

**CITY OF OAKLAND**  
**AGENDA REPORT**

20070605 14:19

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: June 5, 2007

RE: **Conduct a Public Hearing and Upon Conclusion Adopt a Resolution Denying the Appeal (Case # A07103) and Upholding the Planning Commission Approval of Case #CMDV05-507/TPM8859, for Construction of a Four (4) Unit Condominium in the R-50 Zone with a Two (2) Foot Height Variance at 1727 E. 24<sup>th</sup> Street**

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**SUMMARY**

On March 7, 2007, the City Planning Commission approved (by a 6-0 vote) a Conditional Use Permit to construct a 4 unit residential building in the R-50 zone that totals 4,988 square feet. A Tentative Parcel Map for a subdivision of one lot to create four residential condominium units within a new residential building was also approved. The residential building will be 2 stories in height over one level of parking for a total height of 32 feet where 30 feet is required. A two foot height variance was granted by the Planning Commission, which was contrary to staff recommendation.

On March 19, 2007, Modupe Ogunyemi, representing the San Antonio Neighborhood Association, filed an appeal of the Planning Commission's decision. The appellant argues that the City's Planning Commission failed to take into account impacts on the neighbors, topography, General Plan requirements, parking, and site suitability among other items.

Staff believes that the findings made for approval of the project as outlined in the March 7, 2007 Planning Commission staff report (Attachment A) clearly state the reasons why the project complies with the applicable regulations. Staff believes that the stated information in the appeal document does not depict any instance of "error" or "abuse of discretion" by the Planning Commission and therefore staff recommends that the Council deny the appeal, thereby upholding the Planning Commission's decision to approve the project. The Council has several options available regarding this appeal and this project (as outlined on page 11 in the Alternative City Council Actions section), including choosing to deny the appeal but also deny the variance (therefore upholding the approval).

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## **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. 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. All staff time required to process the applications for planning and building permits is fully cost-covered through fees.

## **BACKGROUND**

### **Project Description**

The proposal is to construct a four unit residential building that totals approximately 4,988 square feet. The residential building will be three stories in height, with the ground level for parking. A subdivision of one lot to create four residential condominium units within the new residential building is also proposed. Each unit will have a one car garage, two bedrooms, and two bathrooms.

### **Property Description**

The subject location is a 7,000 square foot site fronting on E. 24<sup>th</sup> Street. The parcel is currently vacant. Directly northwest of the property is a single family home and directly southeast of the property is a triplex residential building. The surrounding uses are a mixture of mostly single family homes with some duplexes, triplexes, quadplexes, and a larger seven unit apartment building. The property is part of the San Antonio Hills neighborhood and there are two Designated Historic Properties on the same side of street as this property, at 1807 and 1819 E. 24<sup>th</sup> Street. The two properties are both of a Victorian style.

### **Design**

The design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and face the side of the property. The massing of the building in the front and rear is broken up by open porch elements on the third floor with gables and open truss work over them. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding, asphalt shingle roofing, and painted wood fascia.

### **Traffic and Transportation**

The proposal will add four new residential units with access on E. 24<sup>th</sup> Street. This will add four required parking spaces to the project site (one per dwelling). The project would not impact any existing level of service for public streets, as E. 24<sup>th</sup> Street is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and the addition of four dwelling

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units into this grid corridor would not create a significant impact. An arterial, 14<sup>th</sup> Avenue, is located approximately 400 feet away.

**General Plan Conformity**

The property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from one or two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential density of one unit per 1,089 square feet of lot area, which would allow for a maximum total of 6 dwelling units on this site of 7,000 square feet. The property is well within the allowable density for the site.

**Zoning Conformity**

The subject property is located within the R-50, Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development. The proposed development meets the medium density requirement. Every unit will have a private deck as well as a group open space in the rear yard for a total of 1,334 square feet, where only 800 square feet of group open space (with no private open space) is required. Four parking spaces are provided, which meets the one parking space per unit requirement.

**Allowed Density**

The R-50 Zone allows 2 units as permitted by right and allows up to 5 units with a conditional use permit for this 7,000 square foot lot. As stated above, the Mixed Housing Type Residential Land Use classification would allow 6 units on this 7,000 square foot lot. The proposed project of four dwelling units complies with the R-50 Zone density upon approval of a conditional use permit.

**Height Variance**

The allowable maximum height limit is 30 feet, with some allowed projections. In **Section 17.108.30C**, gable ends up to 15 feet in width located on principal and accessory Residential Facilities can exceed the height limit by 10 feet if the maximum aggregate coverage of the building's horizontal area does not exceed 10 percent, but in all cases, no higher than the maximum height of the roof section on which they are located. There is no restriction of *minimum horizontal distance from any abutting residentially zoned lot if the vertical projection above the prescribed height does not exceed four feet.*

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The front and rear gables that are above the decks off of the great room meet this allowed projection and are 32 feet in height (for a two foot projection). The hip roofs above the garages that are 32 feet in height do not meet this requirement, and hence require a variance.

Staff's original recommendation called for denial of the two foot height variance. This recommendation was based on the ability to reduce the hip roof height to 30 feet and still generate the desired appearance.

### **Planning Commission's Approval**

At the February 28, 2007 hearing, the Oakland Planning Commission took public testimony from various interested parties, including the appellants, who objected outright to the development of the project and its impact on the neighborhood. The Planning Commission approved the project including the variance. Findings in support of the variance, based on the Commission's determination were submitted for the Planning Commission's March 7, 2007 meeting. The Planning Commission approved the project on March 7, 2007 by a 6-0 vote.

The Planning Commission found that the project complies with all the necessary requirements for approval and is consistent with the relevant policies of the General Plan and voted unanimously to approve the project. The staff report for the Planning Commission, which contains a more thorough discussion of the project and the findings made by the Planning Commission to approve the project, is included as Attachment A.

### **KEY ISSUES AND IMPACTS—ISSUES RAISED ON APPEAL**

#### ***Appellant's Arguments***

On March 19, 2007, Modupe Ogunyemi, representing the San Antonio Neighborhood Association, filed an appeal of the Planning Commission's decision. The appellant's letter is attached to this report (Attachment B). The appellant argues that the City's Planning Commission failed to take into account impacts on the neighbors, topography, General Plan requirements, parking, and site suitability among other items. Listed below in **bold** text is a summary of the arguments raised by the appellant. Staff's response to each argument follows each item in *italicized* text.

#### **Issues**

- 1. Limit the use to a single family or triplex to keep with what is on either side of the property. The historic properties are mentioned as concerns. The project does not maintain and enhance desired characteristics of the neighborhood.**

*Staff Response: The overall context of the neighborhood along with the zoning and the General Plan are all looked at in order to analyze the appropriate density. There are a mixture of single family homes, secondary units, duplexes, triplexes, along with four quadraplexes across the*

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street and one seven unit building across the street. The zoning allows for a maximum of a five unit residential building with a conditional use permit and the General Plan of Mixed Housing Type allows for a maximum of 6 residential units. Therefore, the applicant is not asking for the maximum density and the project meets the findings for the Conditional Use Permit to allow four units.

The design of the condominiums takes into account the historic architecture of the neighborhood. The front of the four units is designed to appear as one unit and uses porch elements, gable roofs, brackets and wood hung windows. Today it is too expensive to replicate the existing historic houses that are in the neighborhood nor would one want to do so because this would take away from the importance of these historic structures. Instead, it is appropriate to utilize certain elements of these houses in order to maintain the character of the neighborhood without trying to duplicate them.

Staff also notes that if scale and overall design are a concern, a single family house could be of the same overall size, scale, and design as the proposed project. The four unit density is well within the intensity found in the immediate area.

- 2. The General Plan analysis states that “the land use classification of mixed housing type is intended to create, maintain, and enhance neighborhood residential areas typically located near the City’s major arterials...” Neither of these conditions are met by this project. This project should be deemed not consistent with the general plan and rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required. The maintain and enhance portion is not accomplished by putting in a condo and E 24<sup>th</sup> Street, 17<sup>th</sup> Avenue, and 29<sup>th</sup> Avenue are not major arterial streets.**

*Staff Response: The General Plan “Mixed House Type Residential classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City’s major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings and neighborhood businesses where appropriate.” The proposed project is a small-multi-unit building which is located near the major arterial of 14<sup>th</sup> Avenue (1 ½ blocks away). The designation of the land as Mixed Housing Type Residential, means that the property is near a major arterial, otherwise it would be designated a different general plan category. The proposal also is below the General Plan density, which would allow 6 dwelling units on the site. The existing neighborhood has a mixture of single family and small multi-unit buildings. This proposal is designed from the front elevation to appear as a single family home and therefore will maintain and enhance the neighborhood. An EIR is not required because this 4 unit project satisfies criteria for a CEQA exemption (15303 and 15183)*

- 3. The appellants are opposed to granting a permit to do harm to the neighborhood. They are opposed to the variance finding providing a grant of special privilege (Staff findings, Feb 28, 1007 section 17.148.050(a) subsection D).**

*Staff Response: The Planning Commission determined that the higher pitch of the roof would create a better overall appearance to the front elevation of the condominiums instead of a lower*

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*pitch. Therefore this is not considered a grant of special privilege since it provides a better design solution.*

*The appellants, Mary Becker and Robert Klinger were granted a height variance of 3 feet 6 inches above the 30 foot height requirement for a 1,666 square foot addition that is 33 feet six inches tall on their property at 2302 17<sup>th</sup> Avenue in June of 2001, case #VDRD01-187. The variance was granted in part because it matched the height of the existing building, which shows that the height variance to allow a 32 foot height matches the character of the neighborhood which already has some buildings that are over the 30 foot height limit. Therefore this would not be a grant of special privilege and it would deprive the applicant of privileges enjoyed by owners of similarly zoned property in this very neighborhood if the variance was denied.*

*As previously noted, Staff did not recommend this height variance. The council could choose to deny the appeal but also deny the variance.*

- 4. The appellants bring up an older proposed project that had included this lot along with the property next door, stating that the true development project has not been presented. This approval will be used for justification for the second phase of the original project. A memo from David Mog dated December 9, 2005 is mentioned where a shared access facility is stated as a condition of approval.**

*Staff Response: The previously mentioned project was turned down and was proposed by a different developer. A new owner has purchased the property at 1727 E 24<sup>th</sup> Street. The only project that was approved at the Planning Commission was for a 4 unit residential condominium. The previous project was lacking in architectural detail and was proposed as an apartment building. If a project is proposed at the neighboring property, it will be reviewed as a separate permit. The Planning Commission can not deny a project based on the speculation of what may be proposed on a neighboring property that currently has a different owner. Any new project on a neighboring property will be reviewed on its own merit as to whether it meets the zoning and General Plan requirements.*

*The memo from Dave Mog on December 9, 2005 references driveway regulations which are under the "Shared Access Facilities – Guidelines for Development and Evaluation" for the four condominium units on this lot, it does not mention the driveway being shared by the adjacent lot.*

- 5. The garages will be used as a third bedroom for each unit.**

*Staff Response: The only way for the garages to be legally used as a bedroom is to obtain a zoning permit to approve this along with a building permit. Zoning will not approve the conversion of a garage into a bedroom because the property would then not maintain its required parking of one space per unit. If an owner were to convert the garage illegally to a bedroom, code enforcement action would be taken and the owner would be required to convert the garage back to its original use or face penalties. The Planning Commission can not base their decision on what speculative illegal changes an owner may make. The better design solution is for the garages to be constructed into the hillside in order to have less impact on the*

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*property by being incorporated into the overall design of the condominiums and not a row of freestanding garages. If the garages were separated, this would also create much greater impervious surfaces on the property along with the potential of not being able to have enough space in order to meet the requirement for 4 parking spaces.*

**6. The project is on an incredibly steep hill and is at least 25 feet higher than neighboring properties on 17<sup>th</sup> Avenue, therefore the project will be 57 feet above the neighboring houses.**

*Staff Response: Relatively speaking, this property is not that steep. The Planning Commission can only look at whether the project is meeting the height limitation on the lot itself, height is not measured from a neighboring lot. This would severely limit development on any hillside properties. There is an existing house between this property and those located on 17<sup>th</sup> Avenue, which creates a buffer between this project and those on 17<sup>th</sup> Avenue. The approximate cross slope of the parcel is 10%. Foundation design required for the project will be commensurate with the soils and slope of the site.*

**7. The balconies and decks will overlook the neighbors' properties.**

*Staff Response: The balconies enhance the overall design of the project by breaking up the mass of the building with voids and add architecture details instead of creating a box. All of the balconies meet the setback requirements. The rear balcony exceeds the rear yard setback with a 26 foot rear setback where only 15 feet is required and the side balconies exceed the side yard setback with a 14 1/2 foot side yard setback where only 4 feet is required on the side of the condominium that faces toward 17<sup>th</sup> Avenue. The balconies on the other side have a setback of 19 feet, where 4 feet is required. All of the balconies are enclosed within the existing envelope of the condominium, which will reduce the areas from which one can look out. There is also another property in between the balconies and the houses along 17<sup>th</sup> Avenue. In short, no documentation has been submitted to substantiate privacy impacts to surrounding neighbors. Staff notes that the lot size and historic development pattern are more important factors than balcony size and placement.*

**8. The appellants refer to a Sanborn map from the 1970's for building coverage.**

*Staff Response: The Sanborn map clearly does not represent the development that is there today. An attached aerial map (Attachment C) of the area shows development within a lot of the backyards of the houses behind 1727 E 24<sup>th</sup> Street along with buildings that are longer and take up large portions of the yards. The average coverage of the surrounding lots today is compatible with what is proposed. The Sanborn map is a snapshot in time that is not necessarily representative of today's neighborhood.*

**9. The appellants question adequate parking and places for children to play. They continue to assert that the steepness of the hill prevents children from playing on the street in front of their house.**

*Staff Response:* The proposed development meets the parking requirement for the R-50 zone and exceeds the open space requirement by providing both group and private open space. The Planning Commission can not hold this property to a higher standard than is required on other lots or by code. The mention of children not being able to play in the street is not something that staff would ever recommend and the zoning regulations for open space do not assume that some of the open space used for a property would be for children to be playing in the street. It is also speculative to assume any children will live in the project.

**10. The appellant is concerned about traffic impacts; they state the project puts a shared driveway between this project and the parcel next door, therefore creating a street. They further state the four units will bring too much traffic compared to two units.**

*Staff Response:* As stated earlier, the project proposes for the driveway to be used on this property only, the Planning Commission can not deny a project based on what may or may not be proposed on a future neighboring project that is owned by a different owner. This driveway is not a street. The difference in traffic for 2 units compared to 4 units is not considered significant. At worst it is the difference between 12 trips average per day and 24 trips average per day.

**11. This is a neighborhood of basically single family homes that is quiet and friendly, street parking is available, low levels of traffic allow children to play in the street, there is relatively low crime, people know each other. This project will not enhance these issues.**

*Staff Response:* The neighborhood does have a mixture of single family homes along with secondary units and multi-family homes. Both the zoning and General Plan allow for small multi-family developments. The proposal is for condominiums that allow for individual ownership as opposed to rental apartments. Parking requirements are met, traffic will not be significantly increased. It is never recommended that children play in the street. Building a 4 unit condominium with asking prices of approximately \$400,000 or greater is indicative of a strong commitment, through reinvestment in a neighborhood, for the owners in the building to become part of the community the same as if it were a single family home.

**12. The residential design review requires that the proposed design will be sensitive to the topography and landscape.**

*Staff Response:* The creeks and underground streams map that was presented by the appellant are on the west side of 14<sup>th</sup> Avenue while this project is two blocks over and east of 17<sup>th</sup> Avenue. The zoning ordinance has requirements for creek permits if a project is within 100 feet from a creek, this proposal does not fall within that requirement so no creek permit is required. Engineering stated a soils report may be required and a Geotechnical report has been prepared and will be analyzed by the Engineering department for any potential problems with construction. As far as landscape, trees were cut down by a previous owner and there is nothing that the new owner can do about trees that were removed prior to his purchase of the property. The developer is proposing extensive landscaping including 14 new trees along with shrubs and

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*other plantings. As a condition of approval, staff has required that an automatic irrigation system be put in place to maintain the landscaping of the property.*

- 13. The site is not physically suitable for this type of development, the site is on a very steep hill and is riddled with underground streams, and the site is located in an area of the hill which has problems with land slides. The project proposes an underground garage which will divert underground streams and cause problems. The geotechnical report presented by the developer found evidence of underground water consistent with underground streams. The project proposes to cover 81% of the surface area and will create problems with water runoff which the area is particularly susceptible to due to the steepness of the hill and the unstable (sliding) hill side.**

*Staff Response: The site is not on a "very steep hill," there is approximately a 10% slope from one side of the property to the other. According to Oakland standards it does not even fall into the City's different zoning standards when a property has greater than a 20% or 40% slope. There is no history of slides for this particular property and none were found in the Geotechnical report. There is no record of underground streams and the Geotechnical report did not state any existence of underground streams. Water that was found was attributed to a form of artificial discharge. There is no evidence to refute this factor except for speculation by the neighbors. Even if there are underground streams there are engineering measures that can be taken to work around the situation. USGS maps show a landslide area on the west side of 17<sup>th</sup> Avenue and they show a liquefaction area west of 14<sup>th</sup> Avenue, both of these areas are well west of the proposed site. The Geotechnical supports the USGS maps, therefore the experts from USGS and the consultant who did the Geotechnical report are more reliable than speculation by the neighbors.*

- 14. The project does not meet the criteria for a Categorical Exemption under section 15303 (b); is not consistent with the General Plan. We request that an EIR be required under this determination.**

*Staff Response: The appellant generally states the project does not meet the criteria for Categorical Exemption but does not provide any substantial basis as to why they believe it does not meet section 15303 (b). It states that the project is not consistent with the General Plan but meeting the General Plan is not a specified criteria for 15303(b). Staff has found this project to be consistent with the General Plan (see Staff Response from Issue #2 on page 5 and 6). If the project did not meet the General Plan, a General Plan amendment would be required which would trigger additional CEQA analysis.*

*Section 15303 of the California Environmental Quality Act (CEQA) states:  
Class 3 consists of construction and location of limited numbers of new, small facilities or structures: installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:*

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*(b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.*

*This is a four unit project which clearly falls under the six dwelling unit maximum in an urbanized area. Furthermore, the project is not precluded from using a categorical exemption pursuant to section 15300.2 (Exceptions) under CEQA. The project does not fall into the following Exceptions: (a) Location, the project is not in a particularly sensitive environment to be considered significant; (b) Cumulative Impact, there are not successive projects of the same type in the same place to create a cumulative impact; (c) Significant Effect, this project activity will not have a significant effect on the environment due to unusual circumstances; (d) Scenic Highway, this is not on a scenic highway; (e) Hazardous Waste Sites, this is not a hazardous waste site; and (f) Historical Resources, there is no significant impact on historic resources.*

**15. The project does not provide adequate facilities for trash storage and laundry.**

*Staff Response: Each unit will have individual garbage containers that will be wheeled out to the street from the garages like any other home owner. There is adequate storage space within the garage for garbage. At the Planning Commission meeting the applicant stated there will be laundry facilities within each unit, but this is up to the applicant and is not a City requirement. It makes the units more marketable if they have laundry space and hook-ups within, but owners can utilize a Laundromat if necessary.*

**SUSTAINABLE OPPORTUNITIES**

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

Economic: The project would contribute to the economic vitality of the San Antonio neighborhood by developing a vacant lot and bringing additional home ownership opportunities. 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 has had a geotechnical report performed and engineering will ensure that any required mitigation will be performed before and during construction.

Social Equity: The project involves a four unit housing development and increases housing opportunities for the City of Oakland.

**DISABILITY AND SENIOR CITIZEN ACCESS**

Any housing constructed on the property will be required to comply with local, state, and federal ADA access requirements.

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## **STAFF RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council adopt the attached Resolution denying the appeal and uphold 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 in all significant respects with applicable general plan policies and zoning regulations and review procedures; and 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;

## **ALTERNATIVE CITY COUNCIL ACTIONS**

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

1. Uphold the Planning Commission's decision, but impose additional conditions on the project and/or modify the project.
2. Uphold the Planning Commission's decision, but impose the original conditions given by staff for the February 28, 2007 Planning Commission meeting and eliminate the height variance and change the hip roof over the two interior decks to a flat one (see Attachment D).
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.
5. Uphold the appeal and overturn 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 has an opportunity to review the proposed findings and resolution for denial.

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**ACTION REQUESTED OF THE CITY COUNCIL**

1. Affirm staff's environmental determination.
2. Affirm the Planning Commission's approval of a Conditional Use Permit to construct a four (4) unit residential building in the R-50 Zone, a Tentative Parcel Map for a subdivision of one lot to create four residential condominium units within a new residential building, and a minor height variance of (2) feet for a total height of 32 feet where 30 feet is required at 1727 E. 24<sup>th</sup> Street.

Respectfully submitted,

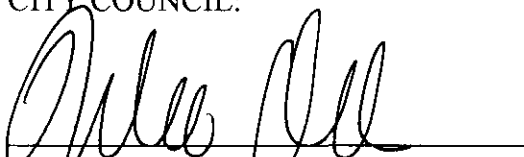


**CLAUDIA CAPPIO**  
Director of Development  
Community and Economic Development Agency

Reviewed by:  
Scott Miller  
Zoning Manager  
Planning & Zoning Division

Prepared by:  
Laura B. Kaminski  
Planner II  
Planning & Zoning Division

APPROVED AND FORWARDED TO THE  
CITY COUNCIL:

  
**Office of the City Administrator**

**ATTACHMENTS:**

- A. Planning Commission Staff Report including Project Drawings and approved conditions (dated March 7, 2007)
- B. Appeal Letter (dated March 19, 2007)
- C. Aerial of the neighborhood
- D. Planning Commission Staff Report original Staff recommended Conditions (dated February 28, 2007)

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# ATTACHMENT A

<b>A.</b>	<b>Location:</b> 1727 E 24 <sup>th</sup> Street (APN: 022-0324-026-00)
	<b>Proposal:</b> To construct a 4 unit residential building that totals 4,988 square feet. The residential building will be 2 stories in height over one level of parking. A subdivision of 1 lot to create 4 residential condominium units within a new residential building.
	<b>Applicant:</b> David Miller
	<b>Owner:</b> Oakland View Townhouses, LLC
	<b>Planning Permits Required:</b> Conditional Use Permit for 4 units in the R-50 zone. Design Review for building 4 new residential units. Minor Variance for a 32 foot height building where 30 feet is required. Tentative Parcel Map to create 4 residential condominium units with a new residential building. <b>See Status Section, below.</b>
	<b>General Plan:</b> Mixed Housing Type
	<b>Zoning:</b> R-50, Medium Density Residential Zone
	<b>Environmental Determination:</b> Exempt, Section 15303, State CEQA Guidelines, New construction of small new facilities and Section 15315, Minor land division.
	<b>Historic Status:</b> Not a Potential Designated Historic Property (PDHP); survey rating: Vacant
	<b>Service Delivery District:</b> 3
	<b>City Council District:</b> 2
	<b>Status:</b> This item was heard by the Planning Commission at the February 28, 2007 meeting. A straw vote was taken, with support for the project (including the Variance) expressed in a 6-0 vote in favor. Formal action on the application was continued to the consent calendar on March 7, 2007. This consent action will adopt Findings for the project (as well as the Conditions of Approval) and approve the Conditional Use Permit, Design Review, Variance and Tentative Parcel Map.
	<b>Action to be Taken:</b> Decision on application based on staff report and straw vote from the February 28, 2007 Commission meeting.
	<b>Finality of Decision:</b> <i>Appealable to City Council</i>
	<b>For Further Information:</b> Contact case planner <b>Laura Kaminski</b> at (510) 238-6809 or by email: <a href="mailto:lkaminski@oaklandnet.com">lkaminski@oaklandnet.com</a>

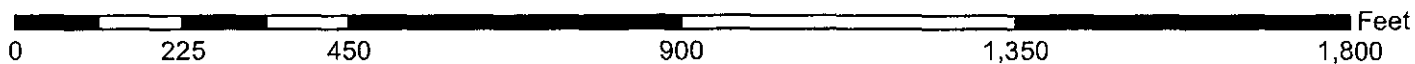
## PROJECT DESCRIPTION

The proposal is to construct a four unit residential building that totals approximately 4,988 square feet. The residential building will be three stories in height, with the ground level for parking. A subdivision of one lot to create four residential condominium units within the new residential building is also proposed. Each unit will have a one car garage, two bedrooms, and two bathrooms.

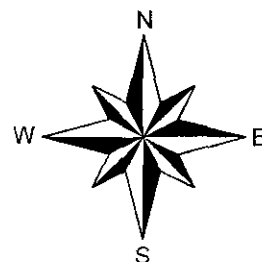
## PROPERTY DESCRIPTION

The subject site is a 7,000 square foot site fronting on E. 24<sup>th</sup> Street. The parcel is currently vacant. Directly northwest of the property is a single family home and directly southeast of the property is a triplex residential building. The surrounding uses are a mixture of mostly single family homes with some duplexes, triplexes, quadplexes, and a larger seven unit apartment building. The property is part of the San Antonio Hills neighborhood and there are two Designated Historic Properties on the same side of street as this property, at 1807 and 1819 E 24<sup>th</sup> Street. The two properties are both of a Victorian style.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CDV05-507 & TPM8859  
Applicant: David Miller  
Address: 1727 E. 24th Street  
Zone: R-50



## **GENERAL PLAN ANALYSIS**

The property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

## **ZONING ANALYSIS**

The subject property is located within the R-50, Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development. The proposed development meets the medium density requirement. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space (with no private open space) is required. Four parking spaces are provided, which meets the one parking space per unit requirement.

### **Allowed Density**

The R-50 Zone allows 2 units as permitted by right and allows 5 units with a conditional use permit for this 7,000 square foot lot. The Mixed Housing Type Residential Land Use classification would allow 6 units on this 7,000 square foot lot. The proposed project of four dwelling units complies with the conditional use permit requirement of the R-50 Zone.

### **Height Variance**

The allowable height limit is 30 feet with some allowed projections. In **Section 17.108.30C**, gable ends up to 15 feet in width located on principal and accessory Residential Facilities can exceed the height limit by 10 feet if the maximum aggregate coverage of the building's horizontal area does not exceed 10 percent, but in all cases, no higher than the maximum height of the roof section on which they are located. There is no restriction of minimum horizontal distance from any abutting residentially zoned lot if the vertical projection above the prescribed height does not exceed four feet.

The front and rear gables that are above the decks off of the great room meet this allowed projection and are 32 feet in height (for a two foot projection). The hip roofs above the garages that are 32 feet in height do not meet this requirement and require a variance.

## **KEY ISSUES**

### **Design**

The design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and face the side of the property. The massing of the building in the front and rear is broken up by open porch elements on the third floor with gables and open truss work over them. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding,

asphalt shingle roofing, and painted wood fascia.

**ENVIRONMENTAL DETERMINATION**

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15303 (b), not more than six dwelling units; 15183, Projects consistent with General Plan; and 15315, division of property for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning.

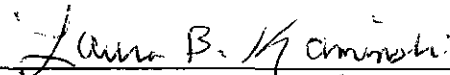
**CONCLUSION**

Staff feels that overall, the proposed project is a good infill use of the lot. The proposed development draws on some of the elements of design of the surrounding neighborhoods.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination.
2. Approve the Conditional Use Permits, Design Review, and Tentative Parcel Map subject to the attached findings and conditions.


Prepared by:

  
\_\_\_\_\_  
LAURA B. KAMINSKI  
Planner II

Approved by:

  
\_\_\_\_\_  
SCOTT MILLER  
Zoning Manager

Approved for forwarding to the  
City Planning Commission:

  
\_\_\_\_\_  
CLAUDIA CAPPIO  
Director of Development

**ATTACHMENTS:**

- A. Findings for Approval
- B. Conditions of Approval
- C. Building Services Memorandum
- D. Tentative Parcel Map and Plans



**ATTACHMENT A**

**FINDINGS FOR APPROVAL**

This proposal meets all the required Use Permit criteria (Sections 17.134.050) and Design Review Criteria (Section 17.136.070) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

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

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed building is sited along E 24<sup>th</sup> Street in a lower to medium density residential neighborhood. The proposed design with the conditions applied does a good job of using various changes in the elevation and roof to visually reduce the impact of the height and bulk of the building in relation to the smaller scale neighborhood, and follows the General Plan which allows small multiple unit buildings within the Mixed Housing Type. The project would not impact any existing level of service for public streets, as E 24<sup>th</sup> Street is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and the addition of four dwelling units into this grid corridor would not create a significant impact.

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

The proposed development will be an attractive and functional living environment by providing a mixture of quality exterior materials and windows. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space is required.

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

The development will enhance the area as a residential neighborhood by adding dwelling units to an existing vacant lot and provide four new residential units that can provide for needed home ownership opportunities in the City of Oakland.

- D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.**

See Design Review findings below.

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

The construction of four residential dwellings is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density. The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**17.136.070A - RESIDENTIAL DESIGN REVIEW CRITERIA:**

- A. 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 design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and the bulk and massing of the building is broken up by changes in the roof plane and open front and rear porch elements. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding, asphalt shingle roofing, and painted wood fascia.

- B. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The development will enhance the area as a residential neighborhood by adding dwelling units to a vacant lot. The design utilizes porch elements, gable roofs, and wood hung windows in keeping with characteristics of the neighborhood.

- C. The proposed design will be sensitive to the topography and landscape.**

The garages are sunk slightly into the hill to work with the topography of the site.

- D. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

The garages are sunk slightly into the hill to help minimize the overall height of the building and the massing of the building is broken up by changes in the roof plane.

- E. 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 construction of four new residential units is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density. The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:**

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

The Planning Commission finds that strict compliance would preclude an effective design solution, because a 5:12 pitch is more aesthetically appealing both on the exterior and interior than a 3:12 pitch roof.

- B. 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.**

The Planning Commission finds that strict compliance would preclude an effective design solution, because a 5:12 pitch is more aesthetically appealing both on the exterior and interior than a 3:12 pitch roof.

- C. 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.**

The granting of the setback variance will not adversely impact the character of the neighborhood; the roof that is over the height limit is on the side of the property along where the driveway is located. Therefore there is a larger setback than required on that side yard of 17 feet compared to the required 5 feet.

- D. 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 granting of the variance would not constitute a grant of special privilege, since the variance does provide a better design solution.

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

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

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The subject development site is physically suitable to accommodate four dwelling units because four parking spaces are being provided as well as the required amount of open space is provided.

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

The proposed density is consistent with the General Plan density envisioned for the area.

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

This site has been previously developed and does not contain any wildlife habitat or waterways. A Geotechnical Investigation was performed in July of 2005.

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

There should be no adverse health effects. This is in a residential development located in an existing neighborhood and it will introduce no new use classifications that are incompatible with the surrounding neighborhood.

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

There are no easements on this property at present to allow the public access to anything.

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

The subdivision has ample southern exposures that will enhance natural solar access and heating and cooling opportunities.

**16.24.040 - LOT DESIGN STANDARDS FOR PARCEL MAPS APPROVALS**

**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.**

This is a one lot subdivision for the purposes of creating condos so there are no new lots that are being created. Therefore, the above items A through E do not apply.

**ATTACHMENT B**

**CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS:**

**1. Approved Use.**

**a. Ongoing.**

The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **October 16, 2006** and submitted on **October 16, 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 the approved plans, will require a separate application and approval. Any deviation from the approved drawings, conditions of approval or use shall required prior written approval from the Zoning Administrator.

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

**a. Ongoing.**

This permit shall expire **two calendar years** from the date of this letter, the effective date of its granting, 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. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

**3. Scope of This Approval; Changes to Approval**

**a. Ongoing.**

The project is approved pursuant to the Planning Code and Subdivision Regulations and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction.

**4. Modification of Conditions or Revocation**

**a. Ongoing.**

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

**5. Recording of Conditions of Approval**

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

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

**6. Reproduction of Conditions on Building Plans**

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

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

**7. Defense, Indemnification & Holdharmless**

**a. *Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.***

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency 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.

**8. Waste Reduction and Recycling**

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

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. This condition applies to a) new residential and commercial construction 2) commercial and apartment house demolition, and 3) commercial and apartment house additions and alterations with a permit valuation of greater than \$50,000. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7283 for information.

**9. 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. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to 1) new residential development of five or more units, 2) new commercial and industrial development that requires a building permit, and 3) additions that increase the gross floor area of the aforementioned projects by more than 30 percent. 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.

**10. Construction Hours for Minor Projects**

*a. During all construction activities*

Construction shall only take place between 7:30AM and 6:00PM, on Monday through Friday; 9:00AM to 5:00PM on Saturdays. No construction shall occur on Sundays or Federal holidays.

**SPECIFIC CONDITIONS:**

**11. Street Trees**

*a. Prior to issuance of building permit.*

The applicant shall provide two street trees along E. 24<sup>th</sup> Street (minimum 24" box size at time of planting) located within the street planting yard with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Tree Services Section and Building Services. Contact tree services at (510) 615-5850 for more information regarding the type of street tree to be planted and the best location.

**12. Decorative Pavers on Driveway**

*a. Ongoing.*

Decorative paving shall be constructed as indicated on the landscape plan, sheet A-5.

**13. Landscaping Maintenance**

*a. Ongoing.*

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

**14. Tentative Parcel Map**

*a. Prior to certificate of occupancy*

A Final Map shall be filed with the City Engineer within two (2) years from the date of approval of the Tentative Parcel Map, or within such additional time as may be granted by the Advisory Agency. Failure to file a Final Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

**15. Engineering Conditions**

*a. Prior to Submittal of Parcel Map*

All conditions of the Building Services Memorandum dated December 9, 2005 from David Mog shall be met prior to submittal of Final Parcel Map (see Attachment C).

**16. Open Truss on Front and Back Patio**

*a. Ongoing.*

The open truss with triple columns at corners, two facing each side, as shown on the elevations shall be constructed as shown.

**17. Windows**

*a. Ongoing.*

The windows shall be double hung wood windows with a minimum of a 2 inch recess and trim as shown on the approved plans



**18. Covenants, Conditions and Restrictions & Homeowner's Association.**

**a. Prior to certificate of occupancy**

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division to verify that a CC&R has been established. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site sidewalks, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold.

**19. Footprint of Building**

**a. Prior to approval of final map**

The footprint of the proposed building shall match that of the approved project CMDV05-507 unless changes will be made to project CMDV05-507.

**20. Exterior Materials Details**

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

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building including colors. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. In particular, the exterior porch details shall be submitted for Zoning approval prior to issuance of any building permits.

Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

**21. Landscape and Irrigation Plan**

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

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

**APPROVED BY:** City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)

# ATTACHMENT C

CITY OF OAKLAND  
Community and Economic Development Agency  
MEMORANDUM

TO: Eric Angstadt *AMS*  
FROM: David Mog *DM*  
DATE: December 9, 2005

SUBJECT: **TPM 8859 One Lot Subdivision for Condominium Purposes**  
**1727 E 24<sup>th</sup> Street**

If the project is to be approved by the Advisory Agency, please attach the following "Conditions of Approval":

1. Provide identification numbers for the City of Oakland monuments used to establish the basis of bearing. State basis of bearing on the Map.
2. Show adjacent parcels and parcel numbers.
3. City of Oakland datum shall be used to establish elevations shown on the map. State that the elevations shown are based on City of Oakland datum and use datum elevations on the Map.
4. A new driveway will require a Curb, Gutter, and Driveway permit. The City of Oakland "Shared Access Facilities – Guidelines for Development and Evaluation" and the Oakland Standard Plans contain guidelines and criteria for driveways. The driveway openings may not meet standards for driveway separation. See City of Oakland Standard Plans. A Driveway Appeal may be required to meet City of Oakland standards.
5. Existing curb, gutter, and sidewalk will require replacement if damaged during construction.
6. Provide numerical or alphabetic designation for each new parcel. Show the square footage of the parcel.
7. Show location, purpose, and width of all existing and proposed easements.
8. Provide the name and address of the owner.
9. Revise title to read "A One Lot Subdivision For Condominium Purposes".

10. Show existing sanitary sewers and provisions for drainage, flood control, sewage disposal, and water supply availability for existing and proposed lots. Provide separate utility meters for each condominium.
11. Note that the property lies within a seismic hazard zone with earthquake-induced liquefaction potential. A soils report may be required. If required, submit geotechnical reports meeting the guidelines of Special Publication 117 prepared by a licensed civil engineer or a registered engineering geologist to the City for review when applying for permits.

TENTATIVE PARCEL MAP  
PM 8859  
A 4-UNIT CONDOMINIUM PROJECT

LOT 7 AND PORTIONS OF LOTS 6 AND 8, ALL IN BLOCK 77, MAP OF THE  
NORTHERN ADDITION OF THE TOWN OF BROOKLYN, FILED IN BOOK 3, PAGE 27,  
ALBANY COUNTY RECORDS.

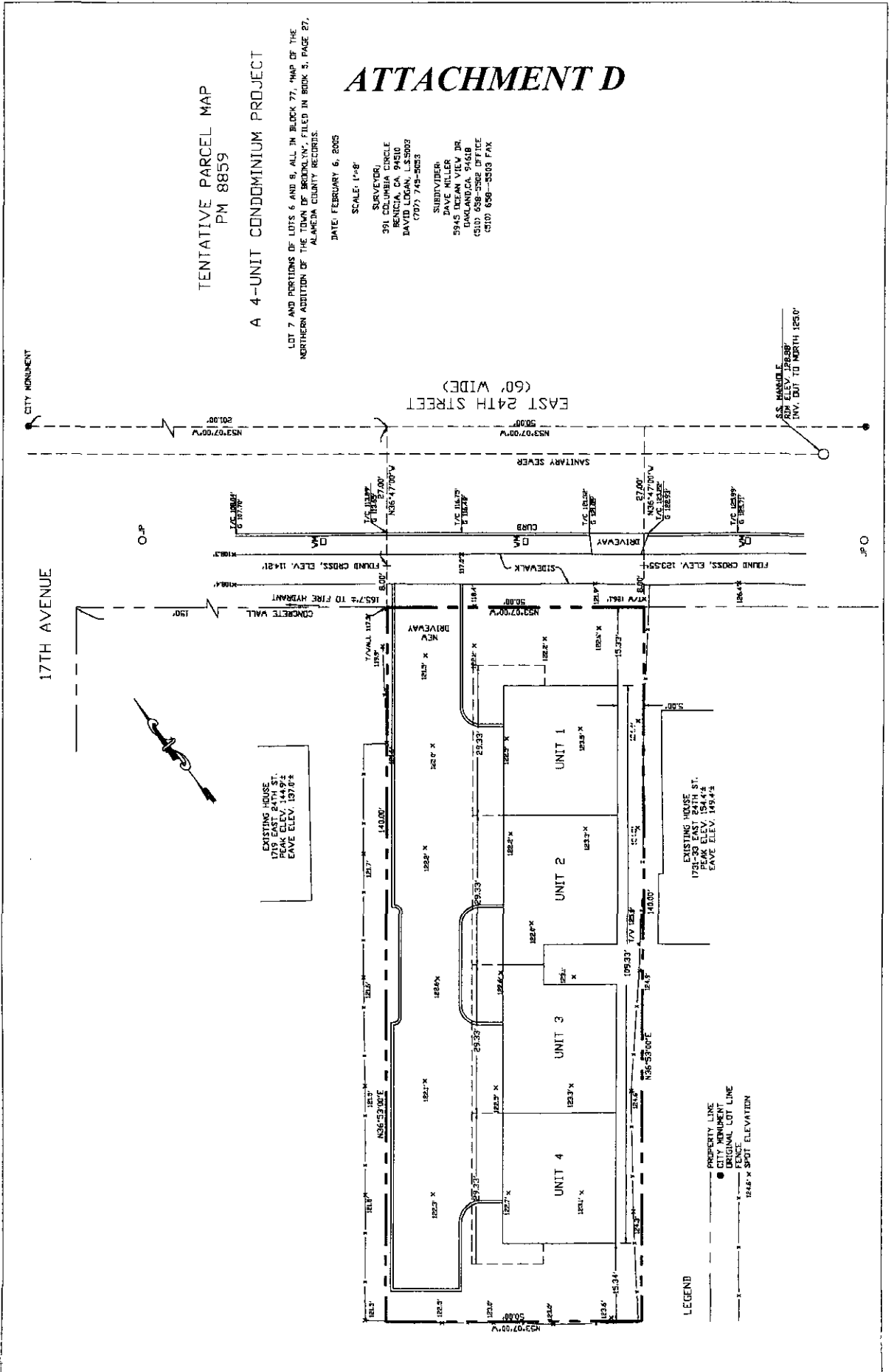
DATE: FEBRUARY 6, 2005

SCALE: 1"=8'

SURVEYOR:  
391 COLUMBIA CIRCLE  
ROCKAWAY, NY 11866  
DAVID LOGAN, L.S. 53083  
(707) 748-3033

SUBDIVIDER:  
DAVE MILLER  
5945 DEAN VIEW DR.  
ROCKAWAY, NY 11866  
(516) 658-5800 PHONE  
(516) 658-5513 FAX

# ATTACHMENT D

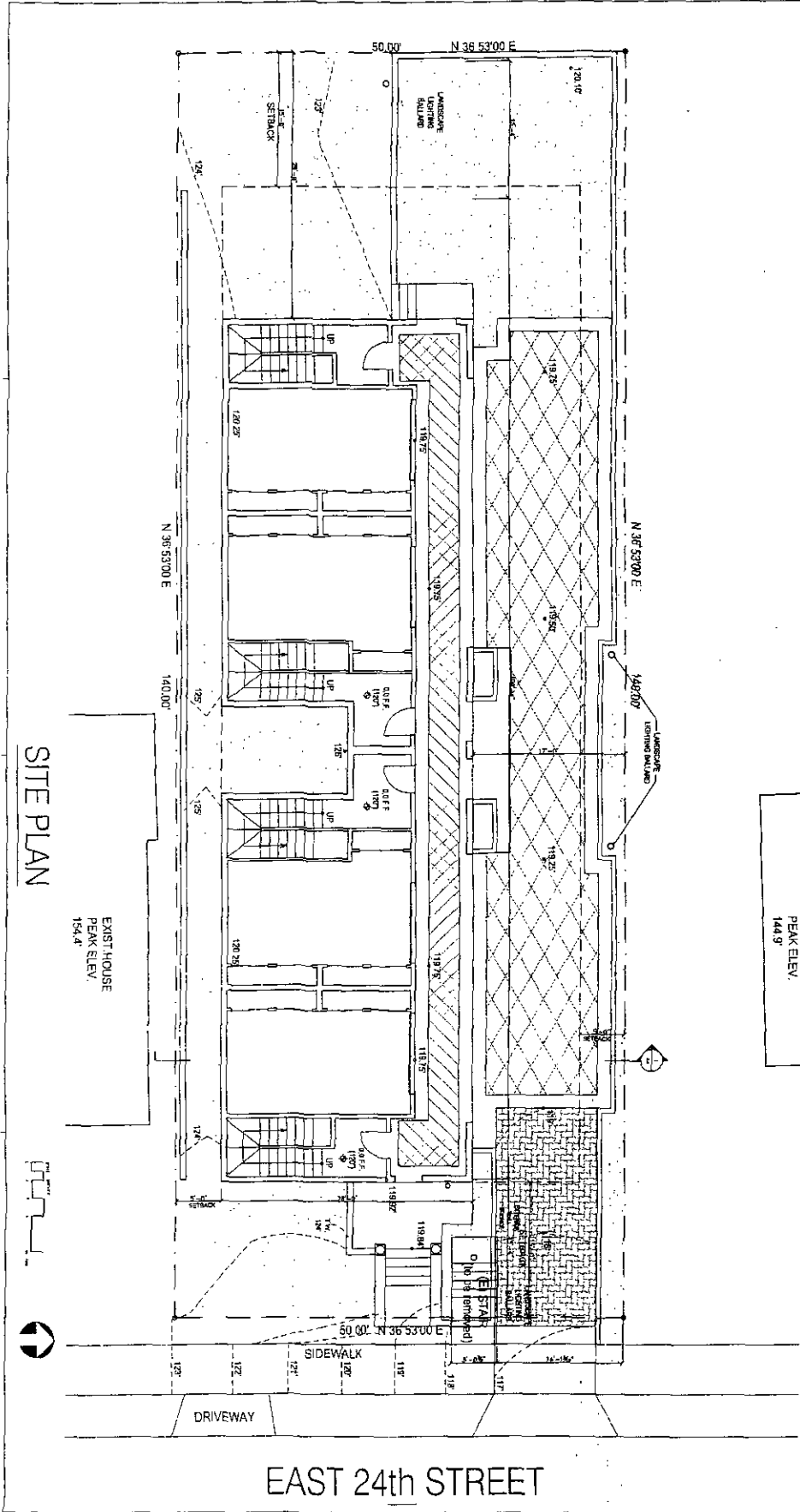


- LEGEND
- PROPERTY LINE
  - CITY MONUMENT
  - ORIGINAL LOT LINE
  - ELEVATION
  - 124.6' SPOT ELEVATION

EXISTING HOUSE  
1719 EAST 24TH ST.  
PEAK ELEV. 144.92'  
CAVE ELEV. 137.82'

EXISTING HOUSE  
1721-23 EAST 24TH ST.  
PEAK ELEV. 144.42'  
CAVE ELEV. 149.42'

S.S. MANHOLE  
FOR ELEV. THESE  
INV. DOT TO NORTH 1250'



**Oakland View Townhomes Project Data**

Address: 1727 E 24th Street, Oakland, CA  
 APN: 023-024-05-0-0  
 Zone: R-90  
 General Plan: Medium Density, Medium Density  
 Lot Area: 6,975 sq ft  
 Lot Coverage: 35%  
 Building Height: 30'11\"/>

Design/Planning Item	Requirements	Compliance
Front Setback	15' minimum	15'-0" and 31' from sidewalk
Side Setback	5' minimum	5' and 17'
Rear Setback	15' minimum	15'-0"
Lot Coverage	30% maximum	35%
No. of Dwelling Units Allowed	R-90: 4 w/ CUP	4
Open Space per Unit	200 sq ft minimum	270 sq ft per unit
Parking Space per Unit	1 minimum	1 per unit

**Hochhaus**  
Blatter

ARCHITECTURE  
AND PLANNING

NEW DEVELOPMENT

**OAKLAND VIEW TOWNHOMES**

1727 E. 24th STREET  
OAKLAND, CA

PROJECT NO. 1951

DATE: 11/11/11

SCALE: AS SHOWN

DESIGNED BY: [Name]

DRAWN BY: [Name]

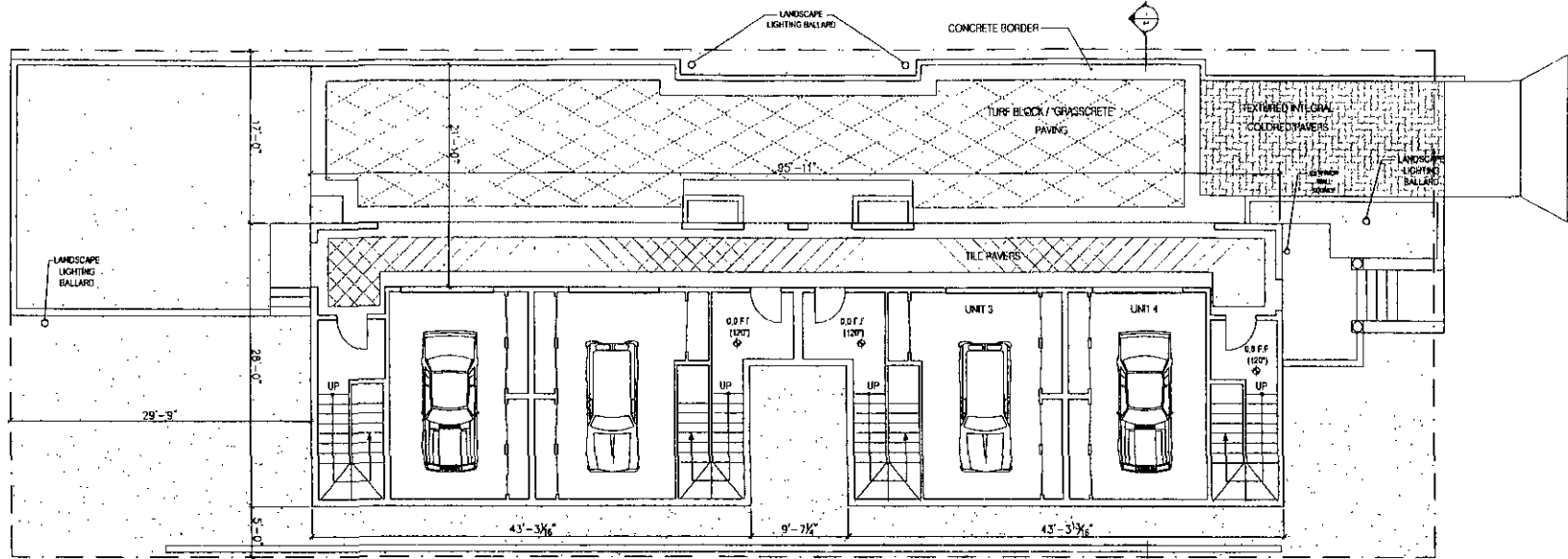
CHECKED BY: [Name]

DATE: 11/11/11

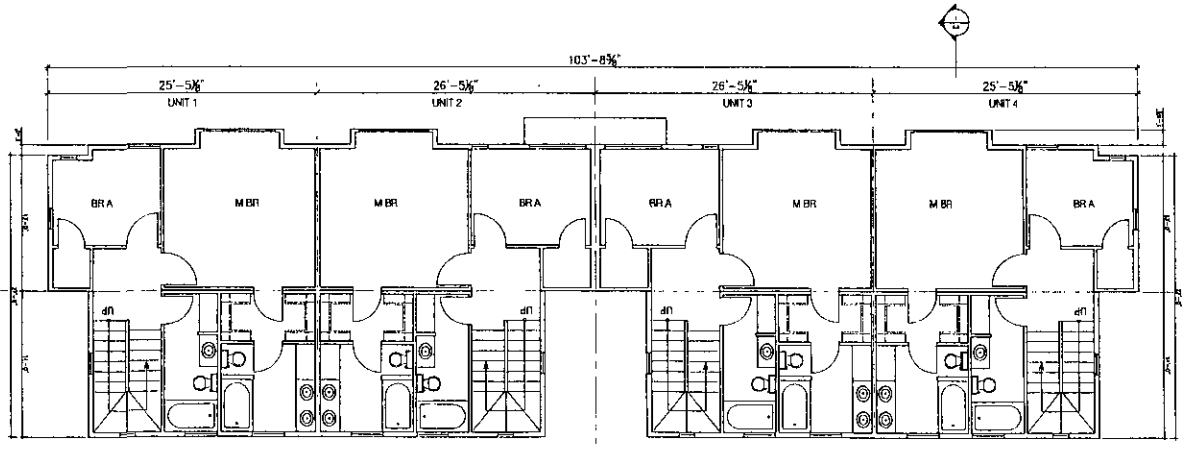
SCALE: AS SHOWN

PROJECT NO. 1951

DATE: 11/11/11



LOWER LEVEL



MID LEVEL

Hochhauser  
Blatter

ARCHITECTURE  
AND PLANNING

122 E. ARRELLAGA  
SANTA BARBARA  
CALIFORNIA 93101  
805 962 2746

NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 246 STREET  
OAKLAND, CA

DATE	DESCRIPTION OF REVISION
10-18-08	CITY SUBMITTAL

PROJECT NO: PROJ

**A-1**  
OF ALL SHEETS  
LATEST REVISION

Hochhausner  
Blatter

ARCHITECTURE  
AND PLANNING

122 E. ARRELLA  
SANTA BARBARA  
CALIFORNIA 93101  
405 962 2746

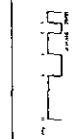
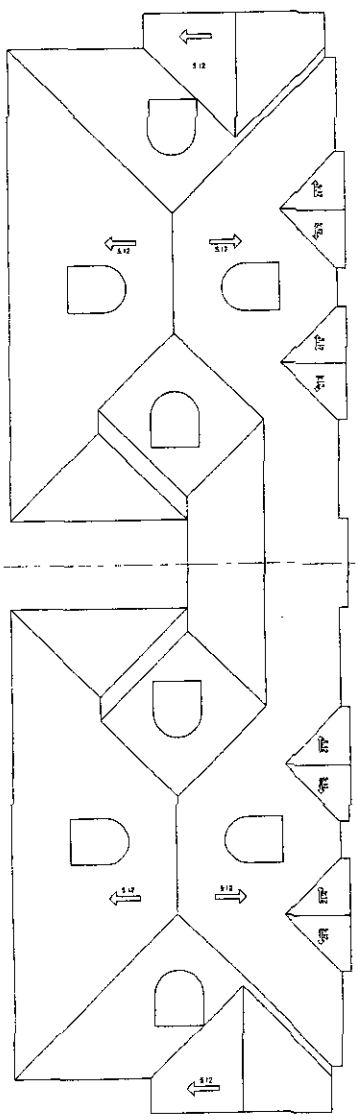
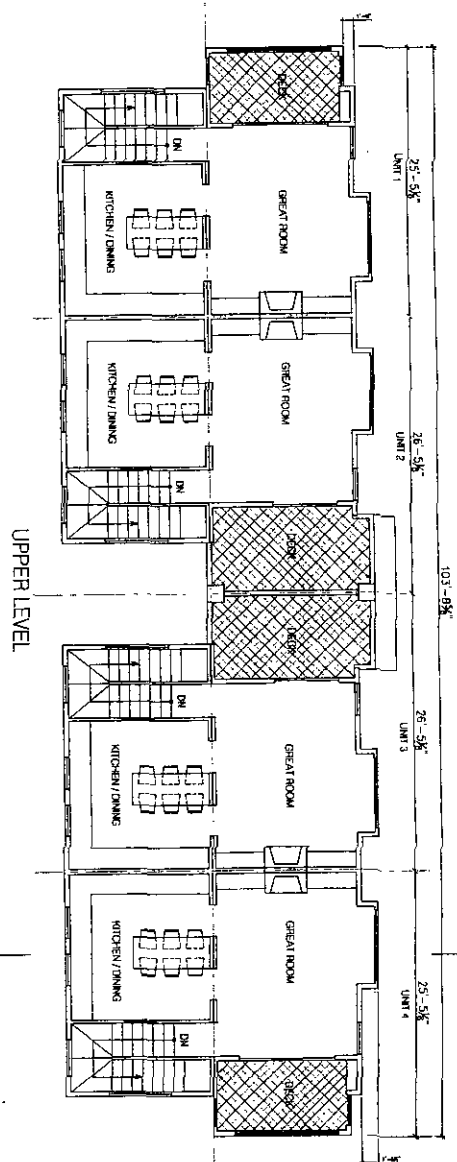
NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

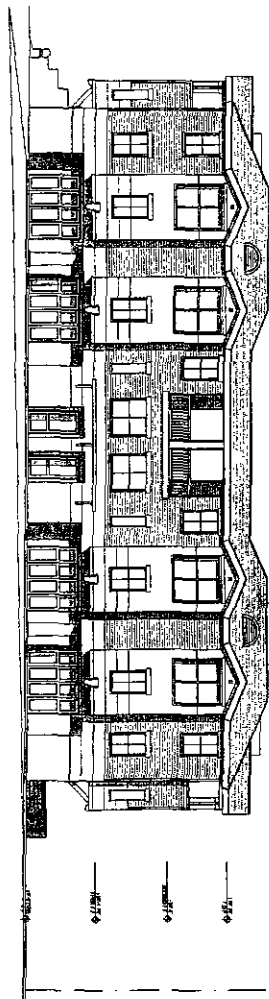
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3	10/1/00	REVISED
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5	10/1/00	REVISED
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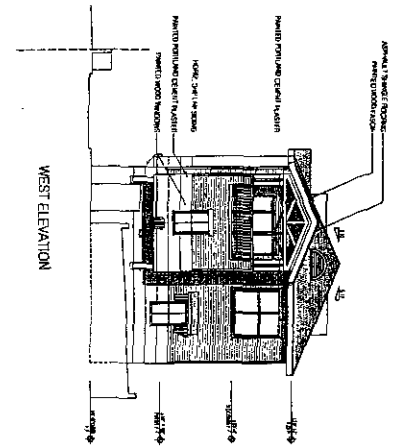
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**A-2**  
OF ALL SHEETS  
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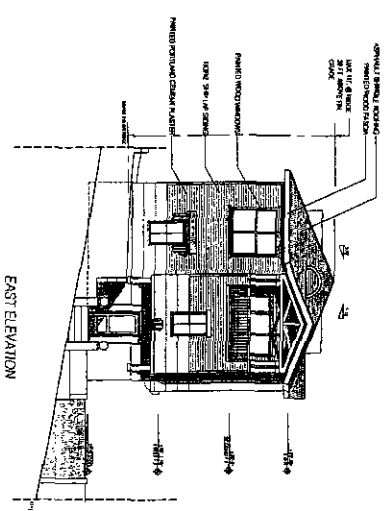




