

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

5/11/06
OFFICE OF THE CITY CLERK
CITY OF OAKLAND
2000 MARKET STREET, SUITE 43

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: July 18, 2006
RE: **PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION APPROVING CONSTRUCTION OF A NEW MIXED-USE DEVELOPMENT CONSISTING OF 74 RESIDENTIAL UNITS AND 4,600 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 460 GRAND AVENUE (CASE FILE NUMBER CMDV04-485)**

SUMMARY

On June 7, 2006, the City Planning Commission approved (by a 4-1-1 vote) a proposal to construct a new mixed-use development containing 74 residential condominiums and approximately 4,600 square feet of ground floor commercial space located at 460 Grand Avenue at the corner of Grand Avenue and Bellevue Avenue in the Adams Point neighborhood. On June 19, 2006, Kevin Maples filed an appeal of the Planning Commission's decision. The appellant argues primarily that the evidence in the administrative record concerning the project does not support the findings made by the Planning Commission to approve the project. The specific arguments raised by the appellant are summarized below along with staff's response to each argument. Staff recommends that the Council deny the appeal thereby upholding the Planning Commission's decision to approve the project.

FISCAL IMPACT

The project is a private development on private property. No public funds are required for the project so there would be no direct fiscal impact to the City. The project does have the potential to result in indirect fiscal impacts to the City, both positive and negative. The new development would increase the property tax valuation of the property thereby providing a positive fiscal impact to the City through increased property tax revenue. The project would involve residential condominiums so the sales and resales of the residential units would generate transfer tax revenue for the City. The project would also increase the population in the Adams Point neighborhood thereby expanding the consumer base for neighborhood businesses which would increase sales tax revenue. However, demand for City-funded services (e.g., library services, parks and recreation services, public safety services, street maintenance services) would increase slightly. The project would have an initial positive impact that would be reduced over time given the cap on annual property tax increases.

Item: _____
City Council
July 18, 2006

BACKGROUND

Site and Project Description

The project site is located at the corner of Grand Avenue and Bellevue Avenue in the Adams Point neighborhood. The property is approximately 29,621 square feet (0.68 acres) in size and is primarily rectangular in shape except for a portion of the site that extends to Euclid Avenue in the east. The topography of the site slopes gradually up to the northwest away from Grand Avenue. Currently the site is vacant except that a portion of the site is used as a pay parking lot serving surrounding uses. The existing pavement, parking lot, and retaining walls on the site would be removed by the project.

The site is surrounded by commercial uses along Grand Avenue containing one to five stories, and single-family and multi-family residential uses along Bellevue Avenue (to the west) and Euclid Avenue (to the east) containing two to four stories. Across Grand Avenue to the south is Lake Merritt. AC Transit operates a bus line (Route 12) along Grand Avenue.

The project consists of a new mixed-use building containing approximately 106,825 square feet of floor area with 74 residential units and approximately 4,600 square feet of ground floor commercial space. The drawings for the proposal are attached to this report (see Attachment A). The building would be primarily 70 to 72 feet tall along Grand Avenue (6 stories) rising up to approximately 80 feet tall at the corner of Grand Avenue and Bellevue Avenue. Due to the topography of the site, which slopes modestly up toward the northwest away from Grand Avenue, the building would be approximately 65 feet tall at the back of the building along Bellevue Avenue. The building would be approximately 70 feet tall along Euclid Avenue stepping down to approximately 60 feet towards the street.

All of the residential units would be condominiums offered for-sale at market rates. Approximately 74 percent of the residential units (55 units) would contain one bedroom while the remaining units (19 units or approximately 26 percent of the total) would contain two bedrooms. The building would be six stories tall with four floors of residential units above two floors of parking located in a partially submerged parking garage. Residential units would also be located on the second floor of the building in front of the second floor parking spaces along Grand Avenue and Bellevue Avenue. Commercial space would be located along the majority of the ground floor on Grand Avenue. An interior courtyard measuring approximately 4,216 square feet would be located in the north-central portion of the site on the third floor (on top of the parking garage).

The parking garage would contain a total of 119 off-street parking spaces. 88 spaces reserved for the residents of the residential units would be located on the ground floor of the building behind the commercial space located along Grand Avenue. These spaces would be provided in triple-stacked mechanical parking lifts. The entrance and exit to the ground-floor parking area would be located on Euclid Avenue. The second floor of the parking garage would contain 15 spaces for visitor parking for the residential units and 16 spaces to serve the commercial space. The entrance and exit to the second floor parking area would be located on Bellevue Avenue.

Item: _____
City Council
July 18, 2006

General Plan and Zoning Information

The Oakland General Plan would allow a maximum of 113 residential units on the site (74 units are proposed). The zoning for the site would allow 54 units on the site. The Zoning Regulations came into effect largely in 1965. The City adopted a new General Plan in 1998. As provided for in the General Plan and Oakland Planning Code, the density policies of the General Plan supersede the Zoning Regulations. In some areas of the city, particularly along major transit corridors such as Grand Avenue, the maximum residential density allowed under the General Plan is significantly higher than the density allowed by the zoning. However, the Zoning Regulations' development standards, such as parking requirements, setbacks, open space requirements, and height limitations, still apply. The proposed project requires a number of zoning and subdivision permits including Regular Design Review, Interim Conditional Use Permit, Minor Conditional Use Permit, Minor Variances, and Tentative Parcel Map approval.

Planning Commission's Approval

On February 22, 2006, the Design Review Committee of the Planning Commission reviewed the proposal. In response to concerns of the Design Review Committee and neighborhood residents concerning the proposed height, mass, and bulk of the building, the applicant incorporated the following revisions into the design of the project: 1) There would be a horizontal band located along the base of the top floor to visually separate the top floor from the remainder of the building; 2) The top floor windows would be larger than the remaining windows thereby providing more glazing to reduce the visual perception of building mass at the top floor; and 3) The top floor would be painted a lighter color thereby visually distinguishing the top floor from the lower floors and visually emphasizing the darker lower floors.

On June 7, 2006, the Planning Commission voted 4-1-1 to approve the project. The Planning Commission found that the project complies with all the necessary requirements for approval and is consistent with the policies of the General Plan. In approving the project, the Planning Commission attached a condition of approval requiring the top floor of the building along Bellevue Avenue to be setback from the lower floors to reduce the visual height, mass, and bulk of the building along Bellevue Avenue and to act as a visual transition between the subject building and the existing shorter buildings located along Bellevue Avenue. To accomplish the same goals on the other side of the building, the applicant also proposes to setback the top floor of the building along Euclid Avenue. The staff report for the Planning Commission hearing, which contains a more thorough discussion of the project and the key issues considered by Planning Commission, is attached to this report (see Attachment B). Also attached is the approval letter for the project which contains the findings for approval of the project and the final, adopted conditions of approval (see Attachment C).

Below are the key elements of the Planning Commission's decision to approve the project:

1. General Plan Consistency: The proposal would replace an existing vacant, blighted, and underutilized site located along a major transit corridor with needed housing opportunities

Item: _____

City Council
July 18, 2006

and neighborhood-oriented commercial uses. The additional residents in the neighborhood would contribute to the economic vitality of the Grand Avenue commercial district.

2. Environmental Determination: The project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines (“In-Fill Development Projects”).
3. Building Height, Mass, and Bulk: The potential impact of the height, mass, and bulk of the building would be mitigated by the design of the building. The building mass would be arranged on the site so that the majority of the mass of the building is placed toward Grand Avenue allowing for an open interior courtyard in the north central portion of the site near the existing residential neighborhood located behind the site to the north. The courtyard would act to reduce potential impacts related to building mass, such as solar access impacts and visual impacts, on adjacent properties to the north. The top floor to the building would be setback from the face of the building along Bellevue Avenue and Euclid Avenue to act as a visual transition between the subject building and the existing shorter buildings located immediately behind the site. In addition, the design was revised to include techniques to reduce the visual height, mass, and bulk of the building as explained above.
4. Solar Access and View Impacts: The proposed building has the potential to result in solar access and view impacts on adjacent properties. The design of the proposal considers potential solar access impacts—the placement of the central courtyard towards the north of the site reduces shadow impacts to adjacent properties to the north. Shadow studies conducted for the project indicate that the potential shadow impacts to the adjacent property to the north along Euclid Avenue (435-437 Euclid Avenue) would be greatest. Shadow impacts to this property would be substantial during the winter, spring, and fall (blocking nearly all sunlight to the south side of the units at all times of the day) but limited during the summer (blocking virtually no sunlight to the units at all times of the day). The proposal also has the potential to completely block existing southerly views of Lake Merritt from the units on adjacent properties to the rear of the site (436 Bellevue Avenue and 435-437 Euclid Avenue). The General Plan (Policy N3.9, “Orienting Residential Development”) and the Oakland High Density Housing Design Guidelines (Section 4, “Sun and View”) require the City to take potential sun and view impacts into consideration when reviewing proposals for multi-family development projects. The Planning Commission found that the proposal was consistent with both the General Plan and the Design Guidelines in that the proposal would not unreasonably block sunlight and views for neighboring buildings given the circumstances surrounding the proposal, such as the relationship of the adjacent properties to the site and the location of the site. The existing views from the adjacent properties are from the sides of the buildings over the subject property. In order to preserve sunlight and views for 436 Bellevue Avenue, the height of the proposal would need to be reduced to two stories. In order to preserve sunlight and views for 435-437 Euclid Avenue, the height of the proposal would need to be reduced to one story. Reducing the height of the proposal to completely eliminate these impacts would significantly reduce the number of units and floor area in the building. The Planning Commission felt that a one- or two-story building on the site would

be inappropriate given the policies of the General Plan to accommodate significant numbers of new units along major transit corridors such as Grand Avenue.

5. **Traffic Impacts:** A traffic impact analysis prepared for the project concluded that the anticipated traffic generated by the project would be considered less than significant under CEQA.
6. **Parking Impacts:** The zoning for the site requires more parking for the project than what would be required for the project in the rest of the city due to the lack of parking in the Adams Point neighborhood (in Adams Point the amount of off-street residential parking required is based upon the number of bedrooms in the project whereas in the remainder of the city the amount of required parking is based upon the number of units). A minimum of 80 off-street parking spaces are required for the proposed residential units. 88 spaces are proposed thereby exceeding the amount of residential parking required. In addition, 15 residential visitor spaces and 16 commercial spaces are proposed in accordance with the Zoning Regulations. Although parking is not considered a CEQA impact, the traffic study for the project nevertheless analyzed the impact of the project on on-street parking in the neighborhood. Because the project would meet (and exceed in the case of residential parking) the amount of off-street parking required by the zoning regulations and estimated demand, it is not anticipated that the project uses would increase on-street parking impacts in the neighborhood. The project would replace an existing parking lot thereby displacing vehicles currently using the parking lot. Current City policy does not require replacement parking for vehicles displaced from privately owned surface parking lots. However, the traffic study found that there is another existing parking lot located near the site with sufficient capacity to meet the parking demand of the displaced vehicles from the subject site.

KEY ISSUES AND IMPACTS

Appellant's Arguments

On June 19, 2006, Kevin Maples, a resident of the Adams Point neighborhood, filed an appeal of the Planning Commission's decision. The appellant's letter is attached to this report (see Attachment D). Essentially, the appellant contends (1) the evidence in the administrative record concerning the project does not support the findings made by the Planning Commission to approve the project; (2) zoning standards were inappropriately applied to the project; (3) the environmental review conducted for the project was insufficient to support the CEQA in-fill exemption; and (4) the design of the project should be modified. Listed below is a summary of the specific arguments raised by the appellant. Staff's response to each argument follows each item. The appellant has not submitted with his appeal, as he is required to do, a detailed basis for each and every issue raised in the appeal, but staff has nevertheless responded as best as it can to the appellant's arguments.

1. **Findings:** There is insufficient evidence in the administrative record of the project to support the findings required for the approval of Design Review, Minor Conditional Use Permit, Minor Variances, and Interim Conditional Use, and the environmental

Item: _____

City Council
July 18, 2006

review determination. There was a failure to articulate an evidentiary basis for the findings made for approval of the zoning permits and the environmental determination.

Staff Response: The appellant does not provide in his appeal, as he is required to do, any specific evidence to support his claim that there is insufficient evidence in the record to support the findings made by the Planning Commission and that the Planning Commission failed to provide a basis for the findings that were made. The Planning Commission found that based upon all of the evidence in the record, including, but not limited to, the application materials, the project drawings, the staff reports for the February 22, 2006, Design Review Committee meeting and June 7, 2006, Planning Commission hearing, public testimony at the February 2006 Design Review Committee meeting and June 2006 Planning Commission hearing, and various environmental analyses, that the project satisfied all of the required findings for approval as articulated in the findings made for approval of the project. Both the findings and evidence supporting the findings are sufficient. A detailed listing of what constitutes the administrative record is contained in the draft resolution. There is no legal requirement that the findings specifically list each and every item of evidence that supports each and every finding.

- 2. Determination of Best-Fit Zone: The determination that the C-30 Zone is the “best-fit zone” for the site under the Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations is inappropriate because the C-30 Zone is not listed as one of the potential best-fit zones for the General Plan designation of the site (Neighborhood Center Mixed Use).**

Staff Response: Regarding the application of best-fit zones, the Planning Code states the following:

[T]he Director of City Planning shall determine which zone to apply, with consideration given to the characteristics of the proposal and the surrounding area and any relevant provisions of the General Plan. (Section 17.01.100B)

The Director of Development (acting as the Director of City Planning) determined that the C-30 Zone, the existing zoning for the site, is the best-fit zone for the site given the characteristics of Grand Avenue as a major vehicular thoroughfare linking downtown Oakland and Interstate 580. The characteristics of Grand Avenue are consistent with the intent of the C-30 Zone. The Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations do not state that the selected best-fit zone must be one of the recommended best-fit zones in the Guidelines. Therefore, the Director of Development has the discretion to select any zone as the best-fit zone as appropriate. The appellant does not provide any evidence concerning the characteristics of the proposal or the surrounding area that demonstrates why the C-30 Zone should not be considered the best-fit zone.

- 3. Application of Height Regulations: The applicable height regulations of the C-30 and R-70 Zones were not fully applied.**

Item: _____
City Council
July 18, 2006

Staff Response: The appellant does not provide any evidence in his appeal, as he is required to do, to support his claim that the height regulations in the applicable zoning districts were not fully applied. The height regulations of the C-30 Zone, as contained in Section 17.46.150 of the Planning Code, and the height regulations of the R-60 Zone (not the R-70 Zone as erroneously stated in the appeal), as contained in Section 16.26.130 of the Planning Code, were fully applied in accordance with all provisions of the Planning Code. Under Section 17.46.150 of the Planning Code, given the lot configuration of the site and the definitions contained within the Planning Code, there is no height limit in the C-30 Zone for the project. Pursuant to Section 17.26.130 of the Planning Code the maximum allowed building height for the portion of the building in the R-60 Zone is 40 feet except upon the granting of a Condition Use Permit. In approving the project, the Planning Commission granted a Conditional Use Permit to allow the proposed height finding that the proposal satisfies all of the necessary findings for approval. The building is designed with measures to reduce its visual height as explained in the "Planning Commission's Approval" section of this report (see above).

4. **Selective Application of Zoning Regulations:** Not all of the regulations of the C-30 Zone as the best-fit zone were applied to the project, specifically, but not necessarily limited to, the building height regulations of the C-30 Zone were applied to the project but not the density regulations of the C-30 Zone.

Staff Response: Section 17.01.100B of the Planning Code provides for a procedure whereby a proposal that conforms with the General Plan land use designation for the site but not with the zoning for the site may be approved upon the granting of an Interim Conditional Use Permit. Under this provision the development standards of the best-fit zone are applied to the proposal. The intent of this provision is to provide a mechanism for the application of the General Plan policies to the site. Each General Plan land use designation only contains use and density regulations, but no other development standards, such as height restrictions, minimum setbacks, and parking requirements. Approval of an Interim Conditional Use Permit allows the application of the use and density regulations of the General Plan land use designation to the site. However, all other development standards of the best-fit zone still apply to the proposal. In this case, upon the granting of the Interim Conditional Use Permit the density limitations of the General Plan would apply to the site but the height regulations of the C-30 Zone (the best-fit zone) would apply. The proposal complies with the height regulations of both the C-30 Zone and R-60 Zone as explained in the response to Argument #3 (see above).

5. **Environmental Studies and Determination:** The environmental studies for the project were not reviewed prior to the Planning Commission's environmental determination and the environmental studies included in the administrative record were not made available to the public prior to the Planning Commission approving the project. The environmental determination does not satisfy the CEQA requirements

Staff Response: All environmental studies were reviewed by City staff prior to the June 7, 2006, Planning Commission hearing and the results of the studies were presented to the

Item: _____

City Council
July 18, 2006

Planning Commission at the hearing. All environmental studies were in the administrative record and available to the public prior to the June 7, 2006, Planning Commission hearing. In addition, all environmental studies for the project were available to the public following the Planning Commission hearing and remain available to the public. All environmental studies, except the traffic study, were in the case file when it was reviewed by the appellant on June 2, 2006. Preliminary results of the traffic study were reviewed and confirmed by staff prior to the preparation of the June 7th Planning Commission report. The traffic study was finalized and available to the public on the afternoon of June 7, 2006. Copies of the traffic study were also made available to the public and the Planning Commission at the June 7, 2006, Planning Commission hearing. On June 20, 2006, after the close of the appeal period for the project, the appellant requested a copy of the traffic study which was subsequently made available to the appellant and retrieved by the appellant on June 28, 2006. The appellant fails to provide in his appeal, as he is required to do, an explanation as to why he believes the environmental determination does not satisfy CEQA requirements. The project is an in-fill development in an urbanized area of the city and satisfies all of the requirements for the In-Fill exemption under CEQA as explained on pages eight through ten of the June 7, 2006, Planning Commission staff report (see Attachment B).

- 6. Design Modifications: The evidence in the administrative record supports approval of the proposal if the project included (1) a slightly lower building with greater setbacks from the structures to the north and the property frontages, and (2) greater architectural consistency with the larger Adams Point neighborhood, rather than solely reflecting the poor architectural styles of the existing buildings in the Grand Avenue corridor.**

Staff Response: Regarding a revised design that provided for a lower building with greater setbacks, the Planning Commission felt that reducing the height of the building would be inconsistent with the policies of the General Plan which encourage higher residential densities along major transit corridors such as Grand Avenue. Lowering the height of the building would reduce the number of units in the project. The Planning Commission felt that the building is designed with techniques to reduce the potential visual impact of the height of the building as explained in the "Planning Commission's Approval" section of this report (see above). Increasing the setbacks of the project would also be inconsistent with the policies of the General Plan because increased setbacks would reduce the footprint of the building thereby either (1) reducing the size and livability of the units, (2) reducing the number of units, or (3) increasing the height of the building in order to maintain the size and number of units which would increase potential solar access, view, and scale impacts on the surrounding neighborhood.

Regarding the architectural style of the proposed building, architectural style is not a consideration in any of the General Plan policies, zoning standards, design review approval criteria, or design guidelines used by the City to evaluate proposed development projects. In any event, in approving the proposal the Planning Commission felt that the style of the building was compatible with the mixture of architectural styles present along Grand Avenue.

Item: _____
City Council
July 18, 2006

SUSTAINABLE OPPORTUNITIES

The project would provide the following economic, environmental, and social equity benefits to the city:

Economic: The project would contribute to the economic vitality of the Adams Point commercial district along Grand Avenue by housing additional consumers in the area. The project would also increase the property tax valuation of the property thereby providing a positive fiscal impact to the City through increased property tax revenue. Since the project would involve residential condominiums, sales and resales of the residential units in the project would also generate transfer taxes for the City.

Environmental: The project is a compact, in-fill development in an already urbanized area thereby reducing the need for development in environmentally sensitive areas of the city and outside of the city. The project supports alternative modes of transportation; the site is well-served by public transit and shopping, cultural, and employment opportunities are within convenient walking and bicycling distance of the site.

Social Equity: The project involves a mixture of unit sizes thereby increasing housing opportunities for a range of incomes.

DISABILITY AND SENIOR CITIZEN ACCESS

The project would be subject to the requirements of the Americans with Disabilities Act (ADA), as provided for in the California Building Code. Compliance with ADA regulations would be confirmed when building permits are issued for the project.

STAFF RECOMMENDATION AND RATIONALE

Staff recommends that the City Council adopt the attached Resolution denying the appeal thereby upholding the Planning Commission's approval of the project for the following reasons: 1) The Planning Commission's decision was based on a thorough review of all pertinent aspects of the project and consideration of the objections raised by the appellant; 2) The project and the approval of the project comply with all applicable General Plan policies and zoning regulations and review procedures; 3) The appellant has failed to demonstrate that there was an error or abuse of discretion in the Planning Commission's decision or that the Planning Commission's decision is not supported by substantial evidence in the administrative record; and 4) the project meets the CEQA In-Fill exemption requirements and there are no exceptions that would defeat use of the exemption.

ALTERNATIVE CITY COUNCIL ACTIONS

The City Council has the option of taking one of the following alternative actions instead of the recommended action above:

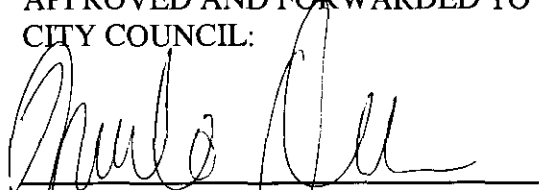
Item: _____
City Council
July 18, 2006

1. Uphold the appeal and reverse the Planning Commission's decision thereby denying the project. This option would require the City Council to continue the item to a future hearing so that staff can prepare and the Council have an opportunity to review the proposed findings and resolution for denial.
2. Uphold the Planning Commission's decision, but impose additional conditions on the project and/or modify the project.
3. Continue the item to a future hearing for further information or clarification.
4. Refer the matter back to the Planning Commission for further consideration on specific issues/concerns of the City Council. Under this option, the item would be forwarded back to the City Council with a recommendation after review by the Planning Commission.

ACTION REQUESTED OF THE CITY COUNCIL

1. Affirm the Planning Commission's environmental determination that the project is exempt from CEQA review pursuant to CEQA Guidelines, Section 15332 ("In-Fill Development Projects").
2. Adopt the attached Resolution denying the appeal thereby upholding the Planning Commission's approval of the project.

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



DEBORAH EDGERLY
OFFICE OF THE CITY ADMINISTRATOR

Respectfully submitted,



CLAUDIA CAPPIO
Director of Development
Community and Economic Development Agency

Item: _____
City Council
July 18, 2006

Reviewed by:
Gary Patton
Deputy Director of Planning and Zoning
Planning & Zoning Division

Prepared by:
Darin Ranelletti
Planner III
Planning & Zoning Division

ATTACHMENTS:

- A. Project Drawings (received May 15, 2006)
- B. Planning Commission Staff Report (without attachments; dated June 7, 2006)
- C. Project Approval Letter (containing final findings and conditions; dated June 8, 2006)
- D. Appeal Letter (received June 19, 2006)

ATTACHMENT A

**Project Drawings
(received May 15, 2006)**

460 GRAND

OAKLAND, CALIFORNIA



GRAND AVENUE ELEVATION

RECEIVED
 MAY 15 2006
 LS
 City of Oakland
 Planning & Zoning Division

IDO
 architects - planners
 460 Grand Ave
 Oakland, CA 94612
 (415) 258-8242

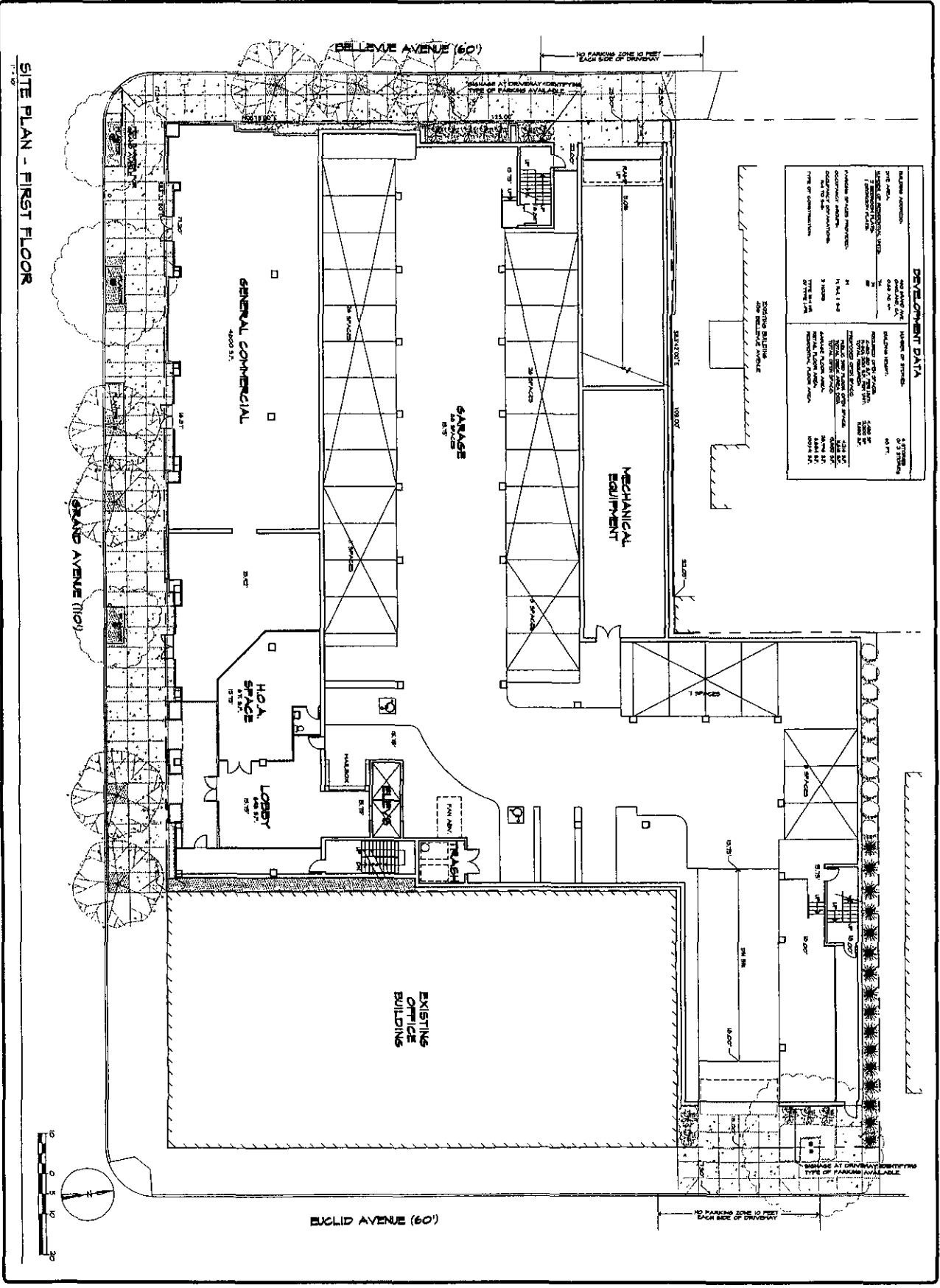


460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
 MERITAGE
 METROPOLITAN LIVING

drawing
 COVER SHEET

of set
 VLN
 RHM
 05/11/06
 NO SCALE
 2006
 A-1.1

SITE PLAN - FIRST FLOOR



DEVELOPMENT DATA

PROJECT ADDRESS:	460 GRAND	CITY:	OAKLAND	STATE:	CA	ZIP:	94612
OWNER:	DEVELOPER	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
DESIGNER:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ENGINEER:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
PLANNER:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
LANDSCAPE ARCHITECT:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
INTERIOR DESIGNER:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
GENERAL CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
MECHANICAL CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ELECTRICAL CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
PLUMBING CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
PAINT CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ROOFING CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
GLASS CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
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FOUNDATION CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
DEMOLITION CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
LANDSCAPE CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
AVAILABILITY CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ASBESTOS CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ENVIRONMENTAL CONTRACTOR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ARCHITECTURAL RENDERING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
PHOTOGRAPHY:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
VIDEOGRAPHY:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
MODELING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
MARKETING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
LEGAL:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
ACCOUNTING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
CONSTRUCTION:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
INSURANCE:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
FINANCING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
SALES:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
RENTALS:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
UTILITIES:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
PERMITS:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
REGULATORY:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
COMPLIANCE:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
MAINTENANCE:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
OPERATIONS:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
TRAINING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
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SAFETY:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
EMERGENCY:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
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REPAIR:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
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REMODELING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
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REFORMULATION:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
REFINING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204
REWORKING:	ARCHITECT	DATE:	11/10/10	SCALE:	AS SHOWN	PROJECT NO.:	081204

A-2.1

DATE: 11/10/10
 BY: [Signature]
 CHECKED BY: [Signature]
 SCALE: AS SHOWN
 PROJECT NO: 081204

SITE PLAN
FIRST FLOOR

Meritage
 METROPOLITAN LIVING

460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE
 METROPOLITAN LIVING



HDO

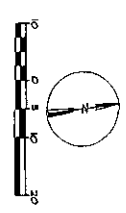
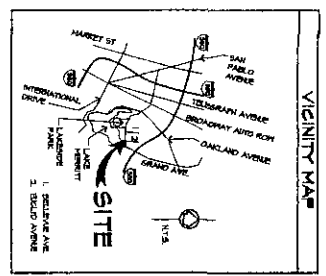
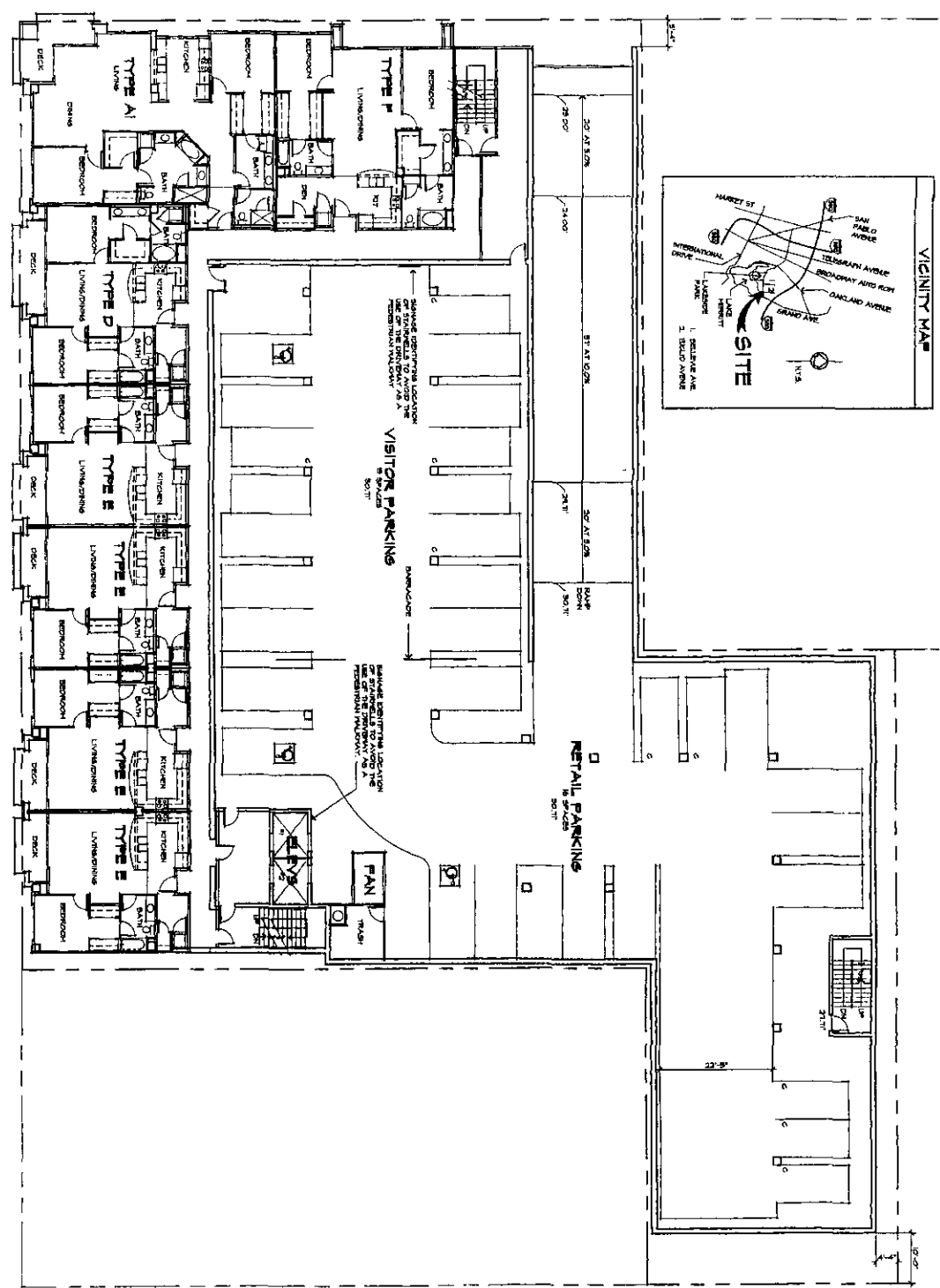
Architectural - Planning
 2000 Grand Ave, Suite 200
 Oakland, CA 94612
 (510) 530-1000

SITE PLAN - SECOND FLOOR

BELLEVUE AVENUE (60')

GRAND AVENUE (110')

EUCLID AVENUE (60')



A-2.2	DATE	11/15/05
	BY	SH
	DESIGNED	CS/LL/OS
	CHECKED	CS/LL/OS

**SITE PLAN
SECOND FLOOR**



460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING

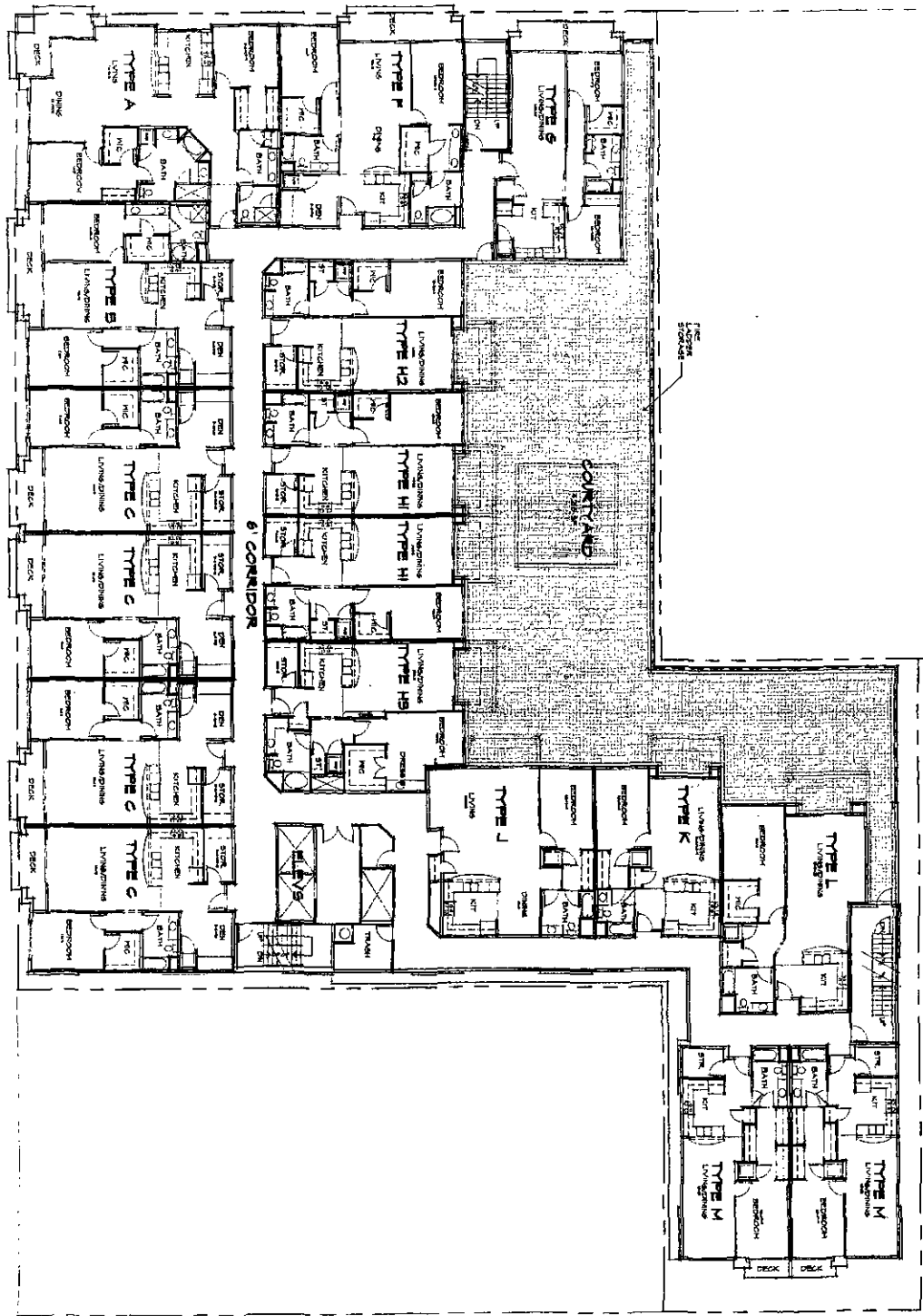


HDO
architects + planners
2700 Center Street
Oakland, CA 94612
(510) 251-4042

NO.	DATE	REVISION

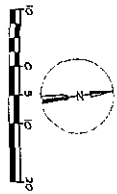
BELLEVUE AVENUE (60')

SITE PLAN - THIRD FLOOR



GRAND AVENUE (110')

EUCLID AVENUE (60')

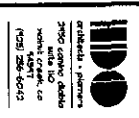


A-23

SITE PLAN
THIRD FLOOR



460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING

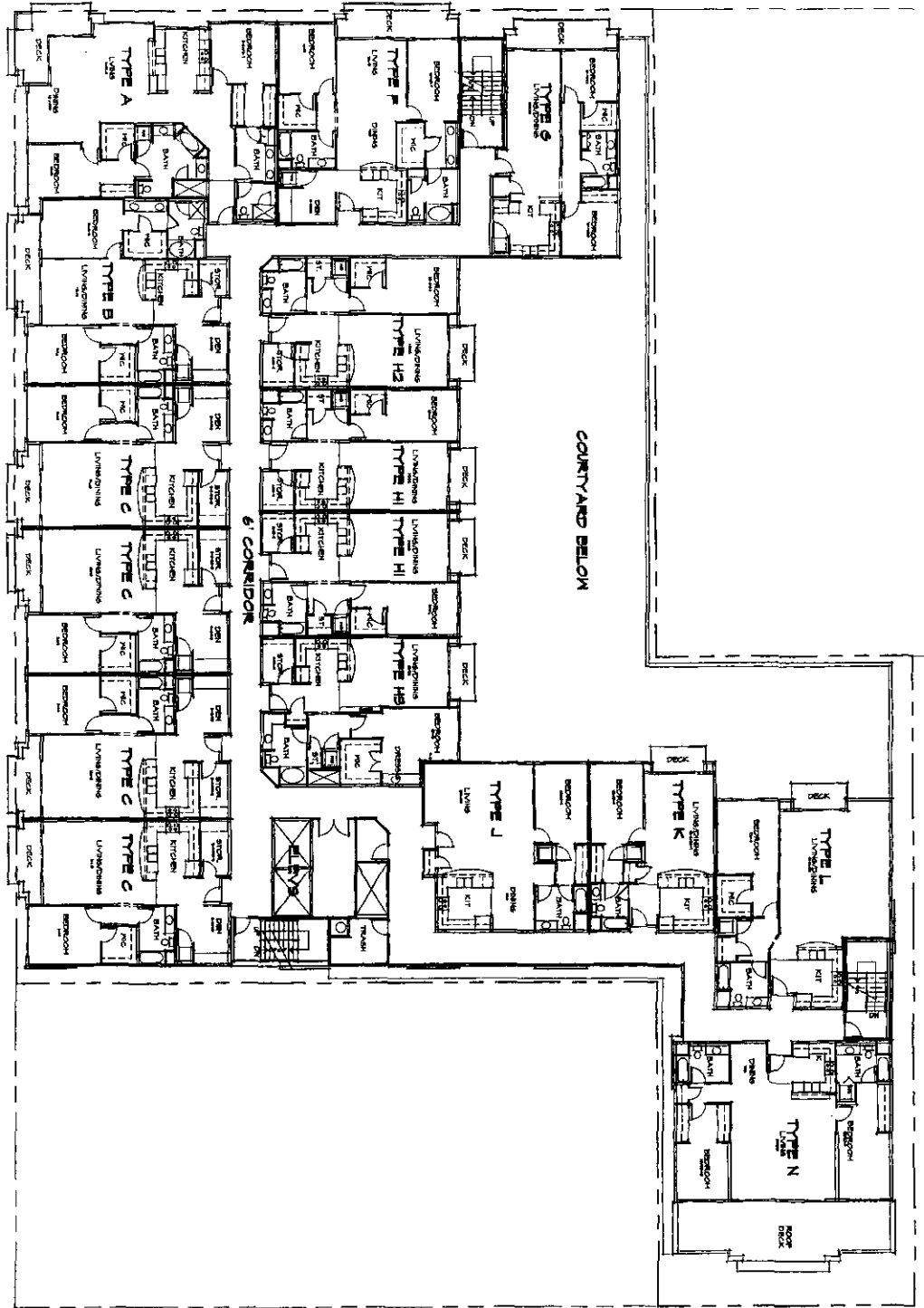


NO.	DATE	BY

BELLEVUE AVENUE (60')

SITE PLAN - SIXTH FLOOR

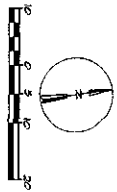
GRAND AVENUE (110')



COURTYARD BELOW

S CORRIDOR

EUCLID AVENUE (60')



A-25

DATE: 05/11/06
 DRAWN BY: JMM
 CHECKED BY: JMM
 SCALE: 1" = 10'

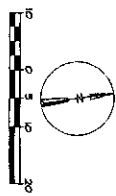
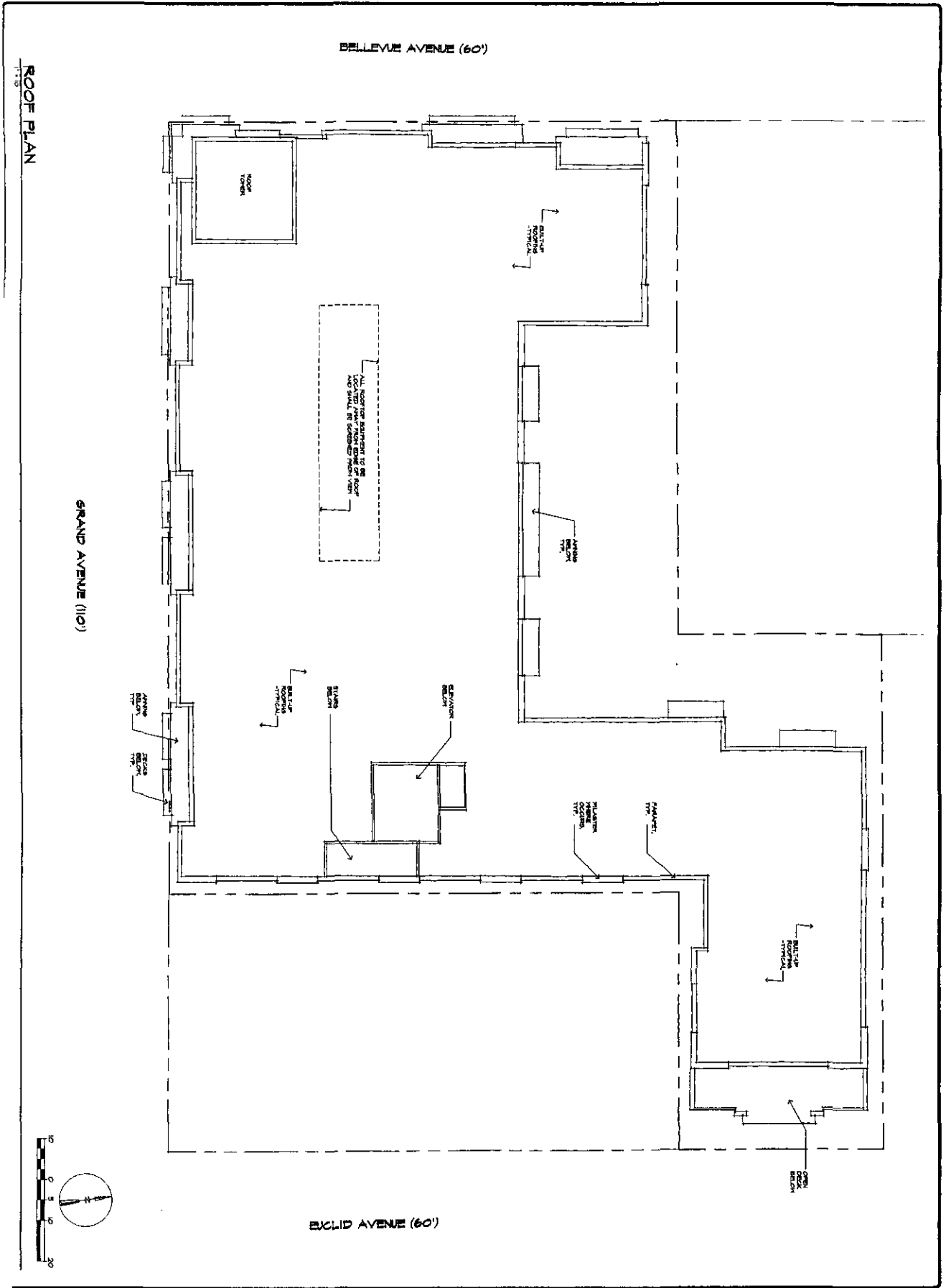
SITE PLAN
 SIXTH FLOOR

460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE METROPOLITAN LIVING



HDO
 ARCHITECTS - PARTNERS
 2700 CENTURY SQUARE
 SUITE 400
 OAKLAND, CA 94612
 (415) 769-8000

NO.	DATE	DESCRIPTION



A-2.6	DATE	1/28/06
	BY	CS/JL/GB
	SCALE	AS SHOWN
	PROJECT	460 GRAND

460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING

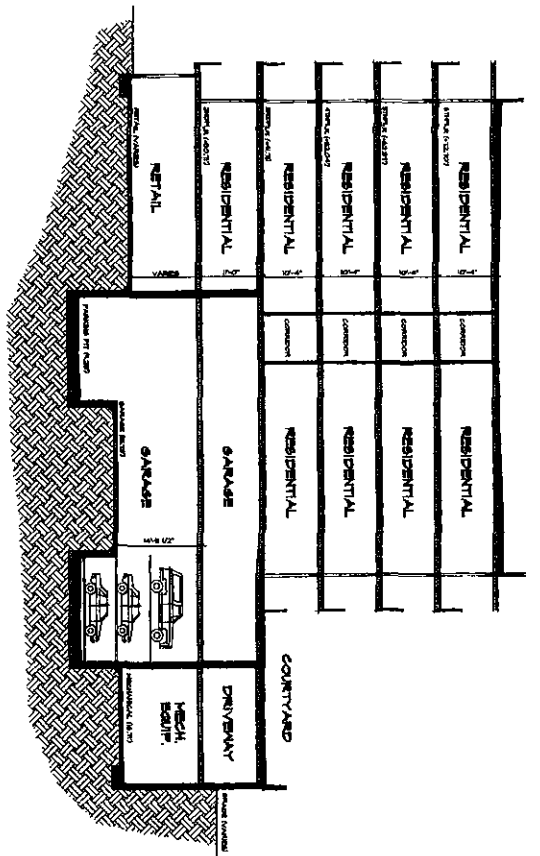


460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING

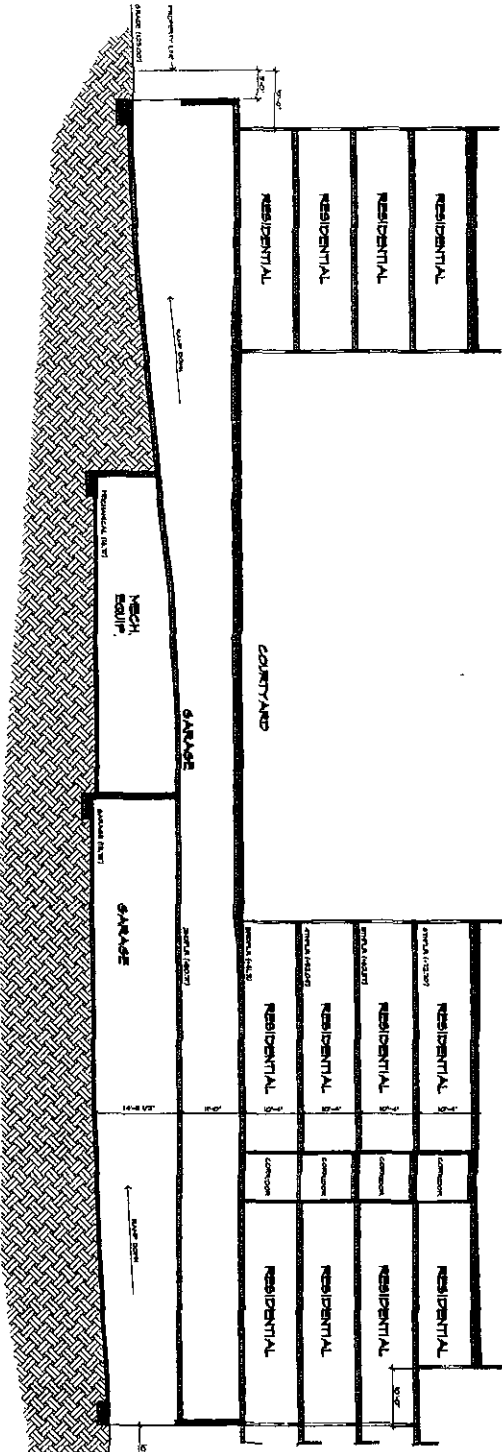
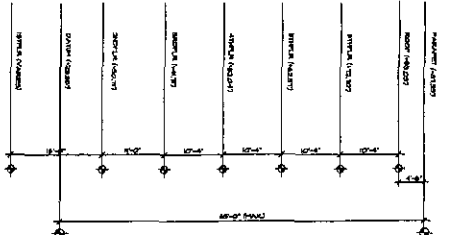


HDO
HOLDINGS & PARTNERS
3700 GARDEN AVENUE
SUITE 2000
OAKLAND, CA 94612
(415) 286-0442

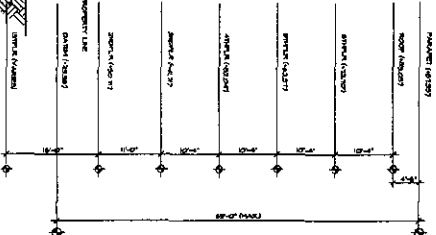
NO.	REVISION



BUILDING SECTION
1" = 12'



BUILDING SECTION
1" = 12'



NO.	DATE

HDO
 architects + planners
 2700 Center Street
 Suite 100
 Oakland, CA 94612
 (510) 238-4040



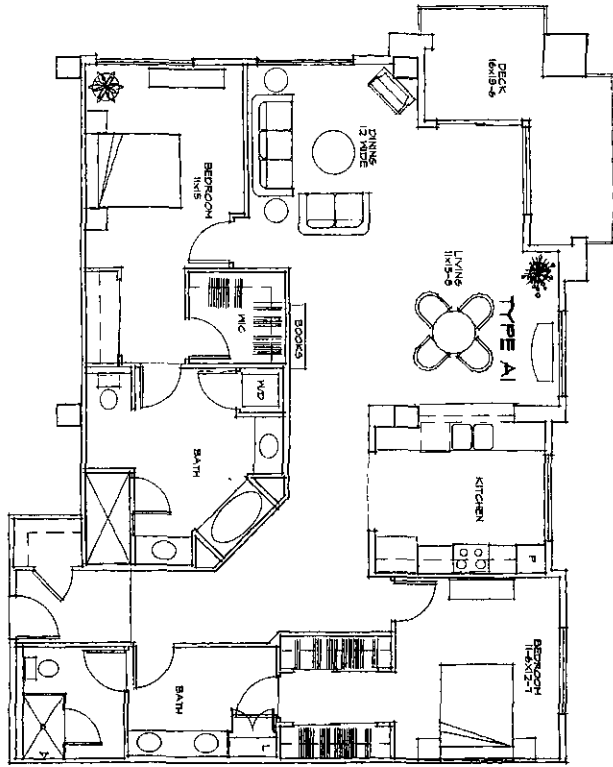
460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE
 METROPOLITAN LIVING

Meritage
 METROPOLITAN LIVING

BUILDING SECTIONS

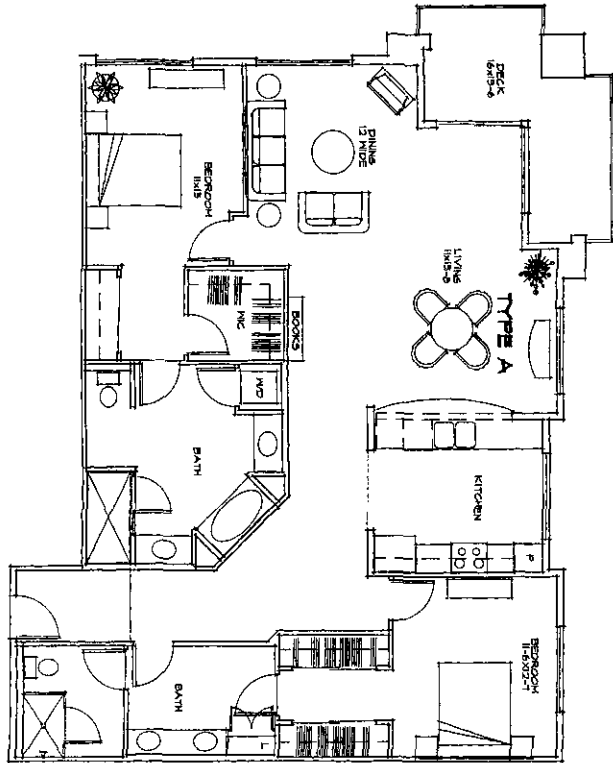
A-3.3

DATE: 11/10/03
 DRAWN BY: JH
 CHECKED BY: JH
 SCALE: AS SHOWN



UNIT TYPE A1 - (2ND LEVEL) FLOOR PLAN
1/4" = 1'-0"

APPROX FLOOR AREA - 1,188 SQ. FT.



UNIT TYPE A - (3-6 LEVELS) FLOOR PLAN
1/4" = 1'-0"

APPROX FLOOR AREA - 1,188 SQ. FT.

NO. OF UNITS	1
DATE	05/11/06
SCALE	1/4" = 1'-0"
PROJECT	A-4.1

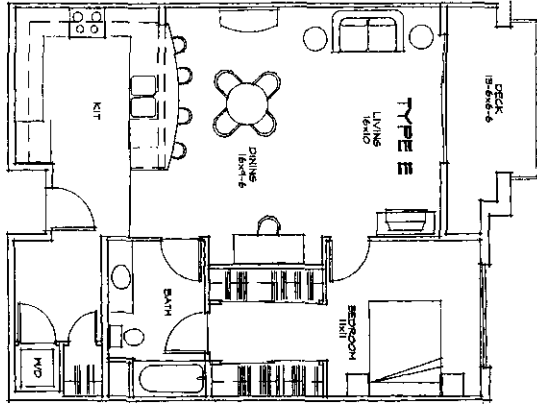
UNIT PLANS
(UNITS A & A1)

460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING



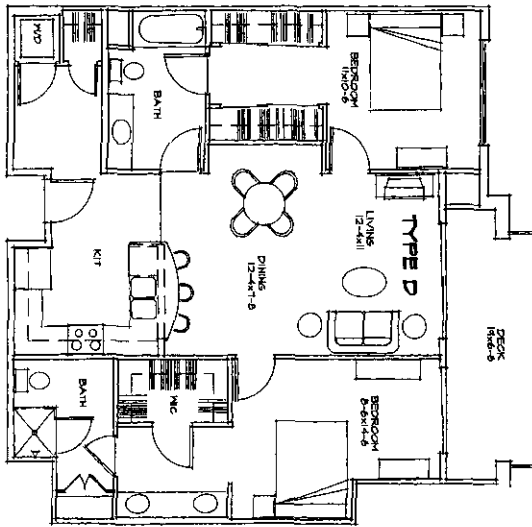
HDO
architect • planners
2000 center street
oakland, ca 94612
(925) 286-4042

NO.	REVISION



UNIT TYPE E - FLOOR PLAN

APPROX. FLOOR AREA - 837 SF.



UNIT TYPE D - FLOOR PLAN

APPROX. FLOOR AREA - 1,078 SF.

APPROX. FLOOR AREA	837 SF.
APPROX. FLOOR AREA	1,078 SF.
UNIT TYPE	E
UNIT TYPE	D
DATE	05/11/06
SCALE	1/4" = 1'-0"
PROJECT	A-4.3

UNIT PLANS
(UNITS D & E)

460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING

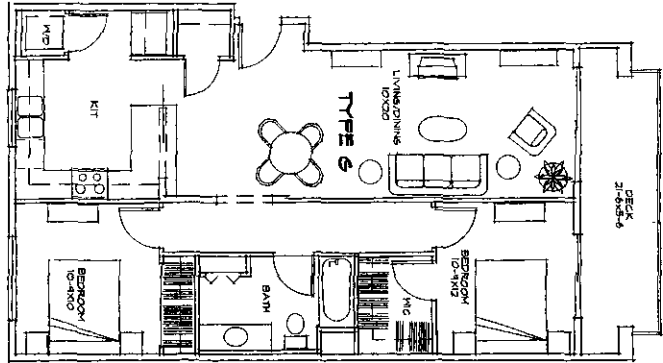


INDO
Interior Design
2005 Century Center
West Creek, CA
(415) 356-1012

REVISION	BY

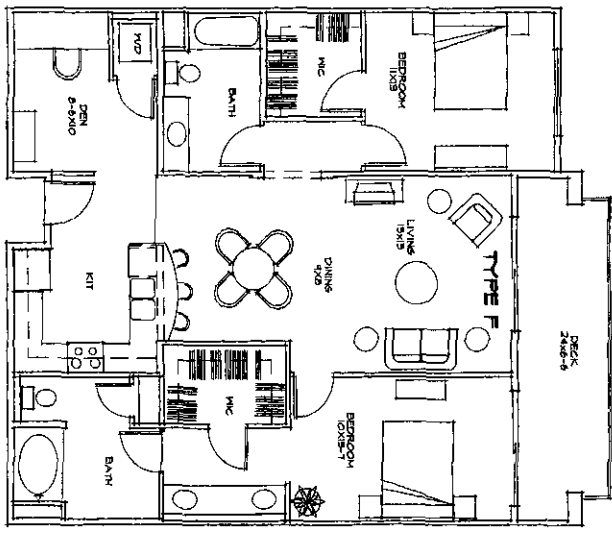
UNIT TYPE G - FLOOR PLAN

6200S FLOOR AREA - 784 SF



UNIT TYPE F - FLOOR PLAN

4400S FLOOR AREA - 1328 SF



A-4.4

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 BY: [Signature]
 CHECKED: [Signature]
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 OSOB

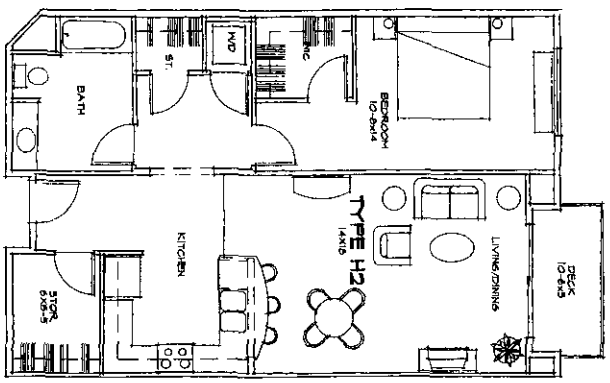
UNIT PLANS
 (UNITS F & G)

460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE
 METROPOLITAN LIVING



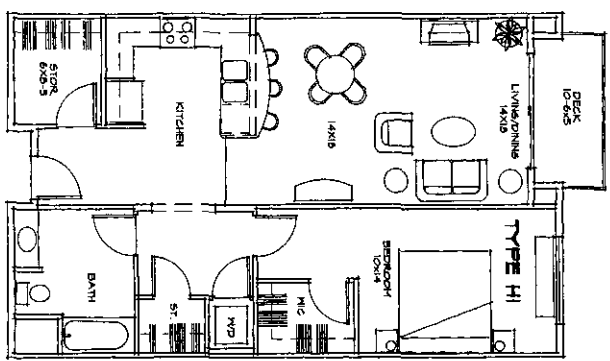
HDO
 CONSULTANTS & DESIGNERS
 2780 CALAHO ROAD
 OAKLAND, CALIF. 94612
 (415) 286-0044

NO.	REVISION



UNIT TYPE H2 - FLOOR PLAN

620 SQ. FT. FLOOR AREA - 113 SF.



UNIT TYPE H1 - FLOOR PLAN

620 SQ. FT. FLOOR AREA - 113 SF.

NO.	REVISION

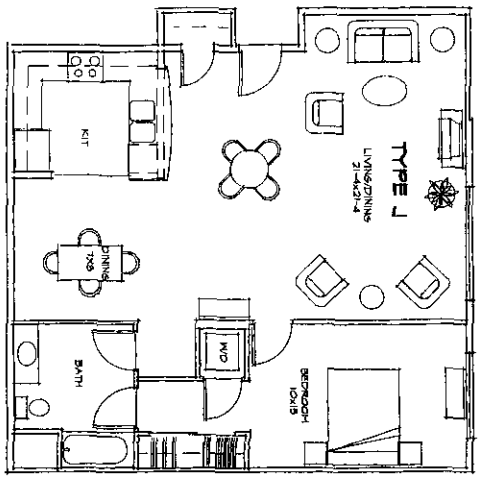
HDO
 HERRINGTON DEVELOPMENT ORGANIZATION
 2700 Gateway Drive
 Oakland, CA 94612
 (415) 286-6242



460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE
 METROPOLITAN LIVING

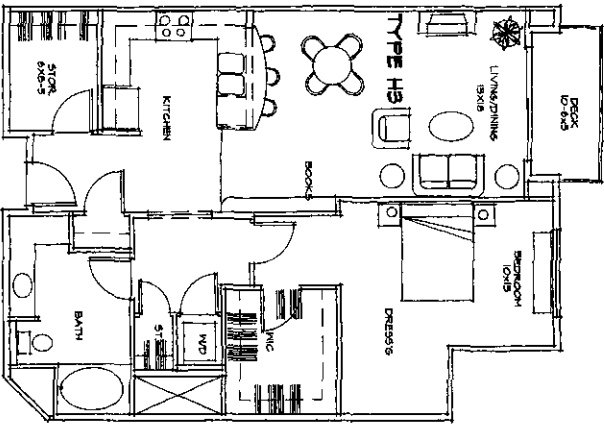
Meritage
 METROPOLITAN LIVING

A-4.5



UNIT TYPE J - FLOOR PLAN

APR 2008 FLOOR AREA: 1,029 SF



UNIT TYPE H3 - FLOOR PLAN

APR 2008 FLOOR AREA: 1,029 SF

NO.	REVISIONS

HIDCO
 architects • planners
 2707 Camino del Rio
 Suite 1100
 San Diego, CA 92108
 (619) 286-1000



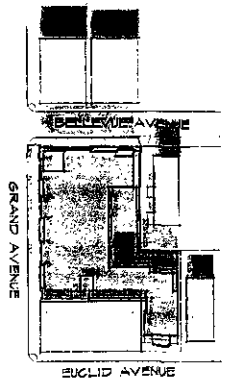
460 GRAND
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE
 METROPOLITAN LIVING

Meritage
 METROPOLITAN LIVING

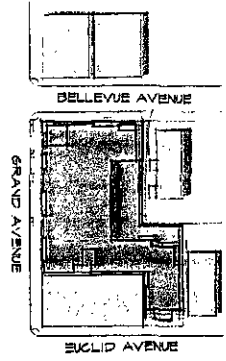
UNIT PLANS
 (UNITS H3 & J)

A-4.6

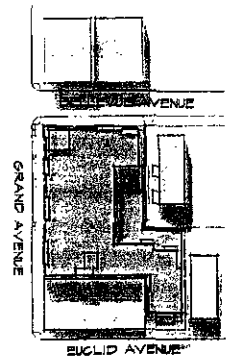
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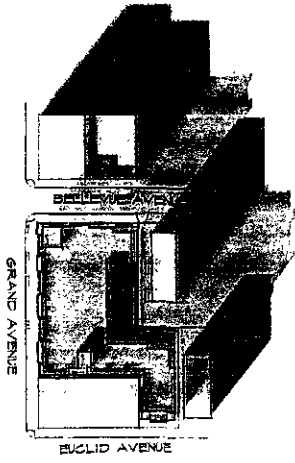
JUNE 21 - MORNING



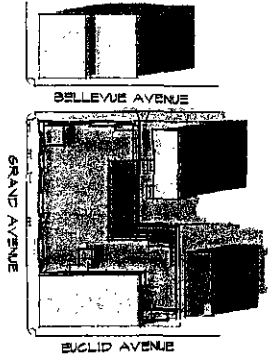
JUNE 21 - NOON



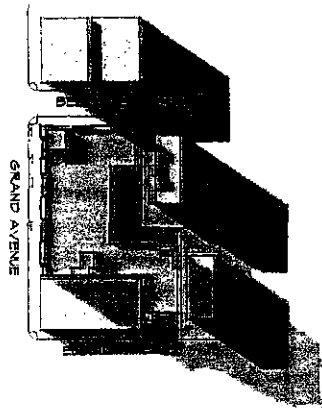
JUNE 21 - AFTERNOON



DECEMBER 21 - MORNING



DECEMBER 21 - NOON



DECEMBER 21 - AFTERNOON

DATE	
BY	

HDG
 ARCHITECTS & INTERIORS
 2900 ZIMMER STREET
 OAKLAND, CALIF. 94612
 (415) 762-4444



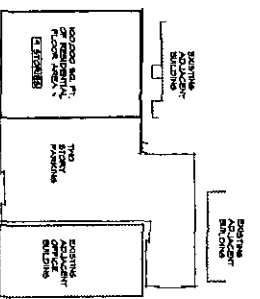
Meritage
 OAKLAND, CALIFORNIA
 FOR:
MERITAGE
 METROPOLITAN LIVING

SHADOW
 STUDIES

DATE
 BY
 08/11/06
 NO SCALE
 G306
A-6.1

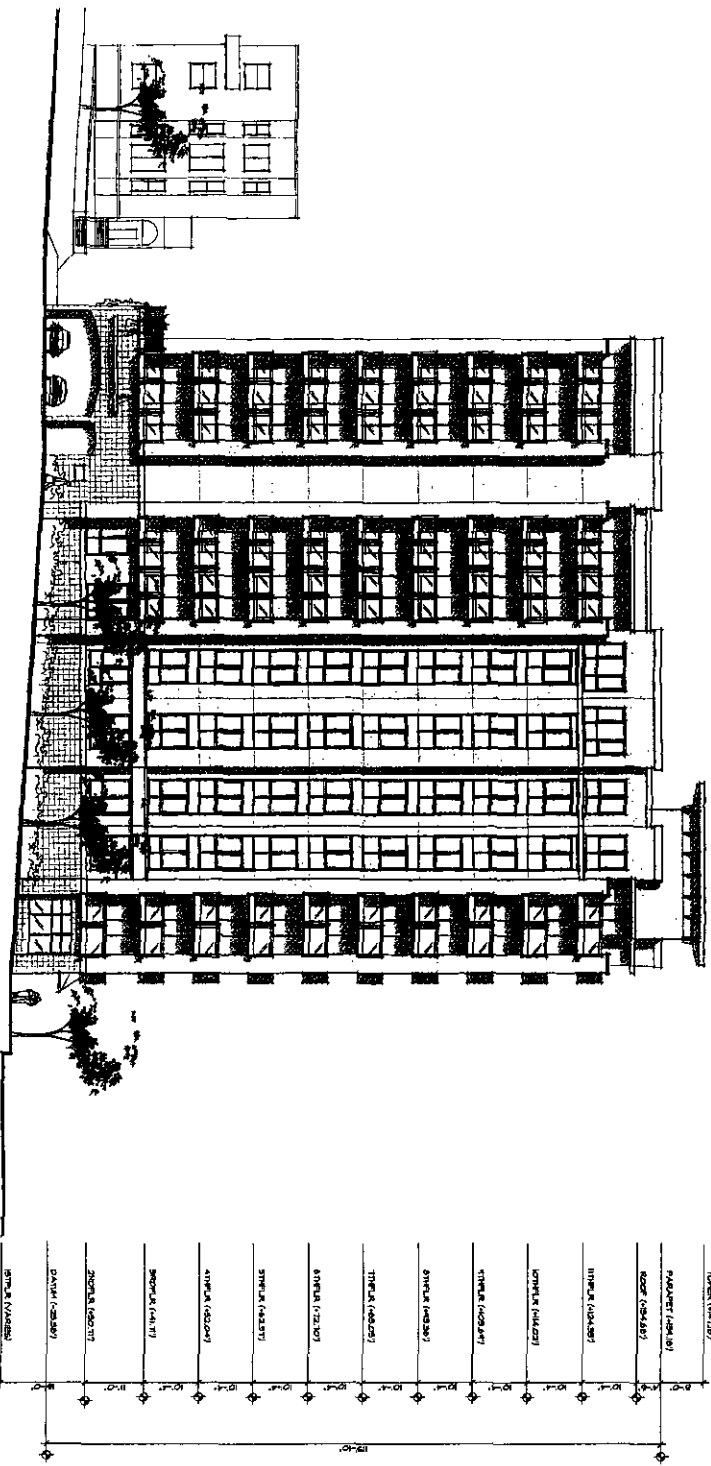
BELLEVUE AVENUE

GRAND AVENUE

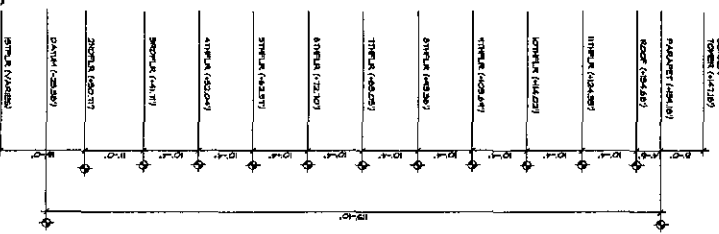


EUCLID AVENUE

BUILDING MASSING STUDY

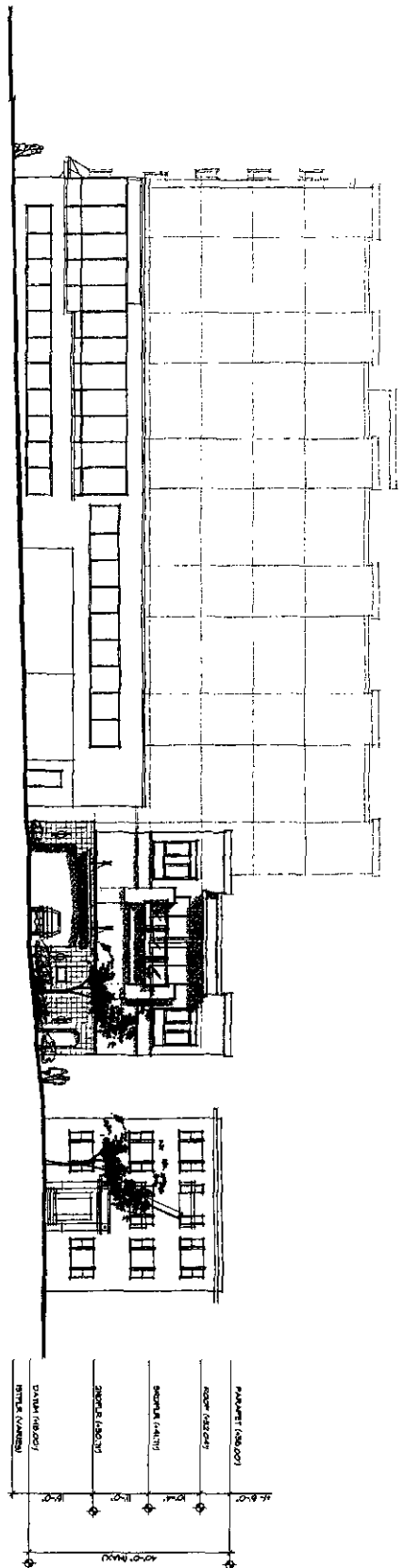


BELLEVUE AVENUE: 9 STORY ELEVATION STUDY



<p>HDO architects + planners 2100 adams street suite 100 oakland, ca 94612 (415) 286-6042</p>	<p>Meritage METROPOLITAN LIVING</p>	<p>460 GRAND OAKLAND, CALIFORNIA FOR: MERITAGE METROPOLITAN LIVING</p>	<p>DATE: 11/10 BY: JH PROJECT: 0511106 AS SHOWN ON: 0506 SCALE: 1/8"=1'-0"</p>	<p>DESIGN: STUDIOS: BELLEVUE AVE BUILDING MASSING & ELEVATION</p>	<p>DATE: 11/10 BY: JH PROJECT: 0511106 AS SHOWN ON: 0506 SCALE: 1/8"=1'-0"</p>	<p>A6.3</p>

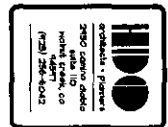
EUCLID AVENUE: 40' HIGH ELEVATION STUDY



DESIGN
STUDY
EUCLID AVE.
40' HIGH ELEV.



460 GRAND
OAKLAND, CALIFORNIA
FOR:
MERITAGE
METROPOLITAN LIVING



DESIGN
STUDY
EUCLID AVE.
40' HIGH ELEV.

A6.4

ATTACHMENT B

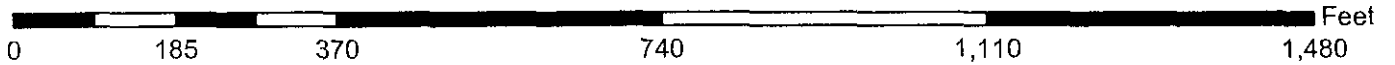
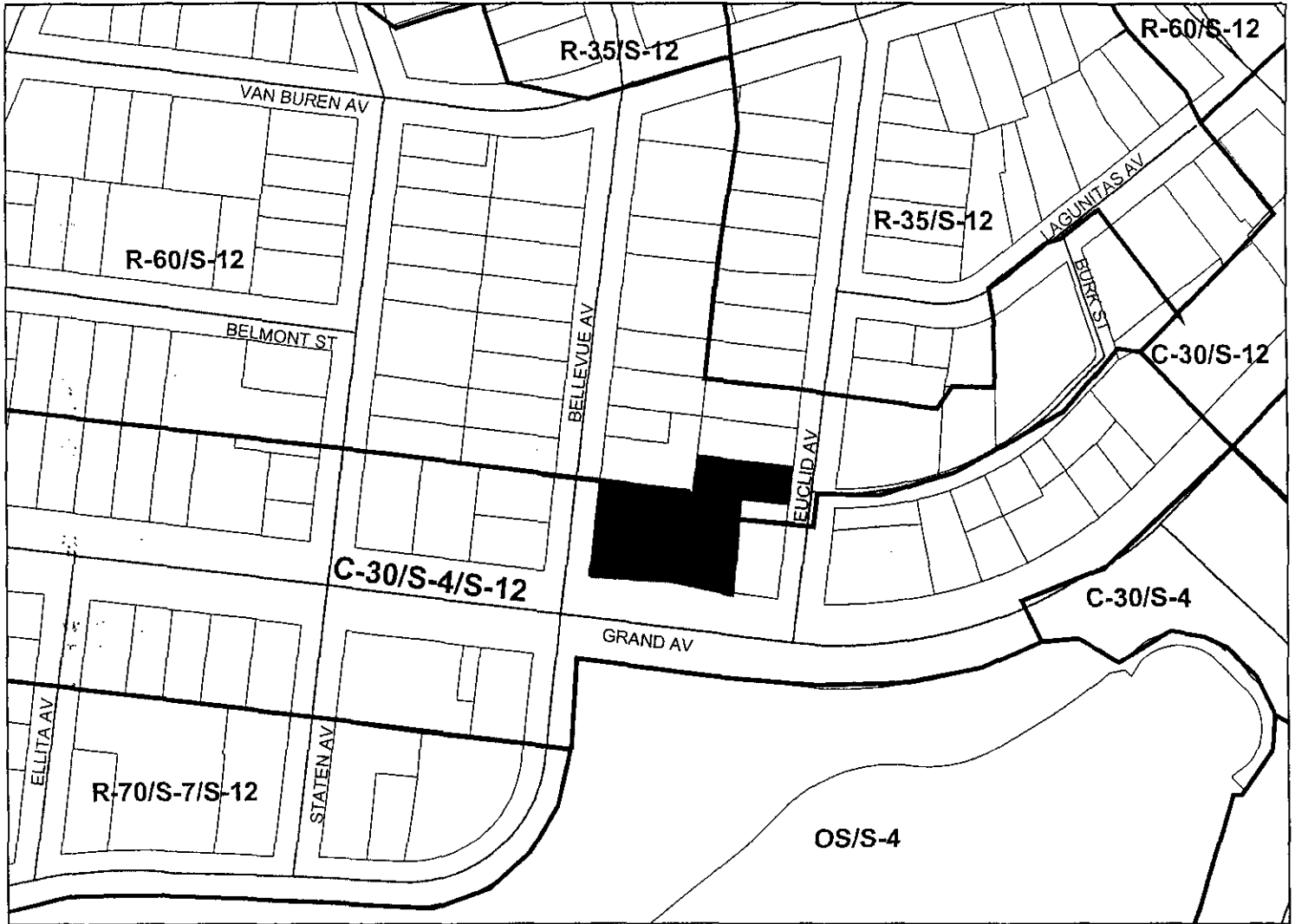
Planning Commission Staff Report
(without attachments; dated June 7, 2006)

Location:	460 Grand Avenue (See map on reverse)
Assessor's Parcel Numbers:	010-0779-012-00, 010-0779-014-01, & 010-0779-015-01
Proposal:	Construct a new mixed-use building containing 74 residential units and 4,600 square feet of ground-floor commercial space.
Applicant:	California Urban Homes, LLC
Contact Person/Phone Number:	Mike Bowes (925) 288-0088
Owner:	460 Grand – Oakland, LLC
Planning Permits Required:	Regular Design Review to allow construction of a new building; Interim Conditional Use Permit to apply the density regulations of the General Plan; Minor Conditional Use Permit to allow a building height of 70 feet in the R-60 Zone; Minor Variances to allow: 1) No front yard setback (along Bellevue Avenue) where five feet minimum is required; and 2) Interior side yard setback of one foot where four feet minimum is required and where ten feet minimum is required; and Tentative Parcel Map to subdivide the property into condominium units.
General Plan:	Neighborhood Center Mixed Use (southern portion of site along Grand Avenue and Bellevue Avenue) and Urban Residential (northeastern portion of site along Euclid Avenue)
Zoning:	C-30 District Thoroughfare Commercial Zone/S-4 Design Review Combining Zone/S-12 Residential Parking Combining Zone (southern portion of site along Grand Avenue and Bellevue Avenue); R-60 Medium-High Density Residential Zone/S-12 Residential Parking Combining Zone (northeastern portion of site along Euclid Avenue)
Environmental Determination:	Exempt, Section 15332 of the State CEQA Guidelines; in-fill development projects
Historic Status:	The site is currently vacant. A portion of the site is occupied by a parking lot.
Service Delivery District:	3
City Council District:	3
Date Filed:	October 14, 2004 (revised application submitted December 22, 2005)
Status:	Pending. The project was previously reviewed by the Design Review Committee on February 22, 2006.
Action to be Taken:	Public hearing. An action may or may not be taken at the hearing.
Staff Recommendation:	Take public testimony and provide direction to staff and the applicant or take action to approve the project.
Finality of Decision:	Appealable to City Council
For Further Information:	Contact the case planner, Darin Ranelletti , at (510) 238-3663 or by e-mail at dranelletti@oaklandnet.com .

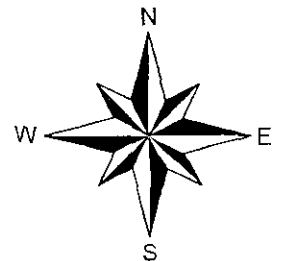
SUMMARY

The applicant proposes to construct a new mixed-use building containing 74 residential condominium units and 4,600 square feet of ground-floor commercial space. The project site is located in the Adams Point neighborhood at the corner of Grand Avenue and Bellevue Avenue.

CITY OF OAKLAND PLANNING COMMISSION



Case File: CMDV04-485
Applicant: California Urban Homes, LLC
Address: 460 Grand Ave.
Zone: C-30 / S-4 / S-12 / R-60



The proposed project requires a number of planning approvals including Regular Design Review to allow the construction of the proposed building, an Interim Conditional Use Permit to apply the density regulations of the General Plan, a Minor Conditional Use Permit to allow a building height of 70 feet in the R-60 Zone, Minor Variances for setback nonconformities, and Tentative Parcel Map approval to subdivide the property into condominium units.

The project was previously reviewed by the Design Review Committee on February 22, 2006. Although the proposal has been modified since the Design Review Committee meeting, the revised design does not incorporate all of the Committee's recommendations. Staff recommends that the Planning Commission take public testimony and provide direction to staff and the applicant. In the event that the Planning Commission feels the proposal satisfies all of the criteria for approval, staff recommends that the Commission take action to approve the project.

PROJECT DESCRIPTION

The project consists of a new mixed-use building containing approximately 106,825 square feet of floor area with 74 residential units and 4,600 square feet of ground-floor commercial space. The current plans for the proposal are attached to this report (see Attachment A). All of the residential units would be condominiums offered for-sale at market rates. Approximately 74 percent of the residential units (55 units) would contain one bedroom while the remaining units (19 units or approximately 26 percent of the total) would contain two bedrooms. The building would be six stories tall with four floors of residential units above two floors of parking located in a partially submerged parking garage. Residential units would also be located on the second floor of the building in front of the second floor parking spaces along Grand Avenue and Bellevue Avenue. Commercial space would be located along the majority of the ground floor on Grand Avenue. An interior courtyard measuring approximately 4,216 square feet would be located in the north-central portion of the site on the third floor (on top of the parking garage).

The parking garage would contain a total of 119 off-street parking spaces. 88 spaces reserved for the residents of the residential units would be located on the ground floor of the building behind the commercial space located along Grand Avenue. These spaces would be provided in triple-stacked mechanical parking lifts. The entrance and exit to the ground-floor parking area would be located on Euclid Avenue. The second floor of the parking garage would contain 15 spaces for visitor parking for the residential units and 16 spaces to serve the commercial space. The entrance and exit to the second floor parking area would be located on Bellevue Avenue.

PROPERTY DESCRIPTION

The project site is located at the corner of Grand Avenue and Bellevue Avenue in the Adams Point neighborhood. The property is approximately 29,621 square feet (0.68 acres) in size and is primarily rectangular in shape except for a portion of the site that extends to Euclid Avenue in the east. The topography of the site slopes gradually up to the northwest away from Grand Avenue. Currently the site is vacant except that a portion of the site is used as a pay parking lot serving surrounding uses. The existing pavement, parking lot, and retaining walls on the site would be removed by the project.

The site is surrounded by commercial uses along Grand Avenue containing one to five stories, and single-family and multi-family residential uses along Bellevue Avenue (to the west) and Euclid Avenue (to the east) containing two to four stories. Across Grand Avenue to the south is Lake Merritt. AC Transit operates a bus line (Route 12) along Grand Avenue.

GENERAL PLAN ANALYSIS

The site contains two General Plan Land Use Designations. The southern portion of the site along Grand Avenue is designated Neighborhood Center Mixed Use (NCMU) by the General Plan. The maximum residential density allowed under the NCMU designation is 125 units per gross acre. According to the General Plan, the intent and desired character of the NCMU designation is the following:

The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. Future development within this classification should be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial. (Page 149)

The portion of the site extending to Euclid Avenue is designated Urban Residential by the General Plan. The maximum residential density allowed under the Urban Residential designation is 125 units per gross acre. According to the General Plan, the intent and desired character of the Urban Residential designation is the following:

The Urban Residential classification is intended to create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise, or high-rise residential structures in locations with good access to transportation and other services. The primary future use in this classification is residential. Mixed use buildings that house ground-floor commercial uses and public facilities of compatible character are also encouraged. If possible, where detached density housing adjoins urban residential the zoning should be structured to create a transition area between the two. (Page 148)

Given the above General Plan designations for the site and the size of the site, the maximum number of residential units allowed on the site under the General Plan is 113 units (74 units are proposed). The proposal is primarily residential with ground-floor commercial uses along Grand Avenue.

In the General Plan, Grand Avenue in the Adams Point neighborhood is targeted as an area for community and economic development. According to the General Plan, efforts in the Adams Point area should be “focused on increasing pedestrian safety and improving the target area’s appearance through graffiti abatement and litter removal, particularly in areas adjacent to Lake Merritt.” (Page 197) The project includes a proposal to increase pedestrian safety in the area—the applicant is proposing to install a pedestrian barrier on the sidewalk at the northeast corner of the intersection of Grand Avenue and Bellevue Avenue to prevent southbound pedestrian crossings across Grand Avenue where no crosswalk exists thereby encouraging pedestrians to use the existing crosswalk on the west side of the intersection—and would replace an unsightly vacant lot (the portion not currently being used as a parking lot) located directly across Grand Avenue from Lake Merritt with a new building.

Below are additional policies in the General Plan which are applicable to the project. Following each policy is an analysis of the project’s consistency with the policy.

- Policy N1.1: Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail.

Proposal: The commercial space included in the project would be located on Grand Avenue within the existing Adams Point commercial district. The proposed commercial space would be designed to accommodate neighborhood-serving commercial uses.

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

Proposal: The project would provide for 74 new housing units.

- Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should be take place throughout the City of Oakland.

Proposal: The project involves the reuse of an existing underutilized site located within the existing urbanized area of the city.

- Policy N3.8: Required High-Quality Design. High-quality design standards should be required of all new residential construction. Design requirements and permitting procedures should be developed and implemented in a manner that is sensitive to the added costs of those requirements and procedures.

Proposal: The project involves high-quality materials, finishes, and details. It is unclear whether the project successfully manages the visual mass and bulk of the building to provide for an adequate visual scale for the building. This issue is further discussed in the “Results from Previous Hearing” and “Key Issues and Impacts” sections of this report (see below). If the Planning Commission finds that the project adequately manages the visual mass and bulk of the building then the proposal would be considered consistent with this policy.

- Policy N3.9: Orienting Residential Development. Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure.

Proposal: The proposed building would be oriented to the street with units facing the street providing solar access and views for many of the units. The proposal would not unreasonably block sunlight and views for neighboring buildings (potential solar access and view impacts are further discussed in the “Key Issues and Impacts” section of this report (see below)). The proposed units are designed to provide for the privacy needs of the residents of the project and the surrounding properties. On-site open space would be provided in a centrally located, conveniently accessible courtyard and in private balconies. The proposed units would be exposed to noise consistent with a high-density residential neighborhood located along a major arterial.

- Policy N3.10: Guiding the Development of Parking. Off-street parking for residential buildings should be adequate in amount and conveniently located and laid out, but its visual prominence should be minimized.

Proposal: The amount of proposed off-street parking complies with the parking requirements of the Zoning Regulations. Off-street parking would be located in a new partially underground parking garage, located underneath the proposed building and behind commercial and residential units so that it is convenient to the new units and screened from view from surrounding streets.

- Policy N8.2: Making Compatible Interfaces Between Densities. The height of development in urban residential and other higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between the different types of development.

Proposal: The residential density called for by the General Plan for the area along Grand Avenue is the same as the residential density called for in the residential areas north of Grand Avenue (125 units per gross acre). However, in general, the existing surrounding residential buildings to the north of the project site are lower in height than the proposed building. Where the change in height between the proposed building and an adjacent residential building is most severe (between the project site and the existing 36-foot tall building located to the rear of the site at 435-437 Euclid Avenue) the proposed building steps down from 70 feet to 60 feet. The difference in height between the proposed building and the adjacent residential building to the rear at 436 Bellevue Avenue is less severe—the proposed building would be 65 feet tall and the adjacent building would be 48 feet tall.

- Policy N9.1: Recognizing Distinct Neighborhoods. The City should encourage and support the identification of distinct neighborhoods.

Proposal: The proposal has the potential to support the identification of the Adams Point commercial district on Grand Avenue by providing an additional opportunity for unique commercial establishments at the site that would contribute to a sense of community.

- Policy N9.7: Creating Compatible but Diverse Development. Diversity in Oakland's built environment should be as valued as the diversity in population. Regulations and permit processes should be geared toward creating compatible and attractive development, rather than "cookie cutter" development.

Proposal: The proposal is consistent with the existing diversity of architecture located on this section of Grand Avenue. Although not necessarily exciting architecture, staff feels the design is somewhat attractive and its style is compatible with the surrounding neighborhood. The proposal reflects a "timeless" style with some references to the early 20th Century multi-unit apartment buildings and commercial buildings in the surrounding neighborhood (e.g., through the use of classic building forms and vertical-oriented bays) and influences from more modern commercial buildings in the neighborhood (e.g., through the use of glass railings).

ZONING ANALYSIS

The site is located in two different base zoning districts with one combining zoning district overlaying a portion of the site and a second combining zoning district overlaying the entire site. The southern portion of the site along Grand Avenue is located in the C-30 District Thoroughfare Commercial Zone. The northeast portion of the site that extends to Euclid Avenue is in the R-60 Medium-High Density Residential Zone. The S-4 Design Review Combining Zone is an overlay zone that covers the southern C-30 Zone portion of the site requiring design review approval for new buildings. The S-12 Residential Parking Combining Zone is an overlay zone that covers the entire site.

The intent of the C-30 Zone is the following:

[T]o create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in convenient locations, and is typically appropriate along major thoroughfares. (OPC Sec. 17.46.010)

The intent of the R-60 Zone is the following:

[T]o create, preserve, and enhance areas for apartment living at relatively high densities in desirable settings, and is typically appropriate to areas having good accessibility to transportation routes and shopping and community centers. (OPC Sec. 17.26.010)

The zoning for the site would allow a maximum of 54 residential units on the property. The proposal exceeds the number of units allowed by the zoning (74 units are proposed). The Zoning Regulations came into effect largely in 1965. The City adopted a new General Plan in 1998. The policies of the General Plan supersede the Zoning Regulations. In many areas of the city, particularly along major corridors such as Grand Avenue, the maximum residential density allowed under the General Plan is significantly higher than the density allowed by the zoning. The City is currently working to update the zoning districts so they contain development standards that are consistent with the policies contained in the General Plan. According to the Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations, an Interim Conditional Use Permit is required to apply the density limitations of the General Plan to the project. Pursuant to the Guidelines, the development standards of the "best-fit" zone (i.e., the zoning district which most closely meets the intent of the General Plan designation) would be applied to the project. Originally, staff recommended that the best-fit zone for the portion of the site designated Neighborhood Center Mixed Use (the southern portion of the site along Grand Avenue) should be the C-28 Commercial Shopping District Zone. Accordingly, the staff report for the Design Review Committee hearing on February 22, 2006, analyzed the proposal's conformance with the C-28 Zone standards. After further consideration, staff now feels that the best-fit zone for the site is not the C-28 Zone but rather the existing zoning for the site, the C-30 Zone. This belief is based upon the fact that Grand Avenue is a major vehicular thoroughfare which serves as a link between downtown Oakland and Interstate 580. This character of Grand Avenue is more consistent with the C-30 Zone. The C-28 Zone is typically applied to more intimate pedestrian-oriented shopping districts. Therefore, the development standards of the existing zoning for the southern portion of the site, the C-30 Zone, would apply to the proposal.

For the portion of the site designated Urban Residential by the General Plan (the northeast portion of the site along Euclid Avenue) staff believes the appropriate best-fit zone is the R-60 Zone, the same zoning designation that currently exists on that portion of the site. Accordingly, the development standards of the R-60 Zone would apply to this portion of the site.

The project complies with all of the development standards of the C-30 and R-60 Zones except for the maximum building height allowed and various minimum setback requirements. The applicant is seeking a Conditional Use Permit to allow the proposed height of the building in the R-60 Zone and Variances to waive the setback standards. The proposed building height and setbacks are further discussed in the "Key Issues and Impacts" section of this report (see below).

The S-12 Zone contains special parking regulations for residential uses in the Adams Point area. Due to the general lack of off-street and on-street parking in the Adams Point area, the S-12 Zone requires more off-street parking than what would typically be required in the city. The S-12 Zone requires one off-street parking space for every three rooms in a development (where only one off-street parking space per unit is typically required) and 0.2 off-street parking spaces per unit for residential visitor parking (where none is

typically required). The proposal meets the requirements of the S-12 Zone. Off-street parking is further discussed under the "Key Design Issues" section of this report (see below).

ENVIRONMENTAL DETERMINATION

This project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines ("In-Fill Development Projects"). The criteria for the in-fill exemption, and staff's analysis of each criterion, are listed below.

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

Analysis: The project is consistent with the General Plan designations for the site and with applicable General Plan policies as demonstrated in the "General Plan Analysis" section of this report (see above). According to the General Plan, in order for the Planning Commission to find that a project is consistent with the policies of the General Plan it is not necessary for the project to comply with each and every policy of the General Plan. The General Plan states the following:

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 fact that a specific project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of the California Environmental Quality Act (CEQA)... (City of Oakland Resolution No. 79312 C.M.S.)

The project is consistent with the zoning designations for the site and with applicable zoning regulations as demonstrated in the "Zoning Analysis" section of this report (see above). Conditional Use Permits and Variances to waive certain zoning standards are required for the project. If the Planning Commission finds that the proposal satisfies the required findings for approval of the Conditional Use Permits and Variances, then the project would comply with the Conditional Use Permit and Variance procedures contained within the Zoning Regulations. In the past, the Planning Commission has applied the in-fill exemption to projects that require Conditional Use Permits and Variances finding that the project satisfies the zoning consistency requirement of the in-fill exemption because the findings for approval of the Conditional Use Permits and Variances were made in accordance with the procedures outlined in the Zoning Regulations. The Planning Commission has not applied the in-fill exemption to projects that require a rezoning of the site to a different zoning designation. This project does not require rezoning the site.

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

Analysis: The project site is within the Oakland city limits and is 0.68 acres in size. Three sides of the project site are densely built up, primarily with large, multi-story, multi-unit apartment or commercial buildings. Most buildings with frontage along Grand Avenue have ground floor commercial uses along that frontage. Grand Avenue is a major thoroughfare, connecting downtown Oakland (less than a mile northwest of the project site) to the Grand Lake district (less

than a mile southeast of the project site). Interstate 580 runs within approximately one-quarter mile of the project site. Lake Merritt is across Grand Avenue from the project site. Lake Merritt is a large urban lake within Lakeside Park, which is an urban park completely surrounded by urban uses, that is densely populated at times, and contains urban amenities such as open walking paths, an amusement park (Children's Fairyland), a boathouse (the Lake Merritt Boathouse), a science center/museum (the Rotary Science Center), and other features consistent with urban activities. Thus, the park itself is an urban use. The foregoing demonstrates that the project site is substantially surrounded, if not wholly surrounded, by urban uses.

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

Analysis: The project site is located in an urbanized area on a paved site. A Biological Assessment was prepared for the site which found that the site has no value as habitat for endangered, rare or threatened species.

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

Analysis: A traffic study was prepared for the project. As of this report writing, preliminary results from the study indicate, based on the existing and projected volume and capacity at nearby intersections, that the additional vehicle trips expected to be generated by the project would not result in potentially significant effects relating to traffic. These preliminary results are being confirmed and the final conclusions of the traffic study will be presented at the Planning Commission hearing. It is possible that the final analysis may result in the number of expected trips slightly increasing or decreasing as the methodology of the traffic study is further refined. Assuming the findings of the final traffic study are consistent with the preliminary results, the project would not result in potentially significant effects relating to traffic.

Potential noise impacts of the project are anticipated to be limited. The project would consist primarily of residential uses consistent with the residential uses in the surrounding neighborhood. The proposed commercial uses would be located along Grand Avenue and are expected to generate noise consistent with the existing uses in the Adams Point commercial district. Potential noise impacts related to construction of the project would also be limited. If the project is approved, standard noise reduction measures would be required for the project as conditions of approval.

Potential air quality impacts of the project would be limited. The vehicle trips associated with the project would generate far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District (BAAQMD) considers the normal minimum traffic volume that should require a detailed air quality analysis. Potential air quality impacts related to construction of the project would also be limited. If the project is approved, standard dust control measures would be required for the project as conditions of approval to limit potential air quality impacts during construction.

Potential water quality impacts of the project would be limited. The project involves the creation of less than one acre of new impervious surface, the minimum threshold for requiring on-site stormwater treatment facilities to remove stormwater pollutants under the National Pollutant Discharge Elimination System Permit issued by the San Francisco Bay Regional Water Quality Control Board to the Alameda Countywide Clean Water Program (of which the City of Oakland is a member). Potential water quality impacts related to construction of the project would also be limited. If the project is approved, standard construction-related water quality control measures

would be required for the project as conditions of approval to limit potential water quality impacts during construction. In addition, the Alameda County Environmental Health Department and the Regional Water Quality Control Board have confirmed that an unauthorized hazardous material contaminant release on the site that was reported in 1992 has been remediated as of October 11, 2001, and that no further action is required to avoid impacts on water quality.

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

Analysis: The project site is served by utilities and public services, all of which have sufficient capacity to accommodate the project without the need to add to existing facilities or services.

PUBLIC PARTICIPATION

On September 15, 2005, the applicant presented the proposal to community residents at a local community meeting and held a follow-up community meeting on February 7, 2006. At both meetings *neighborhood residents expressed a variety of concerns regarding the proposal with the primary concerns* being the proposed density and height of the project and its potential impacts on parking, traffic, views and solar access. Subsequent to the February 22, 2006, Design Review Committee hearing the proposal was revised (as discussed in the "Results of Previous Hearing" section of this report (see below)). No community meetings have been held regarding the revised design.

RESULTS OF PREVIOUS HEARING

The proposal was reviewed by the Design Review Committee on February 22, 2006. The Grand Avenue elevation of the original design reviewed by the Design Review Committee is attached to this report (see Attachment B). Numerous speakers spoke at the hearing in opposition to the project. Subsequent to the Design Review Committee hearing the applicant submitted revised project drawings (see Attachment A). Below are the primary comments made by the Design Review Committee. Each comment is followed by the applicant's response based on the revised design.

1. Solar Access and View Impacts: Although the project should not be required to preserve all existing solar access and views for surrounding properties, the design needs to do more to consider potential solar access and view impacts.

Revised Design: The revised design does not include any changes that would alter potential solar access or view impacts to surrounding properties.

2. Building Massing: The building volume should be re-arranged to break-up the visual mass of the building.

Revised Design: The revised design does not alter the massing of the building.

3. Building Height Relative to Street Width: The argument that the proposed building height is appropriate given the tremendous width of Grand Avenue is not accurate in this case because the existing buildings along this portion of Grand Avenue are of a lower scale.

Revised Design: The revised design does not alter the height of the building.

4. Upper-Story Building Setback: The upper-story of the building should be setback from Grand Avenue to reduce the visual height and perceived mass and bulk of the building.

Revised Design: The revised design does not incorporate an upper-story setback.

5. Setback Variances: The variances for yard setbacks appear appropriate.

Revised Design: The revised design maintains the original yard setbacks.

6. Architectural Style: The architectural style of the building appears to be influenced by the existing unattractive 1960s and 1970s buildings in the surrounding area. It would be preferable for the building to receive inspiration from the more historic context of the area.

Revised Design: The architectural detailing and styling of the building façades have been modified somewhat in the revised design. Staff believes the revised design reflects a more consistent and unified style, as opposed to the original design whose composition contained a mixture of historic and modern elements that did not relate well to each other. As stated in the "General Plan Analysis" section this report (see above) the revised design reflects a "timeless" style that appears compatible with both the older and more modern buildings in the surrounding area.

KEY ISSUES AND IMPACTS

Below is a summary of the key issues and impacts related to the proposal:

Building Height

The building would be primarily 70 to 72 feet tall along Grand Avenue (6 stories) rising up to approximately 80 feet tall at the corner of Grand Avenue and Bellevue Avenue. Due to the topography of the site, which slopes modestly up towards the northwest away from Grand Avenue, the building would be approximately 65 feet tall at the back of the building along Bellevue Avenue. The building would be approximately 70 feet tall along Euclid Avenue stepping down to approximately 60 feet towards the street.

At the Design Review Committee hearing it was reported that the proposal required a Variance to exceed the maximum allowed building height. The southern portion of the site along Grand Avenue and Bellevue Avenue is located in the C-30 Zone and the northeast portion of the site that extends to Euclid Avenue is in the R-60 Zone. Due to the General Plan designations for site, at the Design Review Committee hearing staff applied the development standards of the C-28 Zone to the southern portion of the site, which staff felt, at the time, was the appropriate best-fit zone for the General Plan designation (Neighborhood Center Mixed Use). Staff now recommends that the development standards for the existing zoning on the southern portion of the site, the C-30 Zone, be applied to the southern portion of the site, rather than the C-28 Zone standards, as explained in the "Zoning Analysis" section of this report (see above). Pursuant to Section 17.46.150 of the Oakland Planning Code, there is no height limit for the C-30 Zone except for portions of a building located within a certain distance of a required rear yard setback. According to the definitions contained within the Zoning Regulations, the project site would contain no rear lot line, and therefore, no required rear yard setback. According to the definitions in the Zoning Regulations, the site contains two front lot lines (along Bellevue Avenue and Euclid Avenue which are the shorter of the lot lines abutting a street), one street side lot line (along Grand Avenue), and one interior side lot line (along the north side of the site). Therefore, since there is no rear lot line there would be no height limit in the C-30 portion of the site. Also at the Design Review Committee, it was reported that the height limit in the R-60 portion of the site is 40 feet. However, a Variance is not required to exceed this limit. Pursuant to Section 17.126.130 of the Oakland Planning Code, a building is allowed to exceed the 40-foot height limit in the R-60 Zone with the granting of a Conditional Use Permit.

The existing commercial buildings on Grand Avenue in the vicinity of the site vary in height. The office building located across Bellevue Avenue to the west of the site (440 Grand Avenue) is five stories tall. The office building located adjacent to the site to the east on Grand Avenue at the corner of Grand Avenue and Euclid Avenue (490 Grand Avenue) is two stories in height. The residential buildings to the west, east, and north along Bellevue Avenue and Euclid Avenue near the site also vary in height, ranging from two to four stories in height. The multi-unit apartment building located directly behind the site to the north on Bellevue Avenue (436 Bellevue Avenue) is three stories tall and the multi-unit apartment building located adjacent to the site to the north along Euclid Avenue (435-437 Euclid Avenue) is also three stories tall.

Along Euclid Avenue, where the surrounding residential buildings near the site tend to be shorter and less dense than the buildings on Bellevue Avenue, the top floor of the proposed building would be set back from the front of the building to reduce its visual height as seen from the street in order to transition to the three-story building adjacent to the site (435-437 Euclid Avenue).

In staff's experience, the density called for by the General Plan along primary corridors tends to be higher than the density limitations of the zoning. The higher density allowed by the General Plan tends to result in buildings that exceed the height of existing surrounding buildings.

Building Mass, Bulk, and Scale

The proposed building is largely rectangular in shape as seen from the street (except for the portion of the project that extends to Euclid Avenue). During a recent community meeting regarding the proposal, some local residents felt that the building appears like a "big box" and is out-of-scale with the surrounding neighborhood. "Boxiness" or "bulk" is derived from how the mass of the building is arranged at the site. While the proposal does not involve a mid-rise building located directly next to small single-story single-family homes, as is common in other areas of the city, the existing surrounding residential buildings near the site on Bellevue Avenue and Euclid Avenue tend to be smaller and shorter than the proposed building.

The City of Oakland High Density Housing Design Guidelines recommend that building walls and bulk be broken into components to reflect the scale of adjacent development. An excerpt from the Design Guidelines regarding building mass, bulk, and scale is attached to this report (see Attachment C). The Design Guidelines state the following:

A large building which is of a different scale than smaller structures in the immediate area can be softened and made more a part of the community by reducing its bulkiness into smaller component parts.

This does not necessarily mean that the entire building should be broken down into sections that are more the size of nearby buildings. The same objective might be achieved by sensitive use of setbacks and variations in the building plan and profile.

As stated above, the top floor of the proposal is set back from the front of the building along Euclid Avenue to reduce the visual height and scale of the building as seen from the street. The design also includes projections and recesses on the elevations to articulate the building into multiple surface planes in order to reduce the visual bulk of the building. At the Design Review Committee hearing the Committee recommended that the mass of the building should be re-arranged on the site to further reduce the perceived height and bulk of the building. Recommendations included stepping back the upper-story of the building along Grand Avenue and/or designing the building to emphasize smaller sub-volumes

within the overall mass of the building. The revised design does not incorporate either of these recommendations. Instead, the revised design includes the following techniques to reduce the visual mass of the building: 1) There is a horizontal band proposed along the base of the top floor to visually separate the top floor from the remainder of the building; 2) The top floor windows are larger than the remaining windows thereby providing more glazing to reduce the visual perception of building mass at the top floor; and 3) The top floor would be painted a lighter color thereby visually distinguishing the top floor from the lower floors and visually emphasizing the darker lower floors. Staff believes these revisions do help somewhat to reduce the visual mass and bulk of the building. If the Planning Commission chooses to take action to approve the project, staff recommends applying the draft conditions of approval attached to this report (see Attachment E). Draft condition of approval #21 would require the applicant to secure approval from the Planning and Zoning Division of final project drawings that show the top floor setback from the building wall along Grand Avenue and Bellevue Avenue a minimum of five feet. Staff believes it would not be difficult to incorporate this upper-story setback into the proposal. The setback could be achieved without reducing the number of units or the size of the primary living space in the majority of the units. For example, reducing the size of walk-in closets and storage rooms in the units along Grand Avenue would allow for the setback.

Solar Access and View Impacts

The proposed building has the potential to result in solar access and view impacts on adjacent properties. The design of the proposal considers potential solar access impacts—the placement of the central courtyard towards the north of the site reduces shadow impacts to adjacent properties to the north. Shadow studies conducted for the project are attached to the project drawings (see Attachment A, sheets A-6.1 and A-6.1.1). The shadow studies indicate that the potential shadow impacts to the adjacent property to the north along Euclid Avenue (435-437 Euclid Avenue) would be greatest. Shadow impacts to this property would be substantial during the winter, spring, and fall (blocking nearly all sunlight to the south side of the units at all times of the day) but limited during the summer (blocking virtually no sunlight to the units at all times of the day). For other properties, including the adjacent property to the north along Bellevue Avenue (436 Bellevue Avenue), the shadow studies indicate that potential shadow impacts would be moderate (only blocking sunlight to the south side of the units of 436 Bellevue Avenue during the winter in the afternoon, blocking sunlight to exterior yard areas during the winter, spring, and fall, and not blocking sunlight in the summer). The shadow studies also include a comparison study (sheets A-6.2 and A-6.2.1) showing the potential shadow impacts if the building height was lowered to 40 feet. The comparison studies indicate that the potential shadow impacts resulting from a 40-foot tall building would be similar to the current proposal except that with the lower building there is the possibility that a portion of existing sunlight to the south side upper-story living space in the adjacent building at 435-437 Euclid Avenue would be preserved during the spring and fall.

The existing building located adjacent to the site to the east on Grand Avenue at the corner of Grand Avenue and Euclid Avenue (490 Grand Avenue) is a two-story office building that contains solar collectors on the roof of the building. The solar collectors are oriented towards the south (towards Grand Avenue) to take advantage of optimal solar exposure. The shadow studies indicate that the proposal would not block sunlight to the solar collectors in the morning and at noon during all times of the year. Approximately 50 percent of the roof surface area containing the solar collectors would be shadowed by the proposed building in the afternoon during all times of the year. The project would not block the southern exposure of the solar collectors. Under the California Environmental Quality Act (CEQA), a potentially significant shadow impact would only occur when a project has the potential to cast shadows that substantially impair the function of a building using solar collectors. Given that the project has the potential to block only a portion of existing sunlight to the solar collectors during a portion of the day and only at certain times of the year, and would not block the southern exposure of the solar collectors, the potential impact would, at most, moderately impair the function of the building in terms of solar

collection, but not substantially impair the function of the building. Therefore, the potential solar access impact would be considered less than significant under CEQA.

The proposal would completely block existing southerly views of Lake Merritt from the units on adjacent properties to the rear of the site (436 Bellevue Avenue and 435-437 Euclid Avenue). These existing views are from the sides of the adjacent buildings over the subject property. The City of Oakland High Density Housing Design Guidelines require the City to take potential sun and view impacts into consideration when reviewing proposal multi-family development projects (see Attachment D). The Design Guidelines state the following:

Within the constraints imposed by the site, the designer should orient his building to receive maximum sun at all times of the year, both for heating and natural lighting, and to take advantage of available views.

However, care must be taken not to block these amenities for adjacent existing buildings. When the choice is between a low building which does not block sun and view for neighbors, and a higher building of equal floor area which does not block these amenities, the lower building should be chosen.

In order to avoid blocking sunlight and views for the adjacent buildings, the proposed building would have to be significantly reduced in height. In order to preserve sunlight and views for 436 Bellevue Avenue, the height of the proposal would need to be reduced to two stories. In order to preserve sunlight and views for 435-437 Euclid Avenue, the height of the proposal would need to be reduced to one story. Reducing the height of the proposal would reduce the number of units and floor area in the building. The only way the proposal could maintain the same floor area and number of units as proposed while minimizing sunlight and view impacts to the adjacent buildings would be construct a tall, slender tower on a portion of the site. For comparison purposes, the project drawings include a hypothetical design for a building containing the same amount of floor area as the proposed building that reduces potential solar access and view impacts in accordance with the recommendations of the Design Guidelines (see Attachment A, sheets A-6.3 and A-6.4). The hypothetical design shows a two-story parking garage occupying the entire site with an 11-story tower (approximately 147 feet tall) located at the corner of Grand Avenue and Bellevue Avenue. This design would reduce solar access impacts to 435-437 Euclid Avenue and potentially preserve some existing views of Lake Merritt to the southeast from 436 Bellevue Avenue. The hypothetical building, even at two stories in height, would block views from 435-437 Euclid Avenue. Given the limited benefits of the hypothetical design and considering that the height of the tower would likely overwhelm the existing scale of the neighborhood, a revised proposal with similar floor area designed to reduce potential solar access and view impacts, in accordance with the Design Guidelines, is not recommended.

Setbacks

The applicant is seeking Variances to waive certain required minimum yard setbacks for the project. A five-foot setback is required from the west street property line along Bellevue Avenue. The proposed building would be located approximately five feet and four inches from the street property line near the adjacent property to the north on Bellevue Avenue (436 Bellevue Avenue) in accordance with the required minimum setback but would gradually step towards the street further to the south to provide no setback at the corner of Grand Avenue and Bellevue Avenue (where five feet is required). The purpose of this setback requirement is to provide for light, air, and a sense of openness in the front yard of residential properties located to the rear of commercial buildings. Staff believes this variance is appropriate because the building meets the setback requirement near the existing residential property located to the north of the site along Bellevue Avenue thereby satisfying the intent of the regulation. By

stepping the building up to the sidewalk at the corner of Grand Avenue and Bellevue Avenue, the building continues the zero setback pedestrian-oriented character of the commercial buildings along Grand Avenue.

A ten-foot setback is required between the proposed building and the southern property line of the adjacent property to the north on Bellevue Avenue (436 Bellevue Avenue) and a four-foot setback is required from the eastern (rear) property line of the adjacent property. The applicant is proposing to construct the proposed parking garage approximately one foot from these property lines. The upper-story portion of the building containing the residential units would be set back approximately seven feet (where the ten-foot setback is required) and 20 to 28 feet (where the four-foot setback is required). The applicant believes these Variances are appropriate because, due to the topography of the site, the garage structure would be partially submerged where it is located approximately one foot from the property line so that the height of the parking garage would roughly equal the height of the existing fence of the adjacent property. The residential units on the upper floors would then be set back from the property line to reduce potential impacts to the adjacent property.

A four-foot setback is required between the proposed building and northern property line of the adjacent property to the east containing the two-story office building (490 Grand Avenue). The applicant is proposing a one-foot setback for the parking garage and a three-foot setback for the upper floors containing the residential units. The setback is required in this instance because this area of the site is located in the R-60 Zone where there would typically be a benefit of providing side yard setbacks between residential buildings. However, the benefit of providing the required setback appears limited in this case because the adjacent building is an office building constructed right up to the other side of the property line. Given these circumstances, staff believes this Variance is appropriate. On the north side of the proposed building along Euclid Avenue, the proposal provides a four-foot setback between the proposed building and the adjacent property to the north (435-437 Euclid Avenue) meeting the minimum setback required.

Traffic Impacts

A traffic study was prepared for the project. As of this report writing, preliminary results from the study indicate, based on the existing and projected volume and capacity at nearby intersections, that the additional vehicle trips expected to be generated by the project would not result in potentially significant impacts relating to traffic. These preliminary results are being confirmed and the final conclusions of the traffic study will be presented at the Planning Commission hearing. It is possible that the final analysis may result in the number of expected trips slightly increasing or decreasing as the methodology of the traffic study is further refined. Assuming the findings of the final traffic study are consistent with the preliminary results, the project would not result in potentially significant impacts relating to traffic.

Parking

The proposal incorporates the proposed off-street parking into the building and wraps commercial space (on the ground floor) and residential units (on the second floor) around the exterior of the parking garage so that the visibility of the off-street parking is minimal from the street. The parking garage would contain a total of 119 off-street parking spaces. 88 spaces reserved for the residents of the residential units would be located on the ground floor in triple-stacked mechanical parking lifts. The entrance and exit to the ground-floor parking area would be located on Euclid Avenue. The second floor of the parking garage would contain 15 spaces for visitor parking for the residential units and 16 spaces to serve the commercial space. The entrance and exit to the second floor parking area would be located on Bellevue Avenue.

The S-12 Zone requires one off-street residential parking space for every three rooms in the project. A minimum of 80 residential parking spaces are required for the proposal. 88 spaces are proposed thereby exceeding the amount of residential parking required. The S-12 Zone also requires a minimum of 0.2 off-street parking spaces per unit for residential visitor parking. For the project, 15 residential visitor spaces are required (15 are proposed). The parking regulations for the commercial space are based upon the specific uses that take place within the commercial space. Based on the size of the commercial space, twelve spaces would be required if the entire space was used for retail, eight spaces would be required if the entire space was used for office uses, and 23 spaces would be required if the entire space was used for food sales (e.g., food market, restaurant, café). The proposal includes 16 spaces for the commercial space. At this time the applicant does not have tenants selected for the commercial space. A food sales use would not be allowed within the entire commercial space because 23 spaces would be required (16 spaces are proposed). Only a combination of uses that could be served by the amount of parking would be allowed. If approved, a condition of approval to this effect could be applied to the project (see Attachment E, draft condition of approval #27).

The traffic study analyzed the impact of the project on on-street parking in the neighborhood. Because the project would meet (and exceed in the case of residential parking) the amount of off-street parking required, and the amount of off-street parking is based on the size of the units thereby requiring more parking than what is typically required in the city, it is not anticipated that the project uses would increase demand for on-street parking in the neighborhood. The project would replace an existing parking lot thereby displacing vehicles currently using the parking lot. It is possible that these displaced vehicles would park on the street in the surrounding neighborhood. Preliminary results from the traffic study indicate, based on observations of the use of the parking lot and the availability of on-street parking and off-street public parking lots in the neighborhood, that there would be adequate parking available in the neighborhood to meet the demand of the displaced vehicles from the parking lot.

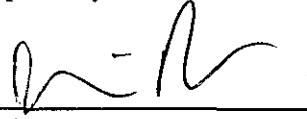
CONCLUSION

The proposal would replace an existing underutilized site located along a major transit-accessible corridor with needed housing opportunities and neighborhood-oriented commercial uses. Although staff believes the project is consistent with nearly all of the applicable policies of the General Plan, staff is unable to recommend approval of the proposal in its current configuration given the concerns of the Design Review Committee regarding the mass and bulk of the building. If the Planning Commission chooses to take action to approve the proposal, staff recommends that the Planning Commission approve the project subject to the findings and conditions of approval attached to this report (see Attachment E).

- RECOMMENDATIONS:**
1. Take public testimony.
 2. Provide direction to staff and the applicant on the proposal.

- ALTERNATIVE RECOMMENDATIONS:**
- A. Take public testimony.
 - B. Affirm staff's environmental determination.
 - C. Approve the Regular Design Review, Interim Conditional Use Permit, Minor Conditional Use Permit, Minor Variances, and Tentative Parcel Map subject to the attached findings and conditions.

Prepared by:



Darin Ranelletti
Planner III

Approved by:



GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
Planning Commission:



CLAUDIA CAPPIO
Director of Development

ATTACHMENTS:

- A. Project Drawings (revised; received May 15, 2006)
- B. Original Project Drawings (reviewed by Design Review Committee; received January 27, 2006)
- C. Excerpt from High Density Housing Design Guidelines ("Neighborhood Scale")
- D. Excerpt from High Density Housing Design Guidelines ("Sun and View")
- E. Draft Findings for Approval and Conditions of Approval

ATTACHMENT C

**Project Approval Letter
(containing final findings and conditions;
dated June 8, 2006)**

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 839-6451

June 8, 2006

Mike Bowes
California Urban Homes, LLC
1800 Sutter Street, Suite 500
Concord, CA 94520

RE: Case File No. CMDV04-485 & TPM-8925; 460 Grand Avenue (APNs 010-0779-012-00, 010-0779-014-01 & 010-0779-015-01)

Dear Mr. Bowes:

Your application as noted above was **APPROVED** at the City Planning Commission meeting of **June 7, 2006**. The Commission's action is indicated below. This action becomes final ten (10) days after the date of the meeting unless an appeal to the City Council is filed.

- (X) Granted (pursuant to attached findings and conditions of approval) (**Vote: 4 - 1 -1**)
() Denied

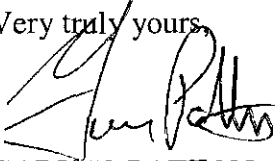
An Appeal to the City Council of this decision may be submitted within ten (10) calendar days (by 4:00 p.m.) of **June 7, 2006**. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California, 94612, and to the attention of **Darin Ranelletti, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein its decision is not supported by substantial evidence and must include payment of **\$682.77** in accordance with the City of Oakland Master Fee Schedule. The Planning and Zoning Division shall forward a copy of appeals submitted to the City Council to the City Clerk for scheduling. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you from raising such issues during your appeal and/or in court.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from California Environmental Quality Act (CEQA) review. You may record the enclosed NOE and Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$25.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Planning and Zoning Division, to the attention of **Darin Ranelletti, Planner III**. Although recordation of the NOE is optional pursuant to Section 15062(d) of the CEQA Guidelines, recordation of the NOE reduces the statute of limitations on legal challenges to your project, based on environmental issues, to 35

days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for legal challenges extends to 180 days.

If you have any questions, please contact the case planner, **Darin Ranelletti**, at **(510) 238-3663** or **dranelletti@oaklandnet.com**.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gary V. Patton". The signature is written in a cursive style with a large initial "G".

GARY V. PATTON

Deputy Director of Planning and Zoning

Attachment: Findings and Conditions of Approval

Enclosures: Notice of Exemption
Environmental Declaration

CASE NO. CMDV04-485 & TPM-8925

FINDINGS FOR APPROVAL

The proposal meets the required findings for approval as contained within the Oakland Planning Code and Oakland Subdivision Regulations. Required findings are shown below in **bold** type; explanations as to why these findings can be made are in normal type.

Section 17.136.070A – Residential Design Review Criteria:

These findings concern the physical design of the proposed building.

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

The proposed design will relate well to the surrounding area and is consistent with the City of Oakland High Density Housing Design Guidelines. The project is designed so that the proposed building will front onto Grand Avenue, the primary street in the neighborhood and the location of the neighborhood commercial district, to create an active pedestrian-oriented streetscape. The building mass is arranged on the site so that the majority of the mass of the building is placed towards Grand Avenue allowing for an open interior courtyard in the north central portion of the site towards the existing residential neighborhood. The courtyard acts to reduce potential impacts to adjacent properties to the north. The building incorporates architectural articulations and detailing, a mixture of materials, a mixture of building colors, upper-story setbacks, and ground-floor commercial space to preserve the pedestrian scale of the neighborhood and reduce the perceived visual bulk of the building. The height of the project is compatible with the surrounding area in that the building is located in a neighborhood containing existing buildings with a variety of heights and the proposed architectural articulations and detailing, mixture of materials, a mixture of building colors, and upper-story setbacks contribute to reducing the perceived height of the proposed buildings. The proposed materials and textures are similar to those found in the surrounding neighborhood.

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

The proposed design will preserve and enhance desirable neighborhood characteristics. The proposal incorporates pedestrian-oriented elements as discussed under Criterion 1 (see above) in order to preserve the pedestrian character of the neighborhood. The proposed off-street parking will not impact the visual character of the neighborhood because the visibility of off-street parking from the street will be minimal. Potential solar access, view, traffic, and parking impacts on the surrounding neighborhood as a whole are considered less than significant for the reasons stated in the staff report.

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

There are no significant natural topographic or landscape features on the site. The site contains a gradual slope ranging approximately from three to six percent. The design of the proposed building responds successfully to the slope of the site by setting the parking garage located on the lower floors of the building down into the higher portions of the site so that the parking garage is partially submerged underground thereby reducing the amount of building mass visible above grade and the visibility of the parking garage.

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

The site is located at the base of a hill in the Adams Point neighborhood but is not considered a hillside lot. Typically lots with a slope of 20 percent or more in Oakland are considered hillside lots. The slope of the site ranges approximately from three to six percent. Even though the site is not considered a hillside lot, the design of the proposed building responds successfully to the slope of the site by setting the parking garage located on the lower floors of the building down into the higher portions of the site so that the parking garage is partially submerged underground thereby reducing the amount of building mass visible above grade and the visibility of the parking garage.

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.

The proposed design conforms in all significant respects to the Oakland General Plan (formerly the Oakland Comprehensive Plan) as explained in the “General Plan Analysis” section of the staff report.

Section 17.134.050 – General Use Permit Criteria:

These findings concern the following:

- Conditional Use Permit (CUP) #1 – Approval of the application of the residential density regulations of the General Plan to the proposal.
 - Conditional Use Permit (CUP) #2 – Approval of the 70-foot tall building height in the R-60 Zone.
- 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 will be compatible with and will not adversely affect abutting properties and the surrounding neighborhood. The building incorporates architectural articulations and detailing, a mixture of materials, a mixture of building colors, upper-story setbacks, and ground-floor commercial space to preserve the pedestrian scale of the neighborhood and reduce the perceived visual bulk of the building. The site is located in an urban setting where more site coverage results in a more defined streetscape and more efficient use of land. The proposed building will occupy nearly the entire site but the design incorporates a central interior courtyard which will reduce the perceived building coverage as seen from the surrounding neighborhood to the north. The proposed density will be greater than the surrounding neighborhood but because the design incorporates elements to reduce its visual scale as described above and the potential impacts of the operating characteristics of the project (e.g., traffic generation) are considered less than significant, the proposed density will be compatible with the surrounding neighborhood.

Adequate civic facilities and utilities are available nearby to serve the site.

The proposal will not harm the character of the neighborhood. The character of the Adams Point commercial district along Grand Avenue consists of pedestrian-oriented buildings containing neighborhood-oriented commercial uses. The proposal will preserve the pedestrian orientation of the

area as described above and contain neighborhood-oriented commercial space. The character of the surrounding Adams Point residential neighborhood consists of a mixture of single-family homes, small multi-unit apartment buildings, and large multi-unit apartment buildings of varying ages and styles. The proposed building will compliment the existing diversity of building types in the area and is styled in a manner that is compatible with both the older and newer buildings in the neighborhood as explained in the staff report.

According to a traffic analysis prepared for the project, traffic impacts of the development are anticipated to be less than significant.

No other significant impacts are anticipated from the development.

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

The proposal will provide for a convenient and functional living, working, and shopping environment. New living units will be located adjacent to Grand Avenue which provides public transportation and commercial opportunities for the new residents. Due to its proximity to public transit, the proposed commercial space will be highly accessible to employees and shoppers.

The proposal incorporates high-quality design, materials, and finishes providing an attractive appearance to the community.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed residential units will provide needed housing opportunities and the proposed commercial space and additional residents will contribute to the economic vitality of the Adams Point commercial district.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposal satisfies this Criterion (see responses above to criteria for Section 17.136.070A).

- E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

The proposed design conforms in all significant respects to the Oakland General Plan (formerly the Oakland Comprehensive Plan) as explained in the "General Plan Analysis" section of the staff report.

Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations:

These findings concern Conditional Use Permit (CUP) #1 – Approval of the application of the residential density regulations of the General Plan to the proposal.

- **That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area.**

The proposal is clearly appropriate for the site. The project is located along a major arterial, has direct transit access, will contribute to the economic vitality of the Adams Point commercial district, and is designed to reduce its potential impacts.

- **That the proposal is clearly consistent with the intent and desired character of the relevant Land Use Classification or Classifications of the General Plan and any associated policies.**

The proposal is clearly consistent with the General Plan as explained in the “General Plan Analysis” section of the staff report.

- **That the proposal will clearly promote implementation of the General Plan.**

The proposal will clearly implement the General Plan as explained in the “General Plan Analysis” section of the staff report.

Section 17.148.050 – Variance Findings:

These findings concern the following:

- Variance #1 – Approval of no front yard setback from the western property line (Bellevue Avenue) where five feet minimum is required.
- Variance #2 – Approval of a one-foot interior side yard setback from the northern property line (i.e., the southern property line of the adjacent property to the north at 436 Bellevue Avenue) where ten feet minimum is required.
- Variance #3 – Approval of a one-foot interior side yard setback from the northern property line (i.e., the eastern property line of the adjacent property to the north at 436 Bellevue Avenue) where four feet minimum is required.
- Variance #4 – Approval of a one-foot interior side yard setback from the southern property line (i.e., the northern property line of the adjacent property to the south at 490 Grand Avenue) where four feet minimum is required.

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

Variance #1: Strict compliance with the regulation would preclude an effective design solution improving livability, operational efficiency, and appearance. Compliance with the setback regulation would not allow the building to be located immediately behind the sidewalk. A predominant characteristic along Grand Avenue is for existing buildings to be located immediately behind the sidewalk. This design enhances the pedestrian orientation of the street. Compliance with the setback regulation would reduce the pedestrian orientation of the street and conflict with the established pattern on Grand Avenue.

Variances #2 - #4: Strict compliance with the regulations would preclude an effective design solution improving livability, operational efficiency, and appearance. Compliance with the setback regulations would reduce the footprint of the building thereby 1) reducing the size and livability of the units, 2) reducing the number of units and development efficiency of the project, or 3) increasing

the height of the building in order to maintain the size and number of units which would increase potential solar access, view, and scale impacts on the surrounding neighborhood. The proposed design is a superior design solution because it increases the footprint of the building to avoid these three unsatisfactory scenarios.

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

Variance #1: Strict compliance with the regulation would preclude an effective design solution fulfilling the basic intent of the regulations. The intent of the setback regulation is to provide for light, air, and a sense of openness in the front yard of residential properties located adjacent to commercial buildings. Compliance with the regulation would preclude an effective design solution as explained above in the response to Finding #1. The proposed design solution fulfills the intent of the regulation because the proposed building meets the setback requirement near the existing adjacent residential property located to the north along Grand Avenue thereby providing adequate light, air, and openness to the front yard of the residential building on the adjacent property.

Variances #2 - #3: Strict compliance with the regulations would preclude an effective design solution fulfilling the basic intent of the regulations. The intent of the setback regulations is to provide for light, air, and a sense of openness between buildings. Compliance with the regulation would preclude an effective design solution as explained above in the response to Finding #1. The proposed design solution fulfills the intent of the regulations because the proposed building will be limited in height at the point where the one-foot setback is proposed when compared to the adjacent property to the north due to the topography of the site. The garage structure will be partially submerged where it is located approximately one foot from the property line so that the height of the parking garage will roughly equal the height of the existing fence of the adjacent property.

Variance #4: Strict compliance with the regulation would preclude an effective design solution fulfilling the basic intent of the regulations. The intent of the setback regulation is to provide for light, air, and a sense of openness between residential buildings. Compliance with the regulation would preclude an effective design solution as explained above in the response to Finding #1. Compliance with the regulation would not fulfill the intent of the regulation because the adjacent property contains a commercial building in a commercial zone (C-30) providing no setback from the property line in question.

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

Variance #1: The variance will not adversely affect abutting properties or the surrounding area. The proposed building meets the setback requirement near the existing adjacent residential property located to the north along Grand Avenue.

Variances #2 - #3: The variances will not adversely affect abutting properties or the surrounding area. The proposed building will be limited in height at the point where the one-foot setback is proposed when compared to the adjacent property to the north due to the topography of the site. The garage structure will be partially submerged where it is located approximately one foot from the property line so that the height of the parking garage will roughly equal the height of the existing fence of the adjacent property. The residential units located above the parking garage will be setback further from the property line to minimize potential impacts on the adjacent property.

Variance #4: The variance will not adversely affect abutting properties or the surrounding area. The adjacent property to the south contains a commercial building in a commercial zone (C-30) providing no setback from the property line in question.

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

The variances will not constitute a grant of special privilege. Other similarly zoned properties under similar circumstances will be given similar considerations in the future.

5. **For proposals involving one or two dwelling units on a lot: That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposal does not involve one or two dwelling units so this finding does not apply.

6. **For proposals involving one or two dwelling units on a lot and not requiring design review or site development and design review: That all elements of the proposal conform to the "Special Residential Design Review Checklist Standards and Discretionary Criteria" as adopted by the City Planning Commission.**

The proposal does not involve one or two dwelling units so this finding does not apply.

7. **For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:**

- a. **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 height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**
- b. **Over sixty (60) percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, 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 variance.**

The proposal does not involve one or two dwelling units so this finding does not apply.

Section 16.24.040 – Lot Design Standards

These findings concern the Tentative Parcel Map to merge the three existing lots into one parcel and to subdivide the parcel into condominium units.

- 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;
 - 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.
- 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.
- C. All applicable requirements of the zoning regulations shall be 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.
- 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.

Response to Findings A. through E.: The proposal complies with all of the above standards. The proposal consists of a parcel merger and condominium subdivision; no new subdivided lot will be created by the proposal.

CASE NO. CMDV04-485 & TPM-8925

CONDITIONS OF APPROVAL

The proposal is subject to the following conditions (underlined language was added, and struck-out language was deleted, by the City Planning Commission at the hearing dated June 7, 2006):

STANDARD GENERAL 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 submitted on May 15, 2006 and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval

2. Effective Date, Expiration, and Extensions

a. Ongoing

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire in three years from the date of this approval, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

3. Scope of This Approval; Major and Minor Changes

a. Ongoing

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

4. Modification of Conditions or Revocation

a. Ongoing

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

5. Reproduction of Conditions on Building Plans

a. Prior to issuance of a building permit

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

6. Indemnification

a. Ongoing

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and

attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

7. 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.

8. Recycling Space Allocation Requirements

a. Prior to issuance of a 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.

9. Electrical Facilities

a. Prior to installation

All new electric and telephone facilities, fire alarm conduits, streetlight wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Division.

10. Improvements in the Public Right-of-Way

a. Prior to issuance of a building permit for work in the public right-of-way

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with Conditions of Approval and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, locations of facilities required by the East Bay Municipal Utility District (EBMUD), and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this approval. Encroachment permits shall be obtained as necessary for any applicable improvements. Review and confirmation of the street trees by the City's Tree Division is required as part of this condition. The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of a certificate of occupancy.

STANDARD CONSTRUCTION CONDITIONS:

11. Construction Hours

a. During all construction activities

The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Services Division. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme

noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, and then only within the interior of the building with the doors and windows closed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays.

12. Construction Management

a. Prior to issuance of a demolition or building permit

The project sponsor shall submit a construction management and staging plan to the Building Services Division with the application for the building permit for the project for review and approval. The plan shall include at least the following items and requirements:

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. In addition, the information shall include a construction-staging plan for any right-of-way.
- Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- Notification procedures for adjacent property owners and public safety personnel (about 48 hours) regarding when major deliveries, detours and lane closures will occur.
- Provision for accommodation of pedestrian flow.
- Location of construction staging areas.
- Provisions for monitoring surface streets used for haul routes so that any damage to the street paving and debris attributable to the haul trucks can be identified and corrected.
- A temporary construction fence to contain debris and material and to secure the site.
- Provisions for removal of trash generated by project construction activity. The applicant shall ensure that debris and garbage is collected and removed from the site daily.
- At least one copy of the approved plans that include the Approval Letter and the Conditions of approval for this project shall be available for review at the job at all times.
- All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion, and sedimentation abatement per Chapter 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.
- Dust control measures as set forth in Condition #13, below.
- Noise control measures as set forth in Conditions #15 and #16, below.
- A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. The Planning and Zoning Division shall be informed who the Manager is prior to the issuance of a building permit.

13. Dust Control Measures

a. During all construction activities

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall include:

- Watering all active construction areas at least twice daily, or as required to control dust;

- Water or cover stockpiles of debris, soils, sand, or other material that can be blown by the wind;
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved roads, parking areas, and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites,
- Sweeping adjacent public rights of way (preferably with water sweepers) and streets daily if visible soil material or debris is carried onto these areas.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

14. Grading, Erosion and Drainage Plan.

a. Prior to issuance of grading permit and during construction.

The applicant shall submit for review and approval by the Building Services Division a Site Grading, Drainage, and Erosion Control plan in conformance with City standards and “Best Management Practices” (BMP) for use during construction.

- The plan shall indicate the methods, means, and design to conduct site stormwater run-off, attenuate storm drainage flow, and minimize sedimentation and erosion during and after construction activity (utilizing a combination of permeable surfaces, subsurface-drainage, silt debris barriers, drainage retention systems, and/or filtration swale landscaping). All graded slopes or disturbed areas shall be temporarily protected from erosion by implementing seeding, mulching and/or erosion control blankets/mats until permanent erosion control measures are in place. No grading shall occur without a valid grading permit issued by the Building Services Division or within the period of October 15 through April 15 unless specifically authorized in writing by the Building Services Division. The plan will be in effect for a period of time sufficient to stabilize the construction site throughout all phases of project development. Furthermore, storm drainage facilities shall be designed to meet applicable regulations.
- In order to minimize potential water quality impacts to surface runoff during construction, the proposed project will require standard erosion control measures as part of the project prior to issuance of grading or building permits. The applicant will be required to prepare a construction period erosion control plan and submit the plan to the Building Services Division for approval prior to issuance of a grading or building permit. The plan will be in effect for a period of time sufficient to stabilize the construction site for all phases of the project. These standard measures will address construction period erosion on the site by wind or water.
- Construction operations, especially grading operations, shall be confined as much as possible to the dry season in order to avoid erosion of disturbed soils.

15. Construction Related Noise Control

a. During all construction activities

To reduce daytime noise impacts due to construction, to the maximum feasible extent, the City shall require the applicant to develop a site-specific noise reduction program, subject to city review and approval, which includes the following measures:

- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
- Designate an on-site complaint and enforcement manager shall be posted to respond to and track complaints.
- A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- 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).
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

16. Pile Driving and other Extreme Noise Generators

a. During all construction activities

- To further mitigate other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation is achieved. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:
- Erect temporary plywood noise barriers around the construction site, to shield adjacent uses;
- 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;
- Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.
- A process with the following components shall be established for responding to and tracking complaints pertaining to pile-driving construction noise:
 - A procedure for notifying City Building Services Division staff and Oakland Police Department;
 - A list of telephone numbers (during regular construction hours and off-hours);
 - A plan for posting signs on-site pertaining to complaint procedures and who to notify in the event of a problem;
 - Designation of a construction complaint manager for the project; and

- Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities.

17. Site Maintenance

a. During all construction activities

The applicant shall ensure that debris and garbage is collected and removed from the site daily.

18. Cultural Resources found during Site Work and Construction

a. Prior to issuance of any grading permits and throughout construction

In accordance with the California Environmental Quality Act (CEQA) Section 15064.5, if the applicant discovers any previously unidentified cultural resources during any onsite or offsite construction phase of the proposed project, the project applicant is required to cease work in the immediate area until such time as a qualified archaeologist and the City of Oakland can assess the significance of the find and make mitigation recommendations, if warranted. To achieve this goal, the contractor shall instruct the construction personnel on the project as to the potential for discovery of archeological, pre-historic, historic, cultural, or human remains. The contractor shall ensure that all construction personnel understands the need for proper and timely reporting of such finds, and the consequences of any failure to report them. Any recommendations of the qualified archeologist shall be implemented prior to resumption of work in the affected area.

19. Special Instructor

a. Throughout construction

The project sponsor may be required to pay for on-call special inspector(s) as needed during the times of most intense construction or as directed by the Building Official.

SPECIFIC CONDITIONS (CASE NO. CMDV04-485 & TPM-8925):

20. Landscape Plan

a. Information to be included on the plans submitted for a building permit

The project drawings submitted for a building permit shall include a detailed landscape plan for review and approval by the Planning and Zoning Division. The landscape plan shall cover all outside common areas of the development, areas adjacent to public rights-of-way, areas located within adjacent rights-of-way, and the area located along the northern property lot near Euclid Avenue. A detailed planting schedule showing sizes, quantities, and names of plant species as well as the proposed method(s) of irrigation is required. All proposed landscaping located within 50 feet of either side of the Bellevue Avenue and Euclid Avenue driveway entrances shall be designed to provide for safe sight distance for vehicles exiting the driveways. Pursuant to Section 17.124.030 of the Oakland Planning Code, one fifteen-gallon street tree, as approved by the Public Works Agency, Tree Division, shall be provided for every twenty-five (25) feet of street frontage or for every twenty (20) feet of street frontage if a curbside planting strip exists. Fire and drought-resistant species are encouraged.

b. Prior to issuance of a certificate of occupancy

The applicant shall install all proposed landscape features indicated on the approved landscape plan prior to the issuance of a certificate of occupancy, unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code. The amount of such bond or cash deposit shall equal the greater of \$2,500 or the estimated cost of the required landscaping, based on a licensed contractor's bid.

c. Ongoing

All installed planting shall be permanently maintained in a healthy condition.

21. Final Project Design

a. Information to be included on the plans submitted for a building permit

The final proposed project drawings shall be reviewed and approved by the Director of Development. The top floor shall be setback ~~a minimum of five feet~~ from the exterior building wall of the lower floors of the building along ~~Grand Avenue and Bellevue Avenue~~, except at the corner of Grand Avenue and Bellevue Avenue. The tower element located at the corner of Grand Avenue and Bellevue Avenue shall be eliminated or more architecturally integrated into the building. All proposed exterior windows and doors shall be dark in color and recessed a minimum of three inches from the surrounding wall surface. Detailed window section drawings are required.

22. Garage Entries and Internal Navigation

a. Information to be included on the plans submitted for a building permit

Exterior parking garage information signs shall be posted at the entries to the parking garage on Bellevue Avenue and Euclid Avenue as proposed by the applicant. The sign at the Bellevue Avenue entrance shall state (using this exact language or other language to achieve a similar effect): "COMMERCIAL AND VISITOR PARKING ONLY. PARKING ENTRANCE FOR RESIDENTS LOCATED ON EUCLID AVENUE." The sign at the Euclid Avenue entrance shall state (using this exact language or other language to achieve a similar effect): "PARKING FOR RESIDENTS ONLY. COMMERCIAL AND VISITOR PARKING ENTRANCE LOCATED ON BELLEVUE AVENUE." Interior parking garage information signs shall be posted on the second floor of the parking garage as proposed by the applicant directing pedestrians to the stairwells and elevators in order to discourage pedestrian use of the driveway.

23. Bicycle Parking

a. Information to be included on the plans submitted for a building permit

A minimum of five short-term bicycle parking spaces and 20 long-term bicycle parking spaces are required. The short-term spaces shall be located on the exterior of the building along Grand Avenue with spaces located near the corner of Grand Avenue and Bellevue Avenue and near the residential entrance to the building. An encroachment permit from the Building Services Division may be required to allow installation of the short-term parking spaces in the public right-of-way. The long-term parking spaces shall be located within the parking garage in a secured area.

24. Pedestrian Barrier

a. Information to be included on the plans submitted for a building permit

The applicant shall install a pedestrian barrier at the northeast corner of Grand Avenue and Bellevue Avenue, as proposed by the applicant, to discourage pedestrians from crossing Grand Avenue southbound on the east side of the intersection where no crosswalk exists. Approval from the Building Services Division and/or the Public Works Agency may be required to allow installation of the barrier.

25. Driveway Curb Cuts

a. Information to be included on the plans submitted for a building permit

The applicant shall remove all unused driveway curb cuts along the frontage of the site. A curb/gutter/sidewalk permit from the Building Services Division may be required.

26. Final Building Colors and Materials

a. During construction

The final building colors and materials shall be substantially consistent with the approved plans unless modified colors or materials are approved by the Planning and Zoning Division. The material proposed for the base of the building shall be a high-quality, durable material (e.g.,

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26. Final Building Colors and Materials

a. During construction

The final building colors and materials shall be substantially consistent with the approved plans unless modified colors or materials are approved by the Planning and Zoning Division. The material proposed for the base of the building shall be a high-quality, durable material (e.g., stone, slate, tile). Concrete or stucco is not allowed along the base of the building unless the

applicant can demonstrate that the proposed material will provide for a high level of quality and durability.

27. Nonresidential Activities

a. Ongoing

All activities occupying the ground-floor commercial space shall comply with the land use and parking regulations of the *Oakland Planning Code* and shall be consistent with any land use assumptions contained within the traffic study. Prior to the issuance of a business tax license, prospective tenants must demonstrate that adequate off-street parking exists to serve the proposed activity.

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

NOTICE OF EXEMPTION

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

Project Title: CMDV04-485 & TPM-8925

Project Applicant: California Urban Homes, LLC

Project Location: 460 Grand Avenue (APNs 010-0779-012-00, 010-0779-014-01 & 010-0779-015-01)

Project Description: Construction of a new mixed-use development containing 74 residential units and 4,600 square feet of commercial space.

Exempt Status: CHECK ALL THAT APPLY

Statutory Exemptions

{Article 18:Section 21080;15260}

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- General Rule {Sec.15061(b)(3)}
- Other: {Sec._____}

Categorical Exemptions

{Article 19:Section 21084;15300}

- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- Other {Sec._____}
- In-fill Development {Sec. 15332}

Reasons why project is exempt: The project is an in-fill development in an already urbanized area consistent with the applicable general plan designation, all applicable general plan policies, and the applicable zoning designations and regulations. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, the project site has no value as habitat for endangered, rare or threatened species, and the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Lead Agency: City of Oakland, Community and Economic Development Agency, Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612

Department/Contact Person: Darin Ranelletti

Phone: (510) 238-3663



Signature (Gary Patton, Deputy Director of Planning and Zoning)

6-8-06

Date:

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

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

: FOR COURT USE ONLY

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY :

LEAD AGENCY: **COMMUNITY & ECONOMIC** :
 DEVELOPMENT AGENCY/PLANNING: :
 250 Frank H. Ogawa Plaza, Suite 3315 :
 Oakland, CA 94612 :

Contact: Darin Ranelletti, Planner III :
 (510) 238-3663 :

APPLICANT: **California Urban Homes, LLC** : _____

: FILING NO.

: _____

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

CLERK'S
USE ONLY

- | | | |
|-------------------------------------|---|---------|
| 1. | NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION | PLU 117 |
| <input checked="" type="checkbox"/> | A – STATUTORILY OR CATEGORICALLY EXEMPT
\$25.00 (Twenty-five Dollars) – CLERK'S FEE | |
| <input type="checkbox"/> | B – DE MINIMUS IMPACT – CERTIFICATE OF FEE EXEMPTION REQUIRED
\$25.00 (Twenty-five Dollars) – CLERK'S FEE | PLU 117 |
| 2. | NOTICE OF DETERMINATION – FEE REQUIRED | |
| <input type="checkbox"/> | A – NEGATIVE DECLARATION
\$1,250.00 (Twelve Hundred Fifty Dollars)-
STATE FILING FEE
\$25.00 (Twenty-five Dollars) – CLERK'S FEE | PLU 116 |
| <input type="checkbox"/> | B – ENVIRONMENTAL IMPACT REPORT
\$850.00 —(Eight Hundred Fifty Dollars) – STATE
FILING FEE
\$25.00 (Twenty-five Dollars) – CLERK'S FEE | PLU 115 |
| <input type="checkbox"/> | C -- Certificate of Fee Exemption
& De Minimis Impact Fee_
\$25.00 (Twenty-five Dollars) – CLERK'S FEE | PLU 117 |

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

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

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

MAKE CHECK PAYABLE TO: **ALAMEDA COUNTY CLERK**

ATTACHMENT D

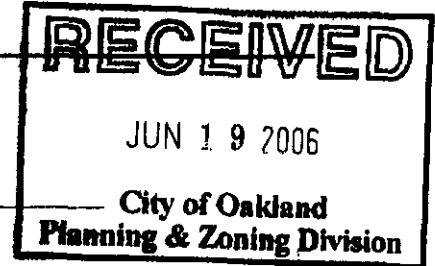
Appeal Letter
(received June 19, 2006)



CITY OF OAKLAND

REQUEST FOR APPEAL OF DECISION TO PLANNING COMMISSION OR CITY COUNCIL

(REVISED 8/14/02)



PROJECT INFORMATION

Case No. of Appealed Project: CMDY 04-485
Project Address of Appealed Project: 4100 GRAND AVE.

APPELLANT INFORMATION:

Printed Name: KEVIN MAPLES Phone Number: 510.839.3879
Mailing Address: 428 BELLEVUE Alternate Contact Number: 650.228.2615
City/Zip Code OAKLAND, CA 94610 Representing: _____

An appeal is hereby submitted on:

AN ADMINISTRATIVE DECISION (TO THE CITY PLANNING COMMISSION)

YOU MUST INDICATE ALL THAT APPLY:

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

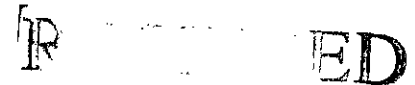


JUN 19 2006

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)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- Hearing Officer's revocation/impose or amend conditions (OPC Secs. 15.152.150 & 15.156.160)
- Other (please specify) _____

CITY PLANNING COMMISSION
ZONING DIVISION



CITY PLANNING COMMISSION
ZONING DIVISION

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

(continued on reverse)

(Continued)

A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)

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) ENVIRONMENTAL DETERMINATION

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 Request for Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Request for Appeal Form (or attached additional sheets), and provide supporting documentation along with this Request for Appeal Form, may preclude you from raising such issues during your appeal and/or in court.

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

Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form.)*

Signature of Appellant or Representative of Appealing Organization

08/14/2006
Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:

8/14/02

June 15, 2006

Planning Commission Secretary
City of Oakland
250 Frank Ogawa Plaza, 2nd Floor
Oakland, CA 94607

RE: Appeal of Planning Commission Decision for Case File Numbers CMDV 04-485 and TPM-8925 ("460 Grand Avenue" Project)

Please accept this letter as my appeal of the Planning Commission's decision regarding the above-listed applications at its June 7, 2006 meeting. The following are the reasons that I believe that the Commission's decision was incorrect and why the City Council should reverse it:

Design Review

- Insufficient evidence in the record to support the findings required for Design Review approval.
- Failure to articulate an evidentiary basis for each required finding.

Minor Conditional Use Permit (Building Height)

- Insufficient evidence in the record to support the findings required for the Minor Conditional Use Permit required to allow a building height of 70 feet in the R-60 zoning district.
- Failure to articulate an evidentiary basis for each required finding.

Minor Variances

- Insufficient evidence in the record to support the findings required for the Minor Variances required to allow the proposed building to deviate from the required setbacks.
- Failure to articulate an evidentiary basis for each required finding.

General Plan/Zoning/Interim Condition Use Permit

- Inappropriate determination that the C-30 zoning district is the "best fit zone" under the Guidelines for Determining Project Conformity with the General Plan and Zoning Ordinance. C-30 is not listed as one of the potential "best fit zones" for the Neighborhood Center Mixed Use General Plan designation.
- Insufficient evidence in the record to support the findings required for the Interim Conditional Use Permit to apply the density limitations of the Neighborhood Center Mixed Use General Plan designation and failure to articulate an *evidentiary basis for the findings*.

- Failure to fully apply the applicable height regulations of the C-30 and R-70 zoning districts.
- Selective application of the regulations of the C-30 district as the “best-fit zone;” specifically, but not necessarily limited to, application of the building height regulations of the C-30 zone to the project but not the density regulations.

CEQA

- Insufficient evidence in the record to support the application of the categorical exemption for in-fill projects under CEQA Guidelines § 15332.
- Failure to articulate an evidentiary basis for the use of the categorical exemption.
- Failure to review environmental studies prior to making a determination regarding the impacts of the proposed project on the environment.
- Failure to make environmental studies included in the record available to the public prior to approving the proposed project.

I believe that the record on which the Planning Commission relied, if proper evidentiary bases were cited, would support approval of a project that included (1) a slightly lower building with greater setbacks from the structures to the north and the property frontages, and (2) greater architectural consistency with the larger Adams Point neighborhood, rather than solely reflecting the poor architectural styles of the existing buildings in the Grand Avenue corridor. The failure to satisfy the requirements of CEQA must also be rectified.

Please let me know as soon as possible when a hearing before the City Council will be scheduled so that I may properly prepare a fuller explanation of the basis of my appeal. Thank you very much for your consideration regarding this matter.

Sincerely,



Kevin P. Maples

cc: City Clerk
City of Oakland
One Frank Ogawa Plaza, 1st Floor
Oakland, CA 94607

OFFICE OF THE CITY CLERK
2006 JUL -6 AM 10:44

APPROVED AS TO FORM AND LEGALITY
Mark P. Wald
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION APPROVING CONSTRUCTION OF A NEW MIXED-USE DEVELOPMENT CONSISTING OF 74 RESIDENTIAL UNITS AND 4,600 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 460 GRAND AVENUE (CASE FILE NUMBER CMDV04-485)

WHEREAS, on December 22, 2005, California Homes, LLC, (“Applicant”) filed an application for regular design review, interim conditional use permit, minor conditional use permit, minor variances, and tentative parcel map to construct a mixed-use development containing 74 residential units and 4,600 square feet of commercial space located at 460 Grand Avenue at the intersection of Grand Avenue and Bellevue Avenue (“Project”); and

WHEREAS, the Design Review Committee of the Planning Commission conducted a duly noticed public hearing on the Project on February 22, 2006; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Project on June 7, 2006; and

WHEREAS, on June 7, 2006, the Planning Commission independently reviewed, considered and determined that the Project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (“CEQA”) pursuant to Section 15332 of the State CEQA Guidelines; and

WHEREAS, on June 7, 2006, the Planning Commission approved the application for regular design review, interim conditional use permit, minor conditional use permit, minor variances, and tentative parcel map (collectively called “Development Permits”); and

WHEREAS, an appeal of the Planning Commission’s June 7, 2006, actions were filed by Kevin Maples on June 19, 2006 (“Appellant”); and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties, and the public, the Appeal came before the City Council on July 18, 2006; and

WHEREAS, the Appellant and all other interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on July 18, 2006; now, therefore, be it

RESOLVED: That the City Council, having independently heard, considered, and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Project, the Planning Commission's decision, and the appeal, finds that the Appellant has **not** shown, by reliance on evidence in the record, that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Commission, or that the Commission's decision was not supported by substantial evidence in the record. This decision is based, in part, on the July 18, 2006, City Council agenda report and the June 7, 2006, Planning Commission report, which are hereby incorporated by reference as if fully set forth herein. Separately and independently, the Appellant has provided only generalized and unsupported statements in his appeal and therefore failed to meet his burden of providing the detailed reasons in the appeal itself. Accordingly, the Appeal is denied, the Planning Commission's environmental determination is upheld, and the Planning Commission's decision approving the Development Permits is upheld, subject to the final conditions of approval adopted by the Planning Commission; and be it

FURTHER RESOLVED: That in support of the City Council's decision to approve the Project's Development Permits, the City Council affirms and adopts, as its findings, the July 18, 2006, City Council agenda report and the June 7, 2006, Planning Commission report; and be it

FURTHER RESOLVED: That the City Council independently finds and determines that this Resolution complies with CEQA, as the Project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15332, and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies; and be it

FURTHER RESOLVED: That the record before this Council relating to this Project application and appeal includes, without limitation, the following:

1. the Project application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all final staff reports, decision letters, and other documentation and information produced by or on behalf of the City, including without limitation technical studies and all related/supporting materials, and all notices relating to the Project application and attendant hearings;
4. all oral and written evidence received by the City staff, Planning Commission, and City Council before and during the public hearings on the application and appeal;

