest to that intersection;
- Vines and other landscaping along the ground level; and

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- Colors on the deck parapet that match the base of the building.

It was also agreed that the following would not be required conditions of approval:

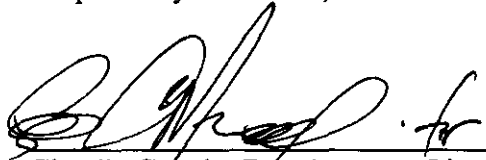
- The remaining design related conditions presented by Vice Mayor Nadel at the November 18 City Council meeting; and
- The condition of approval in the September 3, 2003 Staff Report to the Planning Commission requiring windows or other features that create significant visual interest on the Madison Street elevation.

Attachment A is the Conditions of Approval approved by the Planning Commission refined to reflect the proposed conditions described above.

RECOMMENDED CITY COUNCIL ACTION

To adopt amended findings, the revised conditions of approval contained in Attachment A, and a resolution rejecting the appeal of the Islamic Cultural Center against the decision of the City Planning Commission in approving the application of Affordable Housing Associates to build an eight story building to contain ground floor commercial space, a "service enriched" housing facility, and 76 affordable housing units at 160 14th Street.

Respectfully submitted,



Claudia Cappio, Development Director

Prepared by:
Neil Gray, Planner III
Planning & Zoning

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



OFFICE OF THE CITY MANAGER

Attachments:

- A. Proposed revised and refined Conditions of Approval

ATTACHMENT A

**REFINED CONDITIONS OF APPROVAL
ADOPTED BY THE CITY COUNCIL WITH PROPOSED
CHANGES TO CONDITIONS OF APPROVAL 10, 26,
AND 27.**

The following are the proposed revisions to the conditions of approval for the project. Text that is added to the November 18, 2003 approval is underlined; text removed is in ~~strikeout~~.

STANDARD CONDITIONS:

1. Approved Use.

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans date stamped August 18, 2003 and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval

2. Effective Date, Expiration, and Extensions

a. Ongoing.

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on September 3, 2005, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

3. Scope of This Approval; Major and Minor Changes

a. Ongoing.

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

4. Modification of Conditions or Revocation

a. Ongoing.

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved facility is violating any of the Conditions of Approval or the provisions of the Zoning Regulations.

5. Recording of Conditions of Approval

a. Prior to issuance of building permit or commencement of activity.

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

6. Reproduction of Conditions on Building Plans

a. Prior to issuance of building permit.

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

7. Indemnification

a. Ongoing.

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Building, Planning Commission, or City Council. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

STANDARD CONDITIONS FOR RESIDENTIAL CONSTRUCTION:

8. Waste Reduction and Recycling

a. Prior to issuance of a building or demolition permit

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

9. Recycling Space Allocation Requirements

a. Prior to issuance of building permit

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

DESIGN CONDITIONS:

10. Design Plans

a. Prior to Issuance of Building Permits

A plan shall be submitted for review and approval of the Planning Director showing:

- ~~Windows or other features that create significant visual interest on the Madison Street elevation~~
- ~~A visually prominent vertical feature on the corner of the building closest to the intersection of 14th and Madison Streets. This feature shall extend for much or all the height of the second floor to the top of the building.~~
- The colored panels on the façade having material with detailing and quality that provides significant visual interest to the façade of the building.
- ~~A prominent element along the length of the roof line that gives the building a more defined top.~~
- The covering of each of the structural concrete bands adjacent to the colored boards above the podium level except the uppermost band;

- A projecting cap at the top edge of the building;
- Extending the corner windows nearest the intersection of 14th and Madison Streets to the roof parapet;
- Vines and other landscaping along the ground level; and
- Colors on the deck parapet that match the base of the building.

11. Signage

a. *Prior to issuance of an occupancy permit for the first unit*

The project applicant shall submit a master signage plan for review and approval by the Planning Director, including but not limited to location, dimensions, materials and colors.

12. Lighting Plan

a. *Prior to Issuance of Building Permits*

A lighting plan for the exterior of the project and for the surface parking lot shall be submitted for review and approval of the Planning Director. The lighting plan shall include the design and location of all exterior and parking garage lighting fixtures or standards, and said light shall be installed such that it is adequately shielded and does not cast glare onto adjacent properties. The plans shall show significant lighting for all public areas that provide appropriate security for residents, employees, customers, and users of the parking garage.

13. Window Plans.

a. *Prior to issuance of building permit.*

The applicant shall submit plans for review and approval of the Zoning Administrator that show window details (including cross sections). Details shall show windows with significant recess and variety.

PARKING CONDITIONS:

14. CarShare Program Requirement

a. *Prior to issuance of building permit*

The applicant shall execute an agreement with CarShare to provide a minimum of one car at a location approved by the Planning Director for the project and the surrounding area. The applicant shall provide the Planning Director with evidence that it has executed a participation or membership agreement for CarShare in accordance with the policies, rules, and regulations of the CarShare. The current and future owners of the development shall remain a member of CarShare so long as CarShare or its successor or assignee is in fact operating CarShare.

b. *Ongoing*

The applicant shall provide a City CarShare orientation for all new residents to assist them in joining the program.

15. Shared Parking Management Plan

a. *Prior to issuance of an occupancy permit for the first unit*

The applicant shall establish an on-site parking management plan, which would allow residents and users of the project's commercial/office space to share on-site parking spaces through the designation of assigned spaces for residents and spaces assigned for both residents and users of the commercial/office space. The goal of the plan would be to

accommodate project-generated parking demand on-site. The number of shared parking spaces would be set on the basis of the patterns of usage of on-site parking spaces (by residents and users of the project's commercial/office space) throughout the day and evening. The parking management plan shall include but not be limited to the following components and requirements:

- Portion of the spaces used during the day will be for commercial/office.
- Provisions for establishing a portion of the spaces for shared use.