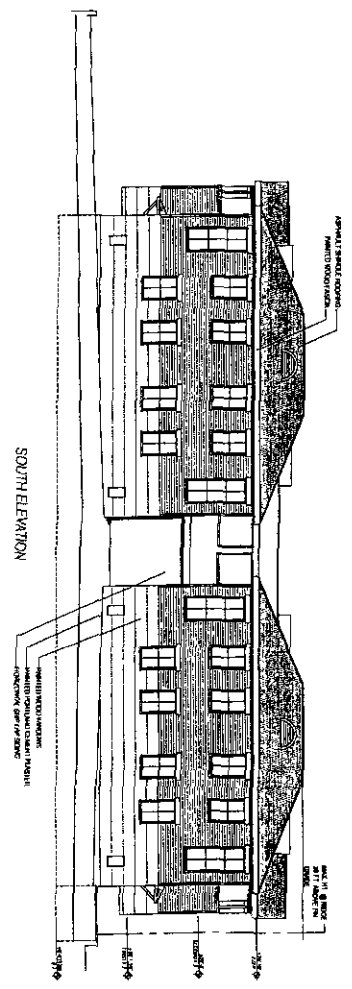
NORTH ELEVATION



WEST ELEVATION



EAST ELEVATION



SOUTH ELEVATION

EAST ELEVATION

SCALE: 1/8" = 1'-0"

4

NORTH ELEVATION

SCALE: 1/8" = 1'-0"

3

WEST ELEVATION

SCALE: 1/8" = 1'-0"

2

SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

OF ALL SHEETS  
LATER EDITIONS

A-3

PROJECT NO. 1100

START CONTINUED  
EXTERIOR ELEVATIONS

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NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

122 E. ARBELLAGA  
SANTA BARBARA  
CALIFORNIA 93101  
TEL: 805.275.2740

ARCHITECTURE  
AND PLANNING

Hochhausner  
Blatter



Hochhauser  
Blatter

ARCHITECTURE  
AND PLANNING

121 E. ARRELLA  
SANTA BARBARA  
CALIFORNIA 93101  
805 963 2748

OAKLAND VIEW TOWNHOMES

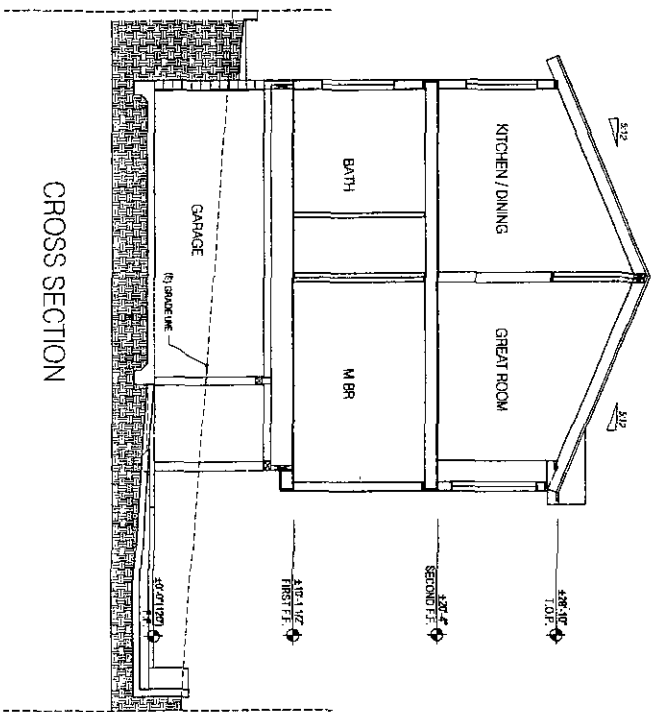
NEW DEVELOPMENT  
1727 E. 24th STREET  
OAKLAND, CA

NO.	DESCRIPTION	DATE

PROJECT NO. 7701

A-4

SECTION



CROSS SECTION

SECTION

SCALE: 1/4" = 1'-0"

PLANT LIST - PERENNIALS, GRASSES AND VINES

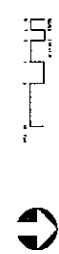
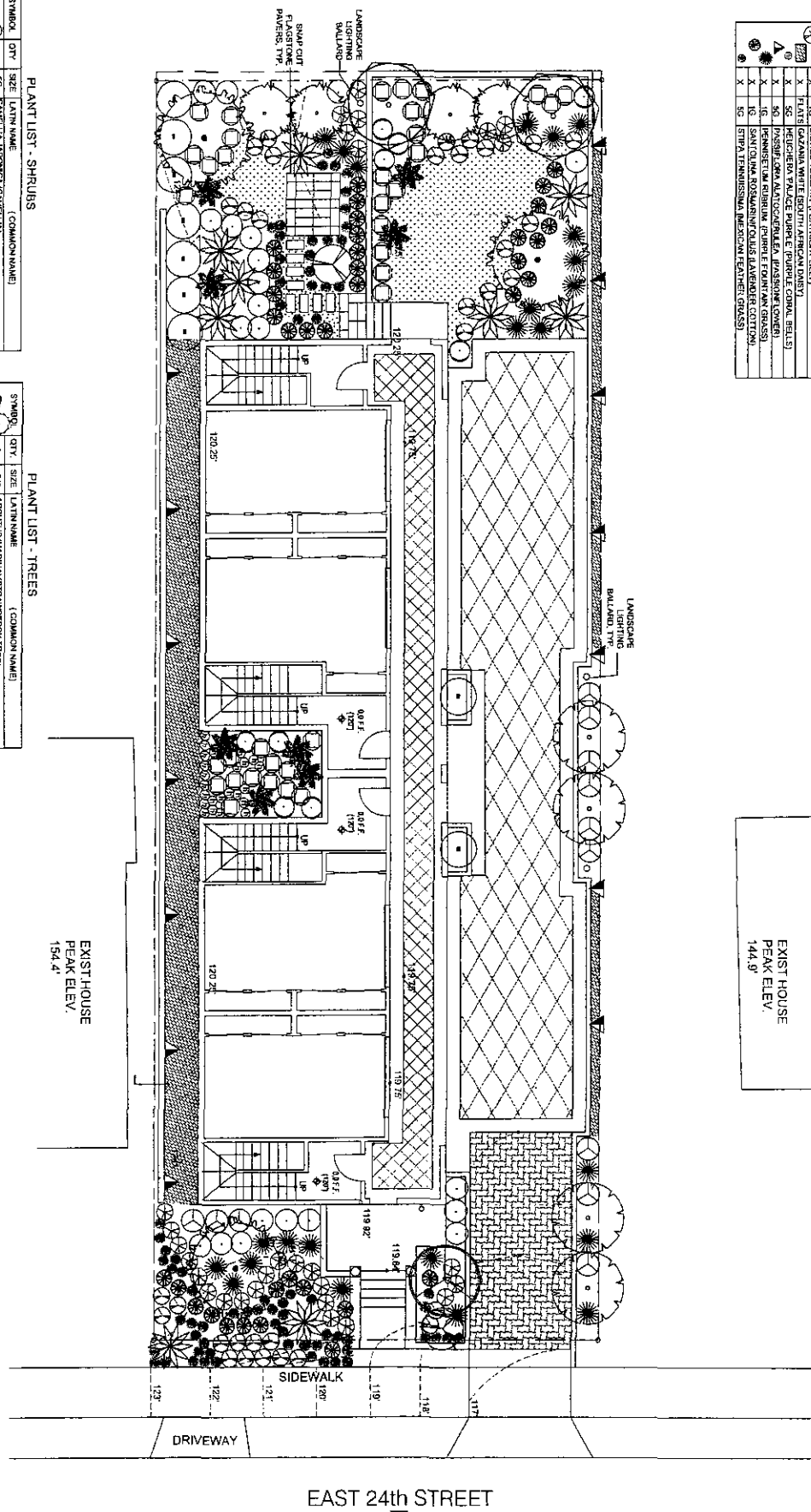
SYMBOL	QTY	SIZE	LATIN NAME	(COMMON NAME)
⊗	X	16"	ALOE STRIATA	(CORAL ALOE)
⊗	X	16"	BEIGNONIA SPICATA	(DEER TONGUE FERNS)
⊗	X	16"	BOCHODONIA MIGNONITA	(ENGLISHMAN'S LIPS)
⊗	X	16"	DIETLES VEGETA	(FRONTINGIA LILY)
⊗	X	16"	GAZANIA WHITE	(AFRICAN DANCY)
⊗	X	16"	MEDICINA PALACE PURPLE	(PURPLE CORAL BELLS)
⊗	X	16"	PSYDRAMA ALANTOGENA	(WASSERLOKER)
⊗	X	16"	SPERDIA RIBBON	(PINK AND WHITE GRASS)
⊗	X	16"	STIVA TERMINALIA	(MEXICAN FEATHER GRASS)

PLANT LIST - SHRUBS

SYMBOL	QTY	SIZE	LATIN NAME	(COMMON NAME)
⊗	X	16"	COEDELIA JAYCOCKII	(CAMELLIA)
⊗	X	16"	FAKUS JAPONICA	(JAPANESE TREE FERN)
⊗	X	16"	HEBE AUSTRALIS	(HEBE)
⊗	X	16"	HEBE AUSTRALIS	(HEBE)
⊗	X	16"	HEBE AUSTRALIS	(HEBE)
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⊗	X	16"	HEBE AUSTRALIS	(HEBE)
⊗	X	16"	HEBE AUSTRALIS	(HEBE)
⊗	X	16"	HEBE AUSTRALIS	(HEBE)

PLANT LIST - TREES

SYMBOL	QTY	SIZE	LATIN NAME	(COMMON NAME)
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⊗	2	24"	ANACARDIUM OCCIDENTALE	(PINEAPPLE TREE)
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⊗	2	24"	ANACARDIUM OCCIDENTALE	(PINEAPPLE TREE)
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A-5  
OF

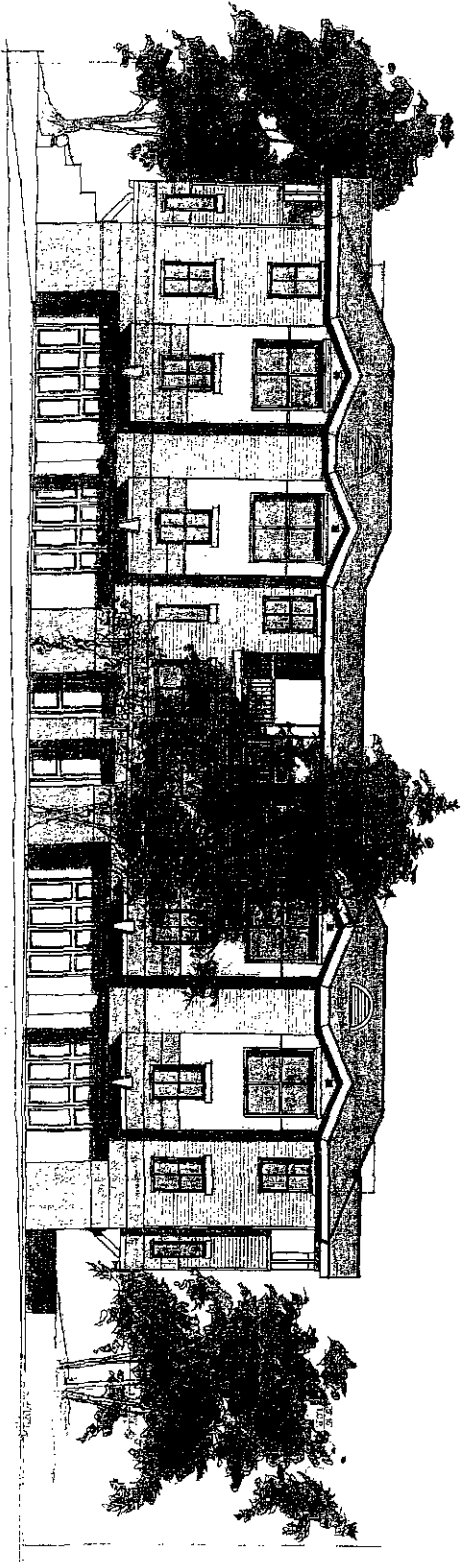
Preliminary Planting Plan

Proposed Project for  
Oakland View Townhomes  
1727 E. 24th St.  
Oakland CA

DAVID R.  
ASSOCIATES  
ARCHITECTS  
1727 E. 24th St.  
Oakland, CA 94612  
Tel: (510) 436-1111  
Fax: (510) 436-1112  
www.dra.com



EAST ELEVATION



NORTH ELEVATION

Hochhausner  
Blatter

ARCHITECTURE  
AND PLANNING

122 E. ARBELLAGA  
SANTA BARBARA  
CALIFORNIA 93101  
805.562.2740

NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

NO.	DATE	DESCRIPTION

DATE: 08/14/10  
BY: J. BLATTER  
CITY: SAN FRANCISCO  
PROJECT NO.: 10011

SHEET COMMENTS:  
RENDERED ELEVATIONS

SCALE:  
PROJECT NO.: 10011

A-6  
OF ALL SHEETS  
LAYERS: 1/2000

# ATTACHMENT B

## 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: TPM 8859 / ~~TPM 7859~~ / CMO U05-507  
Project Address of Appealed Project: 1727 East 24th Street

#### APPELLANT INFORMATION:

Printed Name: Malupe Ogunyemi Phone Number: 510-532-8939  
Mailing Address: PO Box 15573 Alternate Contact Number: 510-436-5517  
City/Zip Code: SAN FRANCISCO, CA 94115 Representing: SAN ANTONIO NEIGHBORHOOD ASSOC.

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) \_\_\_\_\_

**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) \_\_\_\_\_

**RECEIVED**

MAR 19 2007

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:

RECEIVED

MAR 19 2007

CITY PLANNING COMMISSION  
ZONING DIVISION

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) 17.134.050 Conditional Use Permit  
17.136.070 Residential Design Review

17,148.050 Minor Variance Final  
16,081.30 Tentative Map Final  
16,244.040 Lot Design Standard

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]*  
Signature of Appellant or Representative of  
Appealing Organization

03-16-07  
Date

Request for appeal of findings  
(copy of completed form & check for fee)

**RECEIVED**

MAR 19 2007

CITY PLANNING COMMISSION  
ZONING DIVISION

## Table of contents

- A. Executive summary
- B. Copy of Request for appeal of decision
- C. Notes from the first set of staff findings
- D. Findings and Appeal of Findings.
- E. Staff report dated Feb 28<sup>th</sup>, 2007
- F. Staff report dated March 7, 2007
- G. Geotechnical report submitted by developer
- H. Memo December 9, 2005 David Mog to Eric Angstadt
- I. Sanborne Map showing coverage of ground in 1970 in our area
- J. Map showing location of streams and creeks.
- K. Presentation to planning commission on February 28<sup>th</sup>, 2007
- L. List of requested changes to project presented on February 28<sup>th</sup>, 2007

**RECEIVED**

MAR 19 2007

CITY PLANNING COMMISSION  
ZONING DIVISION

RECEIVED

MAR 19 2007

Executive Summary

CITY PLANNING COMMISSION  
ZONING DIVISION

We are appealing the decisions of the planning commission regarding the proposed development at 1727 East 34<sup>th</sup> street to the City council.

Our appeal is based on the facts that the planning commission abused its discretion, and that it failed to execute its responsibility to protect the existing neighbors and neighborhood, and that the facts on the record do not support the decision. **Our appeal is presented in detail in a following section, this is merely a summary**

The developer, as owner of the property at 1727 East 24<sup>th</sup> street is entitled to construct two units on the property. Instead, the developer seeks to construct 4 units. The Conditional use permit and other processes are designed to protect the neighbors and the neighborhood and to ensure that they are not damaged when an owner seeks to more intensely develop their property than permitted by right.

While the rules are very specific, we experienced a process where the meaning of words was changed, facts were overlooked, and the wants of the developer were given priority over the rights guaranteed to the existing property owners.

Example: The residential design review requires that :  
“C. The proposed design will be sensitive to the topography and landscape.”

This is an area permeated by underground streams and subject to landslides due to the steepness of the hill. We are less than one block from the sliding homes on Wallace street. Neighboring property owners are already dealing with sliding land.

The developer submitted a geotechnical report that found water at about 7 – 15 feet underground as well as surface water during the dry summer months of June and July.

The project proposes to put 6 feet of the garage area underground. This has the potential to disrupt the flow of the underground streams and to damage abutting properties. The report discussed issues with drainage for the project but did not address protecting other properties.

The conditional use permit process requires a finding that the project “...**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 in 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 City had possession of the Geotechnical report. The report was discussed in the Feb 28<sup>th</sup> meeting. The Planning commission is required to protect the abutting properties. They failed to do this. They failed to examine the geotechnical report that was discussed



in the Feb 28<sup>th</sup> meeting. It was enough for them to know that such a report existed. They were not interested enough in protecting the neighborhood to find out what it said.

Example: The conditional use permit requires that:

Section 17.134.050 Conditional use permit findings

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 in 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.**

We presented evidence that the two bedroom condos presented for approval are actually three bedroom condos without adequate parking. The configuration of the unit is consistent with a third bedroom downstairs. The pricing of the units is high, even for a three-bedroom unit, but is unrealistic for a two-bedroom unit. The planning commission is required to make sure that we will not be adversely affected by the **operating characteristics** of the proposed development.

We requested that the provided parking be reconfigured to discourage its use as living quarters. This could readily be accomplished by having a separate shared garage for parking. This would have the additional benefit of lowering the height of the proposed building. The planning commission ignored our request even though it is required to address this issue.

Another example regarding the same section. The livability of our properties will be adversely affected by the presence of a building that towers 57 feet over the single-family homes on 17<sup>th</sup> avenue. The adverse impact is greatly magnified by the presence of decks and patios that look out over our properties.

Specifically we lose privacy, and the ability to quietly enjoy our backyards. This is a fact. It is not subject to debate. This is what happens when balconies and decks look into your yard. It is the duty of the planning commission to make sure the livability of our properties is not adversely impacted. It is completely clear that we will be impacted. One planning commissioner blatantly stated, "I won't even discuss balconies". This is a complete abuse of discretion. They are required to protect us. Why bother with this farce if this is the attitude?

Example, Same section, Section 17.134.050 Conditional use permit findings requires that the project not adversely impact ...in harmful effect, if any **upon desirable neighborhood character**;

The neighborhood is predominantly single-family homes. Limited multiple unit dwellings have been constructed and these are regarded as not in keeping with the character of the neighborhood. There is a project currently underway to designate this area as a historical district and to create an additional zoning overlay to further protect the area. The City is leading the effort, with the City Planning department –CEDA- represented by Eric Angstadt, Interim Strategic Planning Manager, and sponsorship from Council member Kernighan. Joann Pavlinec, Secretary to the Landmarks Preservation Advisory Board has provided guidance. While these protections are not in place today, they do provide **testimony to the acceptance of the unique character of the neighborhood, and require that this character be taken into consideration when deciding upon a conditional use permit.**

**This project will do damage to the character of the neighborhood which is pre-World War II residential housing.** The project is designed with architectural features such as balconies, and underground parking that are inconsistent with the character of such a neighborhood. Even the City staff recommended modifications to reduce the scale and bulk of the project in their report of Feb 28<sup>th</sup>. The planning commission is required to make sure there is no adverse impact on the character of the neighborhood. Instead, they refused to consider the character of the neighborhood, instead remarking that the project included some architectural features that they found pleasing. The project taken in its entirety is damaging to the character of the neighborhood. It has a bulk, height and design that are inconsistent with the other homes.

The last example is that we oppose the granting of the minor variances. We are not opposed to developing a now vacant lot. We are opposed to granting a permit to do harm to the neighborhood. Further, we are opposed to providing this **grant of special privilege** (Staff findings, Feb 28, 2007, page 7 section 17.148.050(a) subsection D), which sets a precedent for further destruction of the neighborhood.

This is instantly relevant because the true development project has not been presented to the City. The developers are actually working on a much **larger project that covers both this lot (1727 East 24<sup>th</sup> street) and the adjacent lot at 1729 East 24<sup>th</sup> street.**

The developers presented the larger project to the City twice, and were turned down twice. Now they have simply broken it into two separate projects. So today you are considering a smaller project. Once the City approves the first project, it will be used for justification for the second phase of the original project.

This is further substantiated by behavior of the adjacent property owner, who has not adequately maintained his property. He is simply awaiting approval of this project to proceed with a similar project. Further, this project is designed with a shared driveway that is between the two lots. This shared driveway will not meet City of Oakland standards, and will be the subject of another appeal for special privilege. (Memo Dec 9, 2005 describes “a shared access facility” and states that a driveway appeal may be required to meet City of Oakland standards)

Thank you for taking the time to consider this appeal. We have presented a few examples of the abuse of discretion, the absolute failure to protect existing homeowners, and the ignoring of facts that are on record.

## Notes from first set of staff findings dated Feb 28, 2007.

Case file CMDV05-507 & TTM-8859 Excerpts from the report are in **bold**. Comments and objections are in regular font.

**Directly northwest of the property is a single family home and directly southwest is a triplex.** [makes sense to limit use to single family or triplex to keep in with the neighborhood]

**There are two designated historical properties on the same side of the street as this property at 1807 and 1819 East 24<sup>th</sup> street. The two properties are both of a Victorian style.** [There is an additional designated historical property directly behind this property at 2302 17<sup>th</sup> avenue. There is an additional Victorian home on the adjacent lot at 1729 East 24<sup>th</sup> street. There are historic homes throughout the neighborhood. The City has prominently posted signs at various locations in the neighborhood “Welcome to the San Antonio Historic district” . There is a project currently underway to designate this area as a historical district and to create an additional zoning overlay to further protect the area. The City is leading the effort, with the City Planning department – CEDA- represented by Eric Angstadt, Interim Strategic Planning Manager, and sponsorship from Council member Kernighan. Joann Pavlinec, Secretary to the Landmarks Preservation Advisory Board has provided guidance.

This area deserves more protection, and this project deserves more scrutiny than was given at the planning commission meeting on Feb 28<sup>th</sup>. At that meeting, the planning commission disregarded the historical nature of the area, and even rejected the Staff's recommendations on ways to limit the impact of this project on the neighborhood. Further, the plans were missing required elements (trash storage, and laundry facilities), a known problem with underground streams was dismissed with the mention of a geotechnical report, and the developer provided mis-information regarding height limitations which the planning commission accepted over the staff's analysis. This project was the last one presented to the planning commission meeting on Feb 28<sup>th</sup> and the time was late. The commission did not consider its obligation to protect the community, and only sought to facilitate the developer's project.]

**The staff report (Property description) says “The surrounding uses are a mixture of mostly single family homes...”.**

**The General plan analysis states that “the land use classification [of mixed housing type] is intended to create, maintain, and enhance neighborhood residential neighborhood area typically located near the City's major arterials...”** Neither of these conditions are met by this project. This project should be deemed not consistent with the general plan and rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required.

As the staff report says, this land use classification is intended to maintain and enhance our neighborhood. That is not what is happening. You don't maintain a neighborhood of historic single family homes by putting in a condo project. You don't enhance a neighborhood of historic single family homes by putting in a condo project.

It is not that multiple dwelling projects are bad, it is just that considering our neighborhood, they are inconsistent with the goal of the land use classification. We understand the need to provide affordable housing in Oakland. However, the developer plans to sell these two bedroom units as view properties at \$500,000 each, so we are not discussing affordable housing.

I am sure everyone would agree that it would be inappropriate to put this project in the middle of Preservation Park. The reasoning would be that it would not maintain and enhance the Park. For exactly the same reason, it is inappropriate to put it in our neighborhood.

We are not located near Major arterials as the general plan category of mixed use housing requires. **The staff findings states that the street the project is on, East 24<sup>th</sup> street, “is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> avenue and 19<sup>th</sup> avenue...”** As I'm sure you are aware, these are not Major arterial streets, they are neighborhood streets.

For each of these reasons, this project is not consistent with the general plan and should be rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required.

#### **Allowed density**

**The staff report notes that the R-50 zone allows 2 units permitted by right, and requires a conditional use permit for additional units.** We request that the conditional use permit be denied for the reasons we are detailing. By right, the developer can still build 2 units.

We are not opposed to developing a now vacant lot. We are opposed to granting a permit to do harm to the neighborhood. Further, we are opposed to providing this grant of special privilege (**Staff findings, Feb 28, 2007, page 7 section 17.148.050(a) subsection D**) which sets a precedent for further destruction of the neighborhood.

This is instantly relevant because the true development project has not been presented to the City. The developers are actually working on a much larger project that covers both this lot (1727 East 24<sup>th</sup> street) and the adjacent lot at 1729 East 24<sup>th</sup> street.

When the developers presented the larger project to the City, they were turned down twice. Now they have simply broken it into two separate projects. So today you are

considering a smaller project. Once the City approves the first project, it will be used for justification for the second phase of the original project.

This is further substantiated by behavior of the adjacent property owner, who has not adequately maintained his property. He is simply awaiting approval of this project to proceed with a similar project. Further, this project is designed with a shared driveway that is between the two lots. This shared driveway will not meet City of Oakland standards, and will be the subject of another appeal for special privilege. **(Memo Dec 9, 2005 describes “a shared access facility” and states that a driveway appeal may be required to meet City of Oakland standards)**

Zoning analysis

**The Staff report states four parking spaces are provided, which meets the one parking space per unit requirement.**

In fact these “parking spaces” are uniquely configured to serve as downstairs bedrooms. They are accessed from the interior of each unit by a private, enclosed stairway that originates outside the bathroom area, which is exactly how you would configure a downstairs bedroom. A true parking space would be configured for easy access to the kitchen so that it would be convenient to bring in groceries.

*It is common practice in our neighborhood for families to live together. The result is that it is common for garages to be occupied as living quarters, and for parking to be a problem since no one parks their cars in their garage.*

Further evidence that these are not parking spaces is given by the developer’s sales price. These two bedroom units are planned to sell for \$500k each. In our zip code, 94606, One 3 bedroom condo has sold in the last 9 months for \$431k, while twelve 2 bedroom condos have sold for an average price of \$395k. How can you possibly plan to get \$500k for a 2 bedroom condo? You sell them as three bedroom condo’s. There’s just no other way.

It is the duty of the City per the general plan to create, maintain and enhance residential areas. It is clear that this developer is attempting to manipulate the City, in this instance, by building 3 bedroom condos without parking and calling them two bedroom condos with parking. This will not maintain and enhance our residential neighborhood, and we ask you to reject this project.

Height Variance

**The staff report of Feb 28<sup>th</sup> allows some parts of the proposed project (front and rear gables) to exceed the height restriction of 30 feet, but requires other parts (Hip Roofs) to meet the 30 foot limitation.**

KEY ISSUES  
DESIGN

**The staff report of Feb 28<sup>th</sup> requires “...Lower hip roofs to meet the 30 foot limitation, remove the hip portion of the roof over the two interior decks in the middle of the building, ..in order to reduce the perceived bulk of the building and break up the elevation more...”**

The staff report acknowledges that there is a need to reduce the bulk of the building. This is a critical issue because:

- 1- The neighbors are predominantly small single family homes, and
- 2- This project is on an incredibly steep hill. The site is at least 25 feet higher than neighboring properties on 17<sup>th</sup> avenue.

As a result, a 32 foot tall project will rise 57 feet above the neighboring single family houses. A project this size has no place in a neighborhood of single family houses with steep hills. It will forever change the quality of life.

ENVIRONMENTAL DETERMINATION

We have presented evidence that this project does not meet the criteria for a Categorical Exemption under section 15303 (b); is not consistent with the general plan. We request that an EIR be required under this determination

## Findings Feb 28 & March 7 with Appeal of findings.

### Section 17.134.050 Conditional use permit findings

A. **That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of civic facilities and utilities in 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.**

- a. The project will adversely affect the livability of the abutting properties and surrounding neighborhood with consideration given to harmony in scale, bulk, coverage, density, availability of civic facilities, generation of traffic and other relevant impacts.

1. *Scale & Bulk:* The neighborhood is predominantly single-family homes. Limited multiple unit dwellings have been constructed and these are regarded as not in keeping with the character of the neighborhood. There is a project currently underway to designate this area as a historical district and to create an additional zoning overlay to further protect the area. The City is leading the effort, with the City Planning department –CEDA- represented by Eric Angstadt, Interim Strategic Planning Manager, and sponsorship from Council member Kernighan. Joann Pavlinec, Secretary to the Landmarks Preservation Advisory Board has provided guidance. While these protections are not in place today, they do provide testimony to the acceptance of the unique character of the neighborhood, and require that this character be taken into consideration when deciding upon a conditional use permit.

This project will do damage to the character of the neighborhood which is pre-World War II residential housing. The project is designed with architectural features such as balconies, and underground parking that are inconsistent with the character of such a neighborhood. Even the City staff recommended modifications to reduce the scale and bulk of the project in their report of Feb 28<sup>th</sup>.

This project exceeds the allowable height of 30 feet, even after a portion is placed underground. Even after implementing the Staff's original findings, it will still be 57 feet above the adjacent properties on 17<sup>th</sup> avenue. It will have balconies and decks that overlook the neighboring properties from a great height, depriving them of privacy and changing the nature of their properties.



It is our contention that the planning council did not take the unique character of the neighborhood into account. They were looking to *find ways to build new projects in our neighborhood, with complete disregard as to what they are required to consider when deciding upon conditional use permit findings.* Clearly they were not interested in protecting the residents who are already there.

Further, they even disregarded the staff's mild recommendations to mitigate the negative impact on the neighborhood. Lastly, they accepted in total the developer's statement that the height regulation should be completely disregarded because "Even if the entire building were underground, it would still be too tall"

2. Coverage This project is not in harmony with the neighborhood with regard to coverage. We are submitting the most recent San Borne map of our area which shows coverage in the 1970's. You can see from the map that the area is single family homes with yards. Most of the property is uncovered. Contrast this to the proposed project which covers 81% of the 7000 square foot site (1,334 / 7,000). There is a related issue to coverage in that this site is on a very steep hill. The property at the base of the hill (two doors away from this project) is having problems with earth sliding. With 81% of the property above them covered, the water run off will increase the problems that they have with sliding earth. It should be noted that this property is one block from the infamous sliding homes on Wallace Street, and this is a major problem in our area

3. Density. This project is not in harmony with the neighborhood with regard to density. Our neighborhood is mostly single family homes. This multiple unit project is out of keeping with the neighborhood character. Some multiple unit homes have been constructed during the 1960's and 1970's but these are regarded as unfortunate mistakes and should not be used to justify more mistakes. By right, the developer can still build 2 units. We only object to construction that will damage the character of the neighborhood.

4. Civic facilities. This project is located on a very steep hill . Even if you believe that the downstairs bedrooms will be used as parking spaces there will not be adequate parking for all the cars the owners and their guests will bring. This would not be a problem with fewer units. Additionally, there isn't anyplace for small children to play. Due to the steepness of the hill, the children can't play on the street in front of their house.

5. Generation of Traffic. This project includes a shared driveway that will be used by residents, and visitors for two projects (one at 1727 east 24th street, and the other at 1729 east 24<sup>th</sup> street). It puts a shared driveway – a street – on what is now a yard. It will bring traffic and noise where none should be. This changing the character of the neighborhood and should not be allowed. This would not be a problem with fewer units.

6. Other relevant impacts. As was mentioned earlier, there is a project currently underway to designate this area as a historical district and to create an additional zoning overlay to further protect the area. The City is leading the effort. This project has a negative impact on these efforts. By right, the developer can still build 2 units. We only object to construction that will damage the character of the neighborhood.

***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.***

This is a neighborhood of basically single family homes. Our area can be quiet and friendly. Street Parking can be available. Low levels of traffic in our residential area enable children to play in the streets. We have relatively low (for Oakland) levels of crime. We held a block long garage sale last summer. People know each other. This is the successful operation of basic community functions we enjoy. None of these will be enhanced by this project, as is required for a conditional use permit to be issued. By right, the developer can still build 2 units. We only object to construction that will damage the character of the neighborhood.

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

**The General plan analysis states that “the land use classification [of mixed housing type] is intended to create, maintain, and enhance neighborhood residential neighborhood area typically located near the City’s major arterials...”** Neither of these conditions are met by this project. This project should be deemed not consistent with the general plan and rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required.

As the staff report says, this land use classification is intended to maintain and enhance our neighborhood. That is not what is happening. You don’t maintain a neighborhood of historic single family homes by putting in a condo project. You don’t enhance a neighborhood of historic single family homes by putting in a condo project.

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For each of these reasons, this project is not consistent with the general plan and the conditional use permit should be rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required.

**Section 17.136.070A – Residential Design review criteria**

**A. The proposed design will create a building that is well related to the surrounding area in their setting, scale, bulk height, materials and textures.**

The staff report of February 28 discusses that the height of the building needs to be minimized, and that changes are required to reduce the mass and bulk of the building. We agree that the Height, Mass, and bulk of the building are too much, and that this project is inappropriate for our area. However, the Planning commission rejected even the staff's minor revisions. The planning commission, having decided not to protect the existing homeowners and neighborhood, saw no reason to make any change to what was proposed. We don't agree that the proposed design creates a building that is well related to the surrounding area in scale, bulk or height. We request that the approval for a conditional use permit be denied.

**B. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The staff report completely ignores the desirable neighborhood characteristics that the proposed design will destroy. It only says that dwelling units will be added, and that porch elements, gable roofs, and wood hung windows are used. It does not mention that the neighborhood is mostly single family homes, that there are large yards, that the area is filled with historic homes and has a pre world war II characteristic, that there is a relatively low density, that there is adequate street parking, All of these desirable neighborhood characteristics will be not be preserved, protected or enhanced by this project.

**C. The proposed design will be sensitive to the topography and landscape.**

The staff report completely fails to address this section. Topography is defined as:

"The representation of a portion of the earth's surface showing natural and man-made features of a given locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area."

[www.hancock.com.gov/surveyor-drainage\\_glossary\\_of\\_terms.asp](http://www.hancock.com.gov/surveyor-drainage_glossary_of_terms.asp)

The staff report ignores the presence of creeks and underground streams that permeate the area. The report also ignores the unstable nature of the hill that the property is located on, and the difficulties that adjacent properties are experiencing in stabilizing the hillside. Further, this property had mature trees on it prior to being prepared for development. These trees have been cut down. They have completely failed to discuss if the proposed design is sensitive to these issues.

We are presenting a map showing creeks and underground culverts which documents the presence of the 14<sup>th</sup> avenue creek located a few feet from the base of the hill the property is situated on. [www.museumca.org](http://www.museumca.org) Properties in this area sit on top of underground streams and have sump pumps in their basements to pump out the water. This project ignores this issue and offers no protection to neighboring

properties. Their discussion of underground water problem is confined to how to protect the building, not how to lessen the impact on surrounding properties. The Planning commission failed in its duty to protect the abutting properties, even though we brought this problem to their attention.

During the planning commission meeting, the developer revealed that he had completed a geotechnical survey and the planning commission, in its rush to approve this project, did not review the survey or even ask what the findings were. We have obtained a copy of the survey and they found problems with the site.

This survey, which was completed during the dry months on June 7 and July 19, 2005, found the presence of “a local area of persistently wet near surface soil in the east central portion of the lot”. (page 7 of report) They incorrectly supposed that the water was due to “... a leaking waterline, excessive irrigation and runoff etc.” They discussed that a shallow upslope drain may be required. They did exploratory borings and state (page 5 of the report) “... it should be noted that groundwater measurements in the borings may have been made prior to allowing a sufficient period of time for the equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature, and other factors not evident at the time the measurements were made. Due to the sloping nature of the terrain, it is our opinion seepage could occur in excavations and behind retaining walls, particularly after prolonged rains during a relatively heavy rainy season”.

The actual borings reveal the presence of subsurface water with the most water found at depths of 7 – 15 feet. Given the known presence of subsurface streams, we feel there needs to be more analysis to document the streams, and a clear plan to protect the surrounding properties. This project proposes a 6-foot deep parking garage, which will alter the course of the underground streams and cause new flooding problems for the adjacent properties. These properties will not be apparent for months or years as the streams work their way through the ground. We want a smaller project without an underground parking area, or a fund established by the builder to indemnify us from future damages.

*Summary of Results of the test borings*

	Boring 1	Boring 2	Boring 3
Surface – 1.5 feet	Dry	moist	wet
1.5 – 7 feet	Dry to moist	Moist - Wet	moist
7-10 feet	Dry	Wet	moist
10- 15 feet.	moist	Wet	Stopped at 11 feet
15 – 21.5 feet	Dry	Wet-moist	

Page 14 of the report states “Should ownership of this property change hands, the new owner should be informed of the existence of this report, not adversely change the grading or drainage facilities, and understand the importance of maintaining proper surface drainage”. This site is inappropriate for a condominium project since

the property will change hands immediately, and the grounds will be “owned” by 4 owners in common. They will have difficulty managing the property. If two owners don’t agree to maintain the property, the homeowner’s association will be unable to resolve the impasse, and the drainage problems (as well as other problems) will spread to the neighbors.

**d. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

This project is too large and does not relate at all to the grade of the hill. The building will tower 57 feet above the one story single family homes on 17th avenue. The project takes advantage of the hill to provide views of downtown Oakland, and completely destroys the quiet and privacy of the surrounding homeowners.

The Planning commission eliminated the conditions staff recommended in the Feb 28<sup>th</sup> report which were designed “...to help minimize the overall height of the building” and to change the roof plane to break up the massing of the building. As a result, this project does not relate to the grade of the hill and we would like the conditional use permit denied. . By right, the developer can still build 2 units. We only object to construction that will damage the character of the neighborhood.

**E. 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.**

This is the same point as Section 17.134.050 Conditional use permit findings. We have the same objections and requests.

**Section 17.148.050 (a) Minor Variance Findings**

**Points A & B:** The Feb 28<sup>th</sup> staff report found that “Strict compliance would not preclude an effective design solution, the hip roof could easily be lowered to 30 feet and still generate the desired appearance” The planning commission overruled the staff, and removed even the most minor protections to the neighbors. The section does not leave it to the whim of the planning commission to say yes or no. The requirement is that “strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance” That is not the case here. The developer wants to sell the units for \$500,000 each and desires to side step the regulations. We oppose the Planning council’s decision to strike down the minor variance findings of the staff.

The March 7<sup>th</sup> finding simply says that the planning commission found a 5:12 pitch to be more aesthetically pleasing than a 3:12 pitch. They didn't say that the finding is that it precludes an effective design, which would be a valid reason.

They didn't say that it would result in practical difficulty because the developer said that he could do it.

They didn't say that it would create an unnecessary hardship because it doesn't create a hardship.

They simply said it was more aesthetically pleasing. That is not a valid reason.

We oppose granting a conditional use permit for this project.

This process is supposed to offer protections to the existing homeowners. We presented a list of changes we were requesting to the planning council, and they simply asked the developer to say yes or no to each of them. He said yes to some, and no to most. There is nothing binding on him for those that he agreed to. The process was a travesty.

C: (Missing from the Feb 28<sup>th</sup> findings, but present in the March 7<sup>th</sup> findings) **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.**

This project is too large for this area of mostly single family homes. The minor variance exacerbates the problem by making the project taller. The staff felt that lowering the roofs would lessen the perceived height and lessen the impact on the character of the neighborhood. We want the minor variance denied.

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

We are not opposed to developing a now vacant lot. We are opposed to granting a permit to do harm to the neighborhood. Further, we are opposed to providing this grant of special privilege (**Staff findings, Feb 28, 2007, page 7 section 17.148.050(a) subsection D**) which sets a precedent for further destruction of the neighborhood.

This is instantly relevant because the true development project has not been presented to the city. The developers are actually working on a much larger project that covers both this lot (1727 East 24<sup>th</sup> street) and the adjacent lot at 1729 East 24<sup>th</sup> street.

When the developers presented the larger project to the City, they were turned down twice. Now they have simply broken it into two separate projects. So today you are

considering a smaller project. Once the City approves the first project, it will be used for justification for the second phase of the original project.

This is further substantiated by behavior of the adjacent property owner, who has not adequately maintained his property. He is simply awaiting approval of this project to proceed with a similar project. Further, this project is designed with a shared driveway that is between the two lots. This shared driveway will not meet City of Oakland standards, and will be the subject of another appeal for special privilege. (**Memo Dec 9, 2005 describes “a shared access facility” and states that a driveway appeal may be required to meet City of Oakland standards**)

16.08.030 – Tentative map finding

**A. That the proposed map is not consistent with applicable general and specific plans as specified in the state government code section 65451**

**The General plan analysis states that “the land use classification [of mixed housing type] is intended to create, maintain, and enhance neighborhood residential neighborhood area typically located near the City’s major arterials...”** Neither of these conditions are met by this project. This project should be deemed not consistent with the general plan and rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required.

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

**The General plan analysis states that “the land use classification [of mixed housing type] is intended to create, maintain, and enhance neighborhood residential neighborhood area typically located near the City’s major arterials...”** Neither of these conditions are met by this project. This project should be deemed not consistent with the general plan and rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required

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

The site is on a very steep hill and is riddled with underground streams. The site is located in an area of the hill which has problems with land slides. The project proposes an underground garage which will divert underground streams and cause problems. The geotechnical report presented by the developer found evidence of underground water consistent with underground streams. The project proposes to cover 81% of the surface area and will create problems with water runoff which the area is particularly susceptible to due to the steepness of the hill and the unstable (sliding) hill side. This site is not physically suitable for this type of development.



<b>Location:</b>	1727 E. 24 <sup>th</sup> Street (See map on reverse)
<b>Assessors Parcel Number:</b>	022-0324-026-00
<b>Proposal:</b>	To construct a 4 unit residential building that totals 4,988 square feet. The residential building will be 2 stories in height over one level of parking. A subdivision to create 4 residential condominium units within a new residential building is also proposed.
<b>Applicant:</b>	David Miller (510) 658-5502
<b>Owner:</b>	Oakland View Townhouses
<b>Planning Permits Required:</b>	Conditional Use Permit for 4 units in the R-50 zone. Design Review for building 4 new residential units. Minor Variance for a 32 foot height building where 30 feet is allowed. Tentative Parcel Map to create 4 residential condominium units with a new residential building.
<b>General Plan:</b>	Mixed Housing Type Residential
<b>Zoning:</b>	R-50, Medium Density Residential Zone
<b>Environmental Determination:</b>	Exempt. Section 15303, State CEQA Guidelines, New construction of small new facilities; 15183, Projects consistent with General Plan; and Section 15315, Minor land division.
<b>Historic Status:</b>	Not a Potentially Designated Historic Property; rating: Vacant
<b>Service Delivery District:</b>	3
<b>City Council District:</b>	2
<b>Date Filed:</b>	10/05/05
<b>Action to be Taken:</b>	Decision on Application
<b>Staff Recommendation:</b>	Approve with the attached conditions.
<b>Finality of Decision:</b>	Appealable to City Council
<b>For Further Information:</b>	Contact case planner <b>Laura B. Kaminski</b> at 510-238-6809 or by e-mail at <a href="mailto:lkaminski@oaklandnet.com">lkaminski@oaklandnet.com</a> .

**PROJECT DESCRIPTION**

The proposal is to construct a four unit residential building that totals approximately 4,988 square feet. The residential building will be three stories in height, with the ground level for parking. A subdivision of one lot to create four residential condominium units within the new residential building is also proposed. Each unit will have a one car garage, two bedrooms, and two bathrooms.

**PROPERTY DESCRIPTION**

The subject site is a 7,000 square foot site fronting on E. 24<sup>th</sup> Street. The parcel is currently vacant. Directly northwest of the property is a single family home and directly southeast of the property is a triplex residential building. The surrounding uses are a mixture of mostly single family homes with some duplexes, triplexes, quadplexes, and a larger seven unit apartment building. The property is part of the San Antonio Hills neighborhood and there are two Designated Historic Properties on the same side of street as this property, at 1807 and 1819 E 24<sup>th</sup> Street. The two properties are both of a Victorian style.

## GENERAL PLAN ANALYSIS

The property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

## ZONING ANALYSIS

The subject property is located within the R-50, Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development. The proposed development meets the medium density requirement. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space (with no private open space) is required. Four parking spaces are provided, which meets the one parking space per unit requirement.

### Allowed Density

The R-50 Zone allows 2 units as permitted by right and allows 5 units with a conditional use permit for this 7,000 square foot lot. The Mixed Housing Type Residential Land Use classification would allow 6 units on this 7,000 square foot lot. The proposed project of four dwelling units complies with the conditional use permit requirement of the R-50 Zone.

### Height Variance

The allowable height limit is 30 feet with some allowed projections. In Section 17.108.30C, gable ends up to 15 feet in width located on principal and accessory Residential Facilities can exceed the height limit by 10 feet if the maximum aggregate coverage of the building's horizontal area does not exceed 10 percent, but in all cases, no higher than the maximum height of the roof section on which they are located. There is no restriction of minimum horizontal distance from any abutting residentially zoned lot if the vertical projection above the prescribed height does not exceed four feet.

The front and rear gables that are above the decks off of the great room meet this allowed projection and are 32 feet in height (for a two foot projection). The hip roofs above the garages that are 32 feet in height do not meet this requirement and require a variance. Staff is not in support of this variance and recommends bringing the height of the hip roofs down to 30 feet to meet the height limitations (See Findings and Conditions of Approval).

## KEY ISSUES

### Design

The design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and face the side of the property. Staff has conditioned changes of lowering the hip

roof to 30 feet in height. In addition, staff also recommends removing the hip portion of the roof over the two interior decks in the middle of the building, instead, providing a flat roof in order to reduce the perceived bulk of the building and break up the elevation more. The massing of the building in the front and rear is broken up by open porch elements on the third floor with gables and open truss work over them. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding, asphalt shingle roofing, and painted wood fascia.

**ENVIRONMENTAL DETERMINATION**

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15303 (b), not more than six dwelling units; 15183, Projects consistent with General Plan; and 15315, division of property for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning.

**CONCLUSION**

Staff feels that overall, the proposed project is a good infill use of the lot. The proposed development draws on some of the elements of design of the surrounding neighborhoods and with staff's conditions of approval the overall bulk will be reduced to blend in more with the neighborhood.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination.
2. Approve the Conditional Use Permits, Design Review, and Tentative Parcel Map subject to the attached findings and conditions. Deny the Variance for height.

Prepared by:

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LAURA B. KAMINSKI  
Planner II

Approved by:

---

SCOTT MILLER  
Zoning Manager

Approved for forwarding to the  
City Planning Commission:

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CLAUDIA CAPPIO  
Director of Development

**ATTACHMENTS:**

- A. Findings for Approval
- B. Conditions of Approval
- C. Building Services Memorandum
- D. Tentative Parcel Map and Plans

ATTACHMENT A

FINDINGS FOR APPROVAL

This proposal meets all the required Use Permit criteria (Sections 17.134.050) and Design Review Criteria (Section 17.136.070) as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 –CONDITIONAL USE PERMIT FINDINGS:

- A. That the location, size, design, and operating characteristics of the proposed development will be **compatible with, and will not adversely affect, the livability or appropriate development of** abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.

The proposed building is sited along E 24<sup>th</sup> Street in a lower to medium density residential neighborhood. The proposed design with the conditions applied does a good job of using various changes in the elevation and roof to visually reduce the impact of the height and bulk of the building in relation to the smaller scale neighborhood, and follows the General Plan which allows small multiple unit buildings within the Mixed Housing Type. The project would not impact any existing level of service for public streets, as E 24th Street is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and the addition of four dwelling units into this grid corridor would not create a significant impact.

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

The proposed development will be an attractive and functional living environment by providing a mixture of quality exterior materials and windows. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space is required.

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

The development will enhance the area as a residential neighborhood by adding dwelling units to an existing vacant lot and provide four new residential units that can provide for needed home ownership opportunities in the City of Oakland.

- D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

See Design Review findings below.

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

The construction of four residential dwellings is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**17.136.070A - RESIDENTIAL DESIGN REVIEW CRITERIA:**

- A. 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 design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and with the changes incorporated into the conditions the bulk and massing of the building is broken up by changes in the roof plane and open front and rear porch elements. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding, asphalt shingle roofing, and painted wood fascia.

- B. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

The development will enhance the area as a residential neighborhood by adding dwelling units to a vacant lot. The design utilizes porch elements, gable roofs, and wood hung windows in keeping with characteristics of the neighborhood.

- C. The proposed design will be sensitive to the topography and landscape.

The garages are sunk slightly into the hill to work with the topography of the site.

- D. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

The garages are sunk slightly into the hill to help minimize the overall height of the building and with the changes incorporated into the conditions the massing of the building is broken up by changes in the roof plane.

- E. 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 construction of four new residential units is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

Findings For Denial of Variance

SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:

- A. 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.

Strict compliance would not preclude an effective design solution, the hip roof could easily be lowered to 30 feet and still generate the desired appearance.

- B. 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.

Strict compliance would not preclude an effective design solution, the hip roof could easily be lowered to 30 feet and still generate the desired appearance.

- D. 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 granting of the variance would constitute a grant of special privilege, since the variance does not provide a better design solution.

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

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

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The subject development site is physically suitable to accommodate four dwelling units because four parking spaces are being provided as well as the required amount of open space is provided.

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

The proposed density is consistent with the General Plan density envisioned for the area.

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

This site has been previously developed and does not contain any wildlife habitat or waterways. A Geotechnical Investigation was performed in July of 2005.

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

There should be no adverse health effects. This is in a residential development located in an existing neighborhood and it will introduce no new use classifications that are incompatible with the surrounding neighborhood.

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

There are no easements on this property at present to allow the public access to anything.

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

The subdivision has ample southern exposures that will enhance natural solar access and heating and cooling opportunities.

16.24.040 - LOT DESIGN STANDARDS FOR PARCEL MAPS APPROVALS

- 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.

This is a one lot subdivision for the purposes of creating condos so there are no new lots that are being created. Therefore, the above items A through E do not apply.



ATTACHMENT B

CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. **Approved Use.**

*a. Ongoing.*

The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **October 16, 2006** and submitted on **October 16, 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 the approved plans, will require a separate application and approval. Any deviation from the approved drawings, conditions of approval or use shall required prior written approval from the Zoning Administrator.

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

*a. Ongoing.*

This permit shall expire **two calendar years** from the date of this letter, the effective date of its granting, 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. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

3. **Scope of This Approval; Changes to Approval**

*a. Ongoing.*

The project is approved pursuant to the Planning Code and Subdivision Regulations and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction.

4. **Modification of Conditions or Revocation**

*a. Ongoing.*

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

**10. Construction Hours for Minor Projects**

*a. During all construction activities*

Construction shall only take place between 7:30AM and 6:00PM, on Monday through Friday; 9:00AM to 5:00PM on Saturdays. No construction shall occur on Sundays or Federal holidays.

**SPECIFIC CONDITIONS:**

**11. Street Trees**

*a. Prior to issuance of building permit.*

The applicant shall provide two street trees along E. 24<sup>th</sup> Street (minimum 24" box size at time of planting) located within the street planting yard with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Tree Services Section and Building Services. Contact tree services at (510) 615-5850 for more information regarding the type of street tree to be planted and the best location.

**12. Decorative Pavers on Driveway**

*a. Ongoing.*

Decorative paving shall be constructed as indicated on the landscape plan, sheet A-5.

**13. Landscaping Maintenance**

*a. Ongoing.*

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

**14. Tentative Parcel Map**

*a. Prior to certificate of occupancy*

A Final Map shall be filed with the City Engineer within two (2) years from the date of approval of the Tentative Parcel Map, or within such additional time as may be granted by the Advisory Agency. Failure to file a Final Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

**15. Engineering Conditions**

*a. Prior to Submittal of Parcel Map*

All conditions of the Building Services Memorandum dated December 9, 2005 from David Mog shall be met prior to submittal of Final Parcel Map (see Attachment C).

**16. Open Truss on Front and Back Patio**

*a. Ongoing.*

The open truss with triple columns at corners, two facing each side, as shown on the elevations shall be constructed as shown.

**17. Windows**

*a. Ongoing.*

The windows shall be double hung wood windows with a minimum of a 2 inch recess and trim as shown on the approved plans

18. Lower Hip Roof to 30 Feet

a. Prior to issuance of building permit and ongoing.

The hip roof shall be reduced to 30 feet in height to meet the height requirement of the R-50 Zone. The front and rear gables may be 32 feet in height, as shown on the approved plans because they meet the allowed height projections in Section Section 17.108.30C.

19. Change Hip Roof Over the Two Interior Decks

a. Prior to issuance of building permit and ongoing.

The roof over the two interior decks shall be changed to a flat roof instead of a hip roof.

20. Exterior Materials Details

a. Prior to issuance of building permit.

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building including colors. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. In particular, the exterior porch details shall be submitted for Zoning approval prior to issuance of any building permits.

Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

21. Landscape and Irrigation Plan

a. Prior to issuance of building permit.

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

APPROVED BY: City Planning Commission: \_\_\_\_\_(date)\_\_\_\_\_ (vote)

City Council: \_\_\_\_\_(date)\_\_\_\_\_ (vote)

A.	<p><b>Location:</b> 1727 E 24<sup>th</sup> Street (APN: 022-0324-026-00)</p> <p><b>Proposal:</b> To construct a 4 unit residential building that totals 4,988 square feet. The residential building will be 2 stories in height over one level of parking. A subdivision of 1 lot to create 4 residential condominium units within a new residential building.</p> <p><b>Applicant:</b> David Miller</p> <p><b>Owner:</b> Oakland View Townhouses, LLC</p> <p><b>Planning Permits Required:</b> Conditional Use Permit for 4 units in the R-50 zone, Design Review for building 4 new residential units. Minor Variance for a 32 foot height building where 30 feet is required. Tentative Parcel Map to create 4 residential condominium units with a new residential building. <b>See Status Section, below.</b></p> <p><b>General Plan:</b> Mixed Housing Type</p> <p><b>Zoning:</b> R-50, Medium Density Residential Zone</p> <p><b>Environmental Determination:</b> Exempt, Section 15303, State CEQA Guidelines, New construction of small new facilities and Section 15315, Minor land division.</p> <p><b>Historic Status:</b> Not a Potential Designated Historic Property (PDHP); survey rating: Vacant</p> <p><b>Service Delivery District:</b> 3</p> <p><b>City Council District:</b> 2</p> <p><b>Status:</b> This item was heard by the Planning Commission at the February 28, 2007 meeting. A straw vote was taken, with support for the project (including the Variance) expressed in a 6-0 vote in favor. Formal action on the application was continued to the consent calendar on March 7, 2007. This consent action will adopt Findings for the project (as well as the Conditions of Approval) and approve the Conditional Use Permit, Design Review, Variance and Tentative Parcel Map.</p> <p><b>Action to be Taken:</b> Decision on application based on staff report and straw vote from the February 28, 2007 Commission meeting.</p> <p><b>Finality of Decision:</b> <i>Appealable to City Council</i></p> <p><b>For Further Information:</b> Contact case planner <b>Laura Kaminski</b> at (510) 238-6809 or by email: <a href="mailto:lkaminski@oaklandnet.com">lkaminski@oaklandnet.com</a></p>
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### PROJECT DESCRIPTION

The proposal is to construct a four unit residential building that totals approximately 4,988 square feet. The residential building will be three stories in height, with the ground level for parking. A subdivision of one lot to create four residential condominium units within the new residential building is also proposed. Each unit will have a one car garage, two bedrooms, and two bathrooms.

### PROPERTY DESCRIPTION

The subject site is a 7,000 square foot site fronting on E. 24<sup>th</sup> Street. The parcel is currently vacant. Directly northwest of the property is a single family home and directly southeast of the property is a triplex residential building. The surrounding uses are a mixture of mostly single family homes with some duplexes, triplexes, quadplexes, and a larger seven unit apartment building. The property is part of the San Antonio Hills neighborhood and there are two Designated Historic Properties on the same side of street as this property, at 1807 and 1819 E 24<sup>th</sup> Street. The two properties are both of a Victorian style.

## GENERAL PLAN ANALYSIS

The property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

## ZONING ANALYSIS

The subject property is located within the R-50, Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development. The proposed development meets the medium density requirement. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space (with no private open space) is required. Four parking spaces are provided, which meets the one parking space per unit requirement.

### Allowed Density

The R-50 Zone allows 2 units as permitted by right and allows 5 units with a conditional use permit for this 7,000 square foot lot. The Mixed Housing Type Residential Land Use classification would allow 6 units on this 7,000 square foot lot. The proposed project of four dwelling units complies with the conditional use permit requirement of the R-50 Zone.

### Height Variance

The allowable height limit is 30 feet with some allowed projections. In Section 17.108.30C, gable ends up to 15 feet in width located on principal and accessory Residential Facilities can exceed the height limit by 10 feet if the maximum aggregate coverage of the building's horizontal area does not exceed 10 percent, but in all cases, no higher than the maximum height of the roof section on which they are located. There is no restriction of minimum horizontal distance from any abutting residentially zoned lot if the vertical projection above the prescribed height does not exceed four feet.

The front and rear gables that are above the decks off of the great room meet this allowed projection and are 32 feet in height (for a two foot projection). The hip roofs above the garages that are 32 feet in height do not meet this requirement and require a variance.

## KEY ISSUES

### Design

The design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and face the side of the property. The massing of the building in the front and rear is broken up by open porch elements on the third floor with gables and open truss work over them. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding,

asphalt shingle roofing, and painted wood fascia.

**ENVIRONMENTAL DETERMINATION**

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15303 (b), not more than six dwelling units; 15183, Projects consistent with General Plan; and 15315, division of property for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning.

**CONCLUSION**

Staff feels that overall, the proposed project is a good infill use of the lot. The proposed development draws on some of the elements of design of the surrounding neighborhoods.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination.
2. Approve the Conditional Use Permits, Design Review, and Tentative Parcel Map subject to the attached findings and conditions.

Prepared by:

---

LAURA B. KAMINSKI  
Planner II

Approved by:

---

SCOTT MILLER  
Zoning Manager

Approved for forwarding to the  
City Planning Commission:

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CLAUDIA CAPPIO  
Director of Development

**ATTACHMENTS:**

- A. Findings for Approval
- B. Conditions of Approval
- C. Building Services Memorandum
- D. Tentative Parcel Map and Plans

ATTACHMENT A

FINDINGS FOR APPROVAL

This proposal meets all the required Use Permit criteria (Sections 17.134.050) and Design Review Criteria (Section 17.136.070) as set forth below and which are required to approve your application. Required findings are shown in bold type; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 –CONDITIONAL USE PERMIT FINDINGS:

- A. **That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to *harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.***

The proposed building is sited along E 24<sup>th</sup> Street in a lower to medium density residential neighborhood. The proposed design with the conditions applied does a good job of using various changes in the elevation and roof to visually reduce the impact of the height and bulk of the building in relation to the smaller scale neighborhood, and follows the General Plan which allows small multiple unit buildings within the Mixed Housing Type. The project would not impact any existing level of service for public streets, as E 24th Street is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and the addition of four dwelling units into this grid corridor would not create a significant impact.

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

The proposed development will be an attractive and functional living environment by providing a mixture of quality exterior materials and windows. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space is required.

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

The development will enhance the area as a residential neighborhood by adding dwelling units to an existing vacant lot and provide four new residential units that can provide for needed home ownership opportunities in the City of Oakland.

- D. **That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.**

See Design Review findings below.

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

The construction of four residential dwellings is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density. The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**17.136.070A - RESIDENTIAL DESIGN REVIEW CRITERIA:**

- A. 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 design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and the bulk and massing of the building is broken up by changes in the roof plane and open front and rear porch elements. The materials will include painted wood windows, painted Portland cement plaster, horizontal shiplap siding, asphalt shingle roofing, and painted wood fascia.

- B. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

The development will enhance the area as a residential neighborhood by adding dwelling units to a vacant lot. The design utilizes porch elements, gable roofs, and wood hung windows in keeping with characteristics of the neighborhood.

- C. The proposed design will be sensitive to the topography and landscape.

The garages are sunk slightly into the hill to work with the topography of the site.

- D. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

The garages are sunk slightly into the hill to help minimize the overall height of the building and the massing of the building is broken up by changes in the roof plane.



- E. 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 construction of four new residential units is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density. The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:**

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

The Planning Commission finds that strict compliance would preclude an effective design solution, because a 5:12 pitch is more aesthetically appealing both on the exterior and interior than a 3:12 pitch roof.

- B. 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.

The Planning Commission finds that strict compliance would preclude an effective design solution, because a 5:12 pitch is more aesthetically appealing both on the exterior and interior than a 3:12 pitch roof.

- C. 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.

The granting of the height variance will not adversely impact the character of the neighborhood; the roof that is over the height limit is on the side of the property along where the driveway is located. Therefore there is a larger setback than required on that side yard of 17 feet compared to the required 5 feet.

- D. 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 granting of the variance would not constitute a grant of special privilege, since the variance does provide a better design solution.

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

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

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The subject development site is physically suitable to accommodate four dwelling units because four parking spaces are being provided as well as the required amount of open space is provided.

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

The proposed density is consistent with the General Plan density envisioned for the area.

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

This site has been previously developed and does not contain any wildlife habitat or waterways. A Geotechnical Investigation was performed in July of 2005.

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

There should be no adverse health effects. This is in a residential development located in an existing neighborhood and it will introduce no new use classifications that are incompatible with the surrounding neighborhood.

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

There are no easements on this property at present to allow the public access to anything.

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

The subdivision has ample southern exposures that will enhance natural solar access and heating and cooling opportunities.

16.24.040 - LOT DESIGN STANDARDS FOR PARCEL MAPS APPROVALS

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.

This is a one lot subdivision for the purposes of creating condos so there are no new lots that are being created. Therefore, the above items A through E do not apply.

ATTACHMENT B  
**CONDITIONS OF APPROVAL**

STANDARD CONDITIONS:

1. **Approved Use.**

*a. Ongoing.*

The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **October 16, 2006** and submitted on **October 16, 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 the approved plans, will require a separate application and approval. Any deviation from the approved drawings, conditions of approval or use shall required prior written approval from the Zoning Administrator.

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

*a. Ongoing.*

This permit shall expire ~~two calendar years~~ from the date of this letter, the effective date of its granting, 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. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

3. **Scope of This Approval; Changes to Approval**

*a. Ongoing.*

The project is approved pursuant to the Planning Code and Subdivision Regulations and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction.

4. **Modification of Conditions or Revocation**

*a. Ongoing.*

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

**5. Recording of Conditions of Approval**

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

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

**6. Reproduction of Conditions on Building Plans**

*a. Prior to issuance of building permit.*

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

**7. Defense, Indemnification & Holdharmless**

*a. Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.*

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency 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.

**8. Waste Reduction and Recycling**

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

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan." and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. This condition applies to a) new residential and commercial construction 2) commercial and apartment house demolition, and 3) commercial and apartment house additions and alterations with a permit valuation of greater than \$50,000. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7283 for information.

**9. 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. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to 1) new residential development of five or more units, 2) new commercial and industrial development that requires a building permit, and 3) additions that increase the gross floor area of the aforementioned projects by more than 30 percent. 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.

10. Construction Hours for Minor Projects

a. *During all construction activities*

Construction shall only take place between 7:30AM and 6:00PM, on Monday through Friday: 9:00AM to 5:00PM on Saturdays. No construction shall occur on Sundays or Federal holidays.

**SPECIFIC CONDITIONS:**

11. Street Trees

a. *Prior to issuance of building permit.*

The applicant shall provide two street trees along E. 24<sup>th</sup> Street (minimum 24" box size at time of planting) located within the street planting yard with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Tree Services Section and Building Services. Contact tree services at (510) 615-5850 for more information regarding the type of street tree to be planted and the best location.

12. Decorative Pavers on Driveway

a. *Ongoing.*

Decorative paving shall be constructed as indicated on the landscape plan, sheet A-5.

13. Landscaping Maintenance

a. *Ongoing.*

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

14. Tentative Parcel Map

a. *Prior to certificate of occupancy*

A Final Map shall be filed with the City Engineer within two (2) years from the date of approval of the Tentative Parcel Map, or within such additional time as may be granted by the Advisory Agency. Failure to file a Final Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

15. Engineering Conditions

a. *Prior to Submittal of Parcel Map*

All conditions of the Building Services Memorandum dated December 9, 2005 from David Mog shall be met prior to submittal of Final Parcel Map (see Attachment C).

16. Open Truss on Front and Back Patio

a. *Ongoing.*

The open truss with triple columns at corners, two facing each side, as shown on the elevations shall be constructed as shown.

17. Windows

a. *Ongoing.*

The windows shall be double hung wood windows with a minimum of a 2 inch recess and trim as shown on the approved plans

18. **Covenants, Conditions and Restrictions & Homeowner's Association.**

a. *Prior to certificate of occupancy*

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division to verify that a CC&R has been established. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site sidewalks, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold.

19. **Footprint of Building**

a. *Prior to approval of final map*

The footprint of the proposed building shall match that of the approved project CMDV05-507 unless changes will be made to project CMDV05-507.

20. **Exterior Materials Details**

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building including colors. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. In particular, the exterior porch details shall be submitted for Zoning approval prior to issuance of any building permits.

Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

21. **Landscape and Irrigation Plan**

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

APPROVED BY: City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)

**CITY OF OAKLAND**  
**Community and Economic Development Agency**  
**MEMORANDUM**

**TO:** Eric Angstadt *AMS*  
**FROM:** David Mog *DM*  
**DATE:** December 9, 2005  
**SUBJECT:** TPM 8859 One Lot Subdivision for Condominium Purposes  
1727 E 24<sup>th</sup> Street

If the project is to be approved by the Advisory Agency, please attach the following "Conditions of Approval":

1. Provide identification numbers for the City of Oakland monuments used to establish the basis of bearing. State basis of bearing on the Map.
2. Show adjacent parcels and parcel numbers.
3. City of Oakland datum shall be used to establish elevations shown on the map. State that the elevations shown are based on City of Oakland datum and use datum elevations on the Map.
4. A new driveway will require a Curb, Gutter, and Driveway permit. The City of Oakland "Shared Access Facilities – Guidelines for Development and Evaluation" and the Oakland Standard Plans contain guidelines and criteria for driveways. The driveway openings may not meet standards for driveway separation. See City of Oakland Standard Plans. A Driveway Appeal may be required to meet City of Oakland standards.
5. Existing curb, gutter, and sidewalk will require replacement if damaged during construction.
6. Provide numerical or alphabetic designation for each new parcel. Show the square footage of the parcel.
7. Show location, purpose, and width of all existing and proposed easements.
8. Provide the name and address of the owner.
9. Revise title to read "A One Lot Subdivision For Condominium Purposes".



10. Show existing sanitary sewers and provisions for drainage, flood control, sewage disposal, and water supply availability for existing and proposed lots. Provide separate utility meters for each condominium.
  
11. Note that the property lies within a seismic hazard zone with earthquake-induced liquefaction potential. A soils report may be required. If required, submit geotechnical reports meeting the guidelines of Special Publication 117 prepared by a licensed civil engineer or a registered engineering geologist to the City for review when applying for permits.

GEOTECHNICAL INVESTIGATION  
FOUR-UNIT CONDOMINIUM DEVELOPMENT  
1727 EAST 24<sup>TH</sup> STREET  
OAKLAND, CALIFORNIA

August 8, 2005  
2422-1, L-26914

Mr. Dave Miller  
Ocean View Town Homes, LLC  
5945 Ocean View Drive  
Oakland, CA 94618

RE: Geotechnical Investigation  
Four-Unit Condominium Development  
1727 East 24<sup>th</sup> Street  
Oakland, California

Dear Mr. Miller:

This firm has performed a geotechnical investigation for the proposed four-unit condominium development to be located on the currently vacant lot at 1727 East 24<sup>th</sup> Street in Oakland, California. This location is shown on the attached Vicinity Map, Figure 1.

#### 1.00 PROPOSED CONSTRUCTION

Based on our discussions with you and our review of your preliminary plans, it is our understanding the proposed development will involve the construction of a four-unit condominium building and an associated driveway and parking area. The preliminary anticipated location of the building is illustrated on the attached Site Plan, Figure 2. We understand that the building will be three stories in height and will have a slab-on-grade ground floor/parking lot. Building loads are anticipated to be typical for this type of construction.

There is a relatively low slope adjacent to the street along the front of the property. However, the majority of the lot is relatively level. Therefore, only minor grading is anticipated in association with the proposed lot development.

#### 2.00 PURPOSE

The purpose of our investigation was to evaluate the suitability of the site for the proposed four unit condominium development from a geotechnical engineering standpoint, and to provide geotechnical design and construction criteria for the following aspects of the work:

- Site preparation and earthwork;
- Building foundations;
- Slabs-on-grade;

- Building code seismic design parameters;
- Retaining walls;
- Surface drainage; and
- Upslope drainage.

### 3.00 SCOPE

The scope of our work to accomplish the stated purpose included:

- Existing geotechnical data review;
- Aerial photograph examination;
- Site reconnaissance visits;
- Subsurface exploration;
- Laboratory testing;
- Engineering analyses of the collected data; and
- Report preparation.

We would like to point out items which are not included in our scope of work. Should you desire more study in one or more of the excluded areas, we would be glad to provide names of qualified professionals with expertise in that area. The scope of our services did not include an environmental assessment or investigation for the presence of hazardous or toxic materials in the soil, groundwater, or air on, below, or around this site. An evaluation of the potential presence of sulfates in the soil, or other possibly corrosive, naturally-occurring elements was beyond our scope.

This report has been prepared for the exclusive use of you and your consultants for specific application to the proposed project in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. In the event the nature, design, or location of the project differs significantly from what has been noted above, or if any future additions are proposed, the conclusions and recommendations contained in this report should not be considered valid unless the changes are reviewed and the conclusions of this report modified or verified in writing.

The findings of this report are valid as of the present date. However, the passing of time will likely change the *conditions of the existing property due to natural processes or the works of man*. In addition, due to legislation or the broadening of knowledge, changes in applicable or appropriate standards may occur. Accordingly, the findings of this report may be invalidated, wholly or partly, by changes beyond our control. Therefore, this report should not be relied upon after three years without being reviewed by this office.

#### 4.00 SITE INVESTIGATION

##### 4.01 Existing Geotechnical Data Review

A variety of published sources were reviewed to evaluate geotechnical data relevant to the subject parcel. These sources included geotechnical literature, reports, and maps published by various public agencies. Maps which were reviewed included topographic, geologic, and preliminary photointerpretive landslide maps prepared by the United States Geological Survey, as well as geologic, landslide and fault maps prepared by the California Geological Survey (formerly the California Division of Mines and Geology). A list of the published sources used in our investigation is presented at the end of this report.

##### 4.02 Aerial Photographs Examination

Five sets of black and white aerial photographs were examined with a stereoscope to assist in our evaluation of the site conditions. The photographs were taken in 1939, 1946, 1957, 1969, and 1983. The photographs have scales ranging from 1:12,000 to 1:23,600. Further details regarding the identification of these photographs are presented at the end of this report.

##### 4.03 Surface Reconnaissance Visits

Surface reconnaissance visits were performed on June 7, and July 19, 2005. These visits were intended to make observations of the surficial conditions present and to note whether any obvious geotechnical concerns were exposed.

##### 4.04 Subsurface Exploration

Our subsurface exploration program was performed on June 17, 2005, to investigate and sample the subsurface materials. Three borings were drilled at the site to depths varying from approximately 11 to 21½ feet at the locations shown on the Site Plan, Figure 2.

*Truck mounted continuous flight auger drilling equipment was employed to advance the borings. Samples of the materials encountered were obtained using a 140-pound hammer and conventional sampling equipment.*

Approximate measurements of unconfined strength of selected soil samples were performed during the drilling operations using a pocket penetrometer testing device.

##### 4.05 Laboratory Testing

Water content, Atterberg Limits, percentage passing the No. 200 sieve, and dry density-tests were performed on appropriate surface and subsurface samples obtained during our field investigation. The water content and Atterberg Limits tests were performed to evaluate the variations in soil moisture and the soil's expansive potential, respectively. The results of the percentage passing the No. 200 sieve tests were used to aid in the classification of the soils. The dry density tests were used to evaluate the weight characteristics of the soil. The results of these tests are presented on the boring logs at the appropriate sample depths.

## 5.00 SITE CONDITIONS

### 5.01 Geotechnical Setting

#### 5.01.1 State and Federal Government Agency Data

The topographic map for this area (the Oakland East Quadrangle) prepared by the United States Geological Survey indicates the site is located at an elevation of approximately 120 feet, in an area of rolling topography.

A widely used geologic map of the area (Radbruch, 1969) indicates the surficial soils at the site are underlain by San Antonio Formation materials (upper member). The text accompanying this map describes this unit as containing a mixture of clay, silt, sand and gravel. Near surface soils developed from this unit are noted to have significant shrink/swell potential with seasonal moisture changes. A more recent geologic map by Helley, and Graymer (1997) indicates the site is underlain by Pleistocene age alluvial fan deposits that consist primarily of dense gravely and clayey sand, clayey gravel, and sandy clay.

A preliminary photointerpretive landslide map of the area (Nilsen, 1975) does not indicate the presence of any landslides extending onto the site, nor immediately adjacent to the site.

The site is approximately 2.3 miles southwest of the nearest active trace of the Hayward fault (California Division of Mines and Geology, 1982). The site is also located about 17 miles northeast and 12 miles southwest of the active San Andreas and Concord faults, respectively (Jennings, 1994). The site is not located within any Alquist-Priolo Earthquake Fault Zone designated by the State of California.

Studies by the United States Geological Survey's Working Group on California Earthquake Probabilities (WGCEP, 2003) have estimated a 62 percent probability of at least one magnitude 6.7 or greater earthquake occurring in the San Francisco Bay Region before the year 2031. As part of their prediction, they estimated the probability to be 27 percent for a magnitude 6.7 or greater earthquake to occur on the Hayward/Rodgers Creek fault by the year 2031.

The California Geological Survey has recently released a map of this area which indicates areas that may be prone to earthquake-induced ground failure during a major earthquake (2003). The map indicates that sufficient concern exists in the designated areas to merit a site-specific evaluation, not necessarily that the hazard is actually present. The subject site is located adjacent to but appears to be just outside of an area that is mapped by CGS as potentially subject to earthquake-induced landsliding.

#### 5.01.2 Aerial Photograph Information

The 1939 aerial photographs show the subject area developed with roads and houses. There appears to be an existing residential structure on the subject lot. No significant changes in the site conditions were noted until the time of the 1969 photographs, which shows the subject lot as vacant. The subject lot remained vacant through the time of the 1983 photographs, which were the most recent photographs reviewed for this study.

### 5.02 Surface

The site is roughly rectangular in shape and has maximum plan dimensions of about 50 feet by 140 feet. The surface grades in the site vicinity slope down to the northwest. The lots in the area have generally been developed to step down with the hillside grades. The majority of the subject lot is relatively level, however there is a low slope (roughly 0 to 6 feet high) adjacent to the street at the front of the property and there is a low

slope and/or low retaining wall (roughly 1 to 3 feet high) along the uphill (east) side of the lot. Along the east side of the site, there are the remnants of an old driveway approach onto the property.

Vegetation at the site consists mostly of wild grass and weeds. In the east-central portion of the site (adjacent to the neighboring residence at 1730-33 East 24<sup>th</sup> Street) we noted an area of wet surface soils and green vegetation. Vegetation on other portions of the site was mostly dry and brown at the time of July 19, 2005 site visit.

### 5.03 Subsurface

The near surface materials encountered in our exploratory borings generally consisted of stiff to very stiff, silty and sandy clays. A thin layer of fill (1 to 1 ½ feet in thickness) was encountered in two of the borings. *Atterberg Limits tests on samples of the near surface clay soils indicated that these materials possess a high plasticity and a high potential for expansive (shrink/swell) behavior.* The near surface soils were underlain by very stiff to hard silty to sandy clays with gravel and dense to very dense clayey and silty sands with gravel.

Detailed descriptions of the materials encountered in the borings are found on the boring logs presented at the end of this report. A Key to Exploratory Boring Logs is presented on Figure 3. The attached logs and related information depict subsurface conditions only at the specific locations shown on the Site Plan and on the particular date designated on the logs. These logs may have been modified from the original logs recorded during drilling as a result of further study of the collected samples, laboratory tests or other efforts. Also, the passage of time may result in changes in the subsurface conditions due to environmental changes. The locations of the borings were approximately determined by pacing, and the ground surface elevations at each boring location were approximately determined by interpolation of topographic map contours. The locations and elevations should be considered accurate only to the degree implied by the method used.

No free groundwater was encountered in the exploratory borings at the time of drilling. In compliance with drilling permit requirements, all three borings were backfilled immediately after drilling. It should be noted that groundwater measurements in the borings may have been made prior to allowing a sufficient period of time for the equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature, and other factors not evident at the time the measurements were made. Due to the sloping nature of the terrain, it is our opinion seepage could occur in excavations and behind retaining walls, particularly after prolonged rains during a relatively heavy rainy season.

## 6.00 EVALUATIONS AND CONCLUSIONS

### 6.01 General Site Suitability

Based on our investigation, it is our opinion the site is suitable for the construction of the proposed condominium building from a geotechnical standpoint. However, all of the conclusions and recommendations presented in this report should be incorporated in the design and construction of the project to minimize possible geotechnical problems.

The primary considerations for geotechnical design at the site are:

- The shrink/swell behavior of the surficial soils;
- Existing fill and potential foundation remnants from previous site development;
- Local area of wet near surface soil; and
- Earthquake hazards.

These conditions are discussed individually below.

#### 6.02 Expansive Surficial Soils

The results of Atterberg Limits tests conducted on samples of the near-surface clayey soils indicate these soils are highly expansive. Expansive soils shrink and swell in response to changes in moisture and have the potential to damage improvements that are supported on them.

Alternative foundation types that are commonly used in the Bay Area to mitigate the potentially damaging effects of expansive soils on structures include: (1) conventional shallow spread footings supported on a layer of non-expansive import material; (2) deepened spread footings supported on natural soils below the zone of significant seasonal moisture change and shrink/swell behavior; (3) stiff mat slab foundations that tend to resist localized heave and cracking and (4) drilled pier and grade beam foundations with drilled piers gaining support in friction below the zone of shrink/swell behavior. The selection of an appropriate mitigation alternative typically depends upon a variety of factors including the degree of expansion potential (low, moderate or high), the thickness of the expansive material, the type and size of structure, foundation loads, slope inclination, and the costs associated with off-hauling onsite soil and importing non-expansive material.

Slab-on-grade construction is anticipated for the lower level of the condominium structure. Based on the Atterberg limits data obtained from our test borings and the considerations outlined above, it is our opinion that the proposed new building can be supported on a foundation system comprised of either deepened spread footings with non-expansive select fill beneath floor slabs, a stiff mat foundation, or on drilled piers with a structural floor slab isolated from the expansive soil forces. Our recommendations for the three alternative foundation systems for the new building are presented in Section 7.02, Building Foundations.

#### 6.03 Existing Fill

The site has a history of previous development. While the only elements of previous site development still apparent at the surface are the remnants of the old driveway approach and some concrete steps at the front of the property, it is possible that there are old segments of foundation and/or other buried debris below the ground surface. In addition, a thin layer of fill (approximately 1 to 1 ½ feet thick) was encountered in two of our borings. While this depth of fill soil is relatively insignificant and is likely to be removed and/or re-worked as a matter of normal site development, the possibility exists that there could be deeper pockets of old fill (possibly related to an old basement excavation) that could be encountered during the construction process. If such conditions are encountered during the construction process, it will be important that our office be notified so that we may evaluate the potential impact of these conditions on the proposed construction and provide supplemental recommendations, as appropriate.



#### 6.04 Wet Near Surface Soils

As previously documented, there is a local area of persistently wet near surface soil in the east-central portion of the lot. This condition is believed to be most likely related to a some type of artificial discharge (such as a leaking water line, excessive irrigation and runoff, etc.) associated with the upslope (eastern) neighboring property. However, if the source of this water cannot be identified and mitigated, it would be prudent to consider installation of a shallow subdrain along the upslope edge of the subject lot in this area in order to minimize the negative impact of this condition on the site improvements. Our recommendations for a shallow upslope drain that could be installed in this area if the moisture source cannot be mitigated are presented in Section 7.07, Upslope Drainage.

#### 6.05 Earthquake Hazards

As noted earlier, the subject site is located in the highly seismic San Francisco Bay Area, and there is a strong probability that a moderate to severe earthquake will occur during the life of the proposed structures. The site is not mapped in the immediate proximity of any known active faults; therefore, the likelihood of fault rupture directly below the proposed buildings is remote.

During strong earthquakes, various forms of ground failure can occur, such as liquefaction and/or seismically induced landsliding. Our evaluation of the ground conditions at the subject site indicates that the subsurface materials consist of relatively stiff clays and dense to very dense sands. In addition, groundwater was not encountered in any of the borings drilled at the site. Based on the subsurface conditions encountered, it is our opinion that the potential for liquefaction to occur at this site is remote. The site is not mapped within or adjacent to any known landslide features, is underlain by relatively competent materials and is located in an area of moderate slope. In our opinion, the potential for earthquake induced landsliding to significantly impact future improvements on this site is relatively low and well within normal risk tolerance levels for residential hillside construction.

The proposed condominium building will very likely experience strong ground shaking during a major earthquake in the life of the structure. The Uniform Building Code has adopted provisions for incorporation of strong ground shaking into the design of all structures. Our recommendations for geotechnical parameters to be used in the structural seismic design of the structure are presented in Section 7.04, Building Code Seismic Design Parameters.

### 7.00 RECOMMENDATIONS

#### 7.01 Site Preparation and Earthwork

##### 7.01.1 Clearing and Site Preparation

The site should be stripped of surface vegetation and this material should be removed from the site. Old buried foundation remnants (if encountered), slabs-on-grade, and underground utility lines should be removed. Any existing organic-laden soils, old fill or debris encountered should be over-excavated to expose firm natural soil. Holes resulting from the removal of underground obstructions extending below the proposed finished grade, should be cleared and backfilled with suitable material compacted to the requirements given in Section 7.01.4, Compaction. Cleared materials should be removed from the site or stockpiled for later use, subject to the approval of the project soil engineer.

### 7.01.2 Subgrade Preparation

The subgrade surface in those areas to receive non-expansive select fill or mat slab construction, should be confirmed by the project soil engineer to be firm and non-yielding before the fill placement or mat slab construction operations begin. Soft or yielding subgrade soils should be excavated to expose firm, non-yielding materials. Areas beneath slabs-on-grade and pavements that are to receive non-expansive, select fill should be over-excavated as necessary to accommodate the recommended select fill layer. The exposed soils in those areas receiving non-expansive, select fill or in mat slab construction areas should be scarified to a depth of 6 inches or the full depth of any existing shrinkage cracks, whichever is deeper. The scarified soils then should be moisture conditioned to 2% to 5% above optimum water content and compacted to the specified relative compaction indicated in "Section 7.01.4. Compaction". In areas to receive select fill or mat slab construction, the moisture conditioned subgrade should be covered as soon as possible to prevent drying of the native subgrade soils.

### 7.01.3 Material for Fill

All onsite soils below the stripped layer having an organic content of less than 3 percent by volume can be used as fill except where non-expansive select fill material is required. All fill placed at the site, including onsite soil, should not contain rocks or lumps larger than 6 inches in greatest dimension with not more than 15% larger than 2.5 inches. Non-expansive select material should meet the requirements for general fill and should be predominantly granular with a plasticity index of 12% or less. All import material should be evaluated by our firm prior to importation to the site.

### 7.01.4 Compaction

All fill should be spread in lifts not exceeding 8 inches in uncompacted thickness and compacted to a minimum relative degree of compaction of 90% based on ASTM Test Designation D1557-02. The upper 6 inches of subgrade below flexible pavement area baserock should be compacted to at least 95% relative compaction based on ASTM D1557-02.

It is possible that exposed subgrade soils may be excessively wet or dry depending on the moisture content at the time of construction. If the subgrade soils are too wet, they may be dried by aeration, mixing with drier materials, or lime/cement treatment. If the subgrade soils are too dry, they may be wetted by the addition of water or by mixing with wetter materials. We should note that lime treatment should not be used on clay soils with a high sulfate content as it causes the clay materials to react adversely and experience heave over time. Consequently, supplemental sampling and testing would be required to evaluate the sulfate content of the onsite soils prior to considering the use of lime treatment as a construction expedient.

## 7.02 Building Foundations

### 7.02.1 Spread Footing Foundations (Foundation Alternative #1)

Footings should be founded on firm undisturbed natural soils, at least 36 inches below lowest adjacent finished grade. Footings should have a minimum width of 14 inches and should be integrally connected so that the entire foundation system moves as a unit (that is no isolated footings should be allowed). In addition, a continuous perimeter footing should be provided that encompasses the exterior of the building, limiting infiltration of surface water into the near surface soil materials beneath the interior floor slabs.

Footings should be reinforced with top and bottom steel in both directions to allow the foundation to span local irregularities that may result from potential differential soil movement. As a minimum, we recommend that the footings be reinforced with sufficient top and bottom steel to span as a simple beam an unsupported distance of at least 12 feet. The building corners should be reinforced to cantilever an unsupported distance of at least 6 feet.

Continuous footings with these minimum dimensions can be designed for allowable bearing pressures of 2,000 pounds per square foot (psf), 3,000 psf, and 4,000 psf for dead loads, dead plus live loads, and total design loads (including wind and seismic forces), respectively. The allowable bearing pressures provided above are net values; therefore, the weight of the footings should be neglected for design purposes.

The footings should bear on firm, undisturbed native material, free of water and loose material. If soft, or *disturbed loose materials are encountered at the bottom of footing excavations, the material should be removed* and the depression backfilled with lean concrete. Footings located adjacent to other footings or utility trenches should have their bearing surfaces situated below an imaginary 1.5 horizontal to 1 vertical plane projected upward from the bottom of the adjacent footing or utility trench.

It is critical that the footing excavations be maintained in a moist condition until concrete is placed. We recommend that the footing excavations be monitored by the project soil engineer for compliance with appropriate moisture control, and to confirm the adequacy of the bearing materials.

Lateral load resistance for the building may be developed in friction between the foundation bottom and the supporting subgrade. A friction coefficient of 0.30 is considered applicable. As an alternative, a passive resistance equal to an equivalent fluid weighing 300 pounds per cubic foot acting against the foundations, may be used starting at a minimum depth of 12 inches below the lowest adjacent finished grade. If the foundations are poured neat against the soil, friction and passive resistance may be used in combination.

#### 7.02.2 Structural Mat Foundation (Foundation Alternative #2)

As an alternative to deepened spread footings with select fill placed beneath the floor slabs, the building can be supported on a new reinforced concrete mat foundation. The bottom of the mat should be at least 12 inches below the adjacent ground surface and the mat should be at least 18 inches in thickness. The mat should be designed assuming an allowable (factored) bearing capacity of 800 pounds per square foot (psf) for dead plus live loads (factor of safety  $\approx 2$ ). This allowable bearing pressure is a net value; therefore, the weight of the mat can be neglected for design purposes. The mat should be integrally connected to all portions of the structure so that *the entire foundation system moves as a unit. The mat should be reinforced with top and bottom steel in both directions to allow the foundation to span local irregularities that may result from potential differential soil movement. As a minimum, we recommend that the mat be reinforced with sufficient top and bottom steel to support an edge cantilever of 8 feet and a random interior clear span of 20 feet. An allowable friction coefficient of 0.30 (factor of safety  $\approx 2$ ) between the bottom of the mat and the subgrade soils can be assumed in order to resist lateral loads.*

In order to minimize vapor transmission, a vapor retardant membrane (10 mil minimum thickness) should be placed beneath the mat. The membrane should be covered with 2 inches of sand to protect it during construction. The sand should be lightly moistened just prior to placing the concrete. In order to reduce *potential infiltration into the sand layer*, the sand should be terminated approximately 12 inches from the perimeter edge of the mat and the mat should be thickened by two inches to compensate for the elimination of

the sand layer. We also recommend that the specifications for the mat require moisture emission tests to be performed on the mat prior to the installation of the flooring. No flooring should be installed until safe moisture emission levels are recorded for the type of flooring to be used.

The mat should be constructed on a firm, scarified, moisture conditioned and re-compacted subgrade as discussed Section 7.01.2, Subgrade Preparation.

### 7.02.3 Drilled Pier Foundation (Foundation Alternative #3)

A third foundation alternative is to support the new building on a foundation consisting of drilled, cast-in-place, straight-shaft piers which are designed to develop their load carrying capacity through friction between the sides of the piers and the surrounding subsurface materials. Friction piers should have a minimum diameter of 16 inches, and there should be a minimum center-to-center spacing of at least three pier diameters between adjacent piers.

The piers may be designed assuming allowable (factored) friction values of 500 pounds per square foot (psf) for dead plus live loads (factor of safety  $\approx 2$ ) and 650 psf for all loads, including wind or seismic (factor of safety  $\approx 1.5$ ). These values can be used starting at a depth of 3 feet. The piers should generally maintain a minimum depth of 12 feet, regardless of the loading conditions. Additional pier depth may be required by the project structural engineer to handle specific loading conditions.

In an expansive soil environment, a void may be created around the sides of the piers as near surface soils dry out and shrink, leaving this portion of the pier unsupported. Therefore, we recommend the piers be designed as free-standing columns, in accordance with the requirements of the 1997 Uniform Building Code, Section 1910, for the upper 3 feet.

Lateral loads on the piers may be resisted by passive pressures acting against the sides of the piers. We recommend an allowable passive pressure equal to an equivalent fluid weighing 350 psf per foot of depth to a maximum value of 3500 psf (factor of safety  $\approx 2$ ). This value can be assumed to be acting against 1.5 times the diameter of the individual pier shafts starting at a depth of 3 feet.

The bottom of pier excavations should be reasonably free of loose cuttings and soil fall-in prior to installing reinforcing steel and placing concrete. Any accumulated water in pier excavations should be removed prior to placing reinforcing steel and concrete, or the concrete should be tremied from the bottom of the hole. Care should be taken during concrete placement to avoid "mushrooming" at the top of the pier because distress in the building may result from expansive soil uplift forces on the "mushroom caps." It is our recommendation the contractor be made aware of the subsurface conditions outlined in this report and he obtain construction equipment appropriately sized to perform the recommended work.

The piers should be tied together in at least one direction with a grade beam (no isolated piers should be allowed). The grade beam around the perimeter of the building should be embedded at least 12 inches below the interior slab subgrade level in order to minimize the potential for surface drainage to seep below the grade beam. In order to minimize the possible detrimental effects of the expansive soils we recommend that either a 2-inch minimum void be created at the bottom of all grade beams (utilizing a commercially available cardboard void form-such as Surevoid), or that the grade beams be designed to resist an ultimate (non-factored) uplift pressure of 2500 psf. If a void is used, our firm should review and approve the method of forming the void prior to construction of the grade beams. We should note that if styrofoam is used to form the void beneath the

grade beams, it must be removed upon completion of the concrete placement. If the grade beams are to retain soil, they should be designed to resist the appropriate lateral earth pressures provided in Section 7.05, Retaining Walls.

The floor system should be structurally supported and derive all of its support from the pier and grade beam foundations. With a concrete slab ground floor level, this can be accomplished through the use of a structural slab that is supported by the pier and grade beam foundation system. In order to minimize the potential for expansive soil uplift forces to act on the bottom of the structural slab, the slab should be constructed with a minimum 2-inch void space between the bottom of the slab and the top of the subgrade soil. This can be accomplished utilizing a commercially available cardboard void form, such as Surevoid.

In order to minimize vapor transmission, a vapor retardant membrane (10 mil minimum thickness) should be placed over the slab subgrade. The membrane should be covered with 2 inches of sand to protect it during construction.

We also recommend that the specifications for the mat require moisture emission tests to be performed on the mat prior to the installation of the flooring. No flooring should be installed until safe moisture emission levels are recorded for the type of flooring to be used.

### 7.03 Slabs-on-Grade

#### 7.03.1 Interior Slab Floors

Due to the expansive nature of the surface soils, we recommend that interior floor slabs associated with the deepened footing alternative (including garage slabs) be supported on a minimum of 24 inches of compacted, non-expansive select fill. For purposes of this report, select fill is defined as a non-expansive material with a Plasticity Index of 12% or less. As discussed in Section 7.01.2, Subgrade Preparation, the select fill should be placed on the scarified, moisture prepared and re-compacted subgrade as a continuous operation in order to minimize the loss of moisture from the compacted subgrade.

Slab reinforcing should be provided in accordance with the anticipated use and loading of the slab. It has been our experience that the installation of wire mesh for slab reinforcement has often not been performed properly during construction of the slab. As a result, we recommend that steel bar reinforcement be used to reinforce any proposed slabs.

In interior slab areas where floor wetness would be undesirable, 4 inches of free draining gravel should be placed beneath the floor slab to serve as a capillary barrier between the subgrade soil and the slab. In order to minimize vapor transmission, an impermeable membrane (10 mil minimum thickness) should be placed over the gravel. The membrane should be covered with 2 inches of sand to protect it during construction. The sand should be lightly moistened just prior to placing the concrete. The sand, membrane and gravel may be used in lieu of the upper 6 inches of the required, non-expansive import fill. We also recommend that the specifications for slab-on-grade floors require that moisture emission tests be performed on the slab prior to the installation of the flooring. No flooring should be installed until safe moisture emission levels are recorded for the type of flooring to be used.

#### 7.03.2 Exterior Flatwork

Due to the expansive nature of the surface soils, we recommend that exterior flatwork be supported on a minimum of 12 inches of compacted, non-expansive select fill. For purposes of this report, select fill is defined

as a non-expansive material with a Plasticity Index of 12% or less. As discussed in Section 7.01.2, Subgrade Preparation, the select fill should be placed on the scarified, moisture prepared and re-compacted subgrade as a continuous operation in order to minimize the loss of moisture from the compacted subgrade.

Prior to final construction of the slab, the subgrade surface should be proof-rolled to provide a smooth, firm surface for slab support. Slab reinforcing should be provided in accordance with the anticipated use and loading of the slab. However, it has been our experience that the installation of wire mesh for slab reinforcement has often not been performed properly during construction of the slab. As a result, we recommend that steel bar reinforcement be used to reinforce any proposed slabs. Minor movement of the concrete slab should be expected. The recommendations presented above, if properly implemented, should help minimize the magnitude of the cracking. A gap should be created between the building foundations and any slabs located adjacent to the buildings.

#### 7.04 Building Code Seismic Design Parameters

Based on our review of the site geology and the 1997 Uniform Building Code (UBC), we recommend an  $S_D$  soil profile be used for seismic design of the building. The nearest active fault is the Hayward fault, located about 2.3 miles (3.7 kilometers) to the northeast. It is a Type A fault as identified in Table 16-U of the 1997 UBC. The site is located within Seismic Zone 4 as determined from Figure 16-2 of the 1997 UBC. We recommend near-source factors of  $N_A = 1.35$  and  $N_v = 1.80$ .

#### 7.05 Retaining Walls

Retaining walls should be designed to resist both ultimate (non-factored) lateral earth pressures and any additional