16. Transit Kiosk

a. *Prior to issuance of building permit.*

The applicant shall provide plans for review and approval of the Planning Director that show the location and design of an on-site transit kiosk that would provide transit maps and schedules, information on how to use AC Transit's online trip planner, and announcements for ride-sharing and car pooling.

17. Tenant Preference

a. *Prior to issuance of building permit.*

The applicant shall design a tenant selection system that will give significant preference to applicants who do not own a car. This system shall be presented to the Planning Director for review and approval to give assurance that it will result in a significant number of tenants not owning an automobile.

b. *Ongoing*

Any resident who is selected on the basis of not owning a car shall not own a car throughout their tenancy at the development. This requirement shall be written into the lease of all tenants selected on the basis on not owning a car. The owner of the building shall enforcement this requirement. A tenant who is chosen on the basis of not owning a car may only own a car if 1) a parking space becomes available in the building and 2) there are no other residents of the building who own a car and do not have an assigned parking space.

ENVIRONMENTAL CONDITIONS

18. Soil and Groundwater.

a. *Prior to issuance of building permit.*

A soil management plan (SMP) shall be submitted for review and approval of the applicable agency with jurisdiction. The SMP shall be written by a California registered environmental assessor. The SMP shall include protocol for: (a) best management practices to control dust, tire-tracking, storm drain runoff, etc.; (b) testing and properly handling any soils that are discovered to be stained or that give off chemical odors; (c) testing and properly disposing of all soils to be exported from the site as part of re-grading or construction; and (d) removal of, and confirmation sampling around, any unknown tanks that might be encountered during subsurface work.

b. *During construction activities.*

If any dewatering is necessitated by foundation work or any pumping or displacement of groundwater is required for installation or operation of the car lift, a groundwater management plan shall be submitted for review and approval of the Planning Director. The plan shall be written by a California registered environmental assessor. This plan

shall, at a minimum, require that all groundwater be disposed of via the sanitary sewer, not the storm drain system.

c. *During construction activities.*

The groundwater and soil management plans described in parts a) and b) of this condition shall be implemented and followed.

19. Exemption Requirement.

a. *Prior to issuance of building permit.*

The project sponsor, Affordable Housing Associates, will enter into a regulatory agreement with the City of Oakland, secured by a deed of trust, in which the sponsor pledges to rent the housing units to qualified low-income households for a period no less than 30 years, as defined in Section 50079.5 of the Health and Safety Code.

OTHER CONDITIONS:

20. Refuse Collection

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval of the Planning Director plans that show the location of all refuse and garbage areas on site. The plans shall show all garbage areas screened from view of the public right of way.

21. Public Right of Way Landscape and Streetscape Plans

a. *Prior to Issuance of Building Permits*

Plans showing public right of way landscaping plans and streetscape improvements shall be submitted to the Planning Director, Parks and Recreation Department, and the Public Works Department for review and approval. All costs for street and infrastructure improvements required because of the development shall be the responsibility of the developer. All landscaping, including street trees, shall include an automatic system of irrigation.

b. *Prior to Final Inspection*

All landscaping and streetscape improvements described in the above condition shall be installed and in working or healthy condition.

c. *Ongoing*

All landscaping, including street trees, shall be maintained in a neat and healthy condition.

22. Landscaping Plan

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

The applicant shall prepare a detailed on-site landscaping plan for the project and shall submit such plans to the Zoning Administrator for review and approval. The landscaping plan shall include a system for irrigation of plantings. All landscaping shall be permanently maintained in a neat, safe and healthy condition.

23. Meter shielding.

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval of the Zoning Administrator plans that show any and all utility meters, transformers, and the like screened from view from any public right of way.

24. Property Maintenance.

a. Ongoing.

The owner of the site shall maintain the entire property in a neat, functional, and non-blighted condition. Any trash or debris originating from activities at the site shall be cleaned and properly disposed of by the owners of the site.

25. Construction Methods.

a. Prior to issuance of building permit.

The applicant shall include language on the construction plans that describe the following construction methods in detail:

- All contractors shall utilize drilled piers for foundation construction efforts, unless drilled piers are infeasible;
- If drilled piers are infeasible, pile driving methods can be utilized if a historic preservation architect prepares an existing conditions report of the Islamic Cultural Center for review and approval of the Planning Director that determines baseline conditions prior to construction, and determines an acceptable vibration threshold. The plan shall include attaching vibration monitoring equipment to the Center during foundation construction efforts. The contractor shall periodically monitor vibrations and inspect the historic resource. Construction shall cease if vibration levels are detected above the established threshold or if damage is found when compared to baseline conditions.
- All heavy construction equipment including large trucks shall be routed away from Madison Street.

26. Structural Plans

a. Prior to issuance of building a permit.

The applicant shall submit for review and approval of the Director of Development and the Building Official plans demonstrating that the proposed construction will preserve the structural integrity of all structures adjacent to the project site. The plans shall be prepared by a licensed structural engineer.

27. Agreement

a. Prior to issuance of building a permit.

Staff shall confirm that an agreement has been executed between the applicant and Eisenberg, Oliveir & Associates Inc. (EOA) that addresses the concerns of EOA regarding the construction of the project.

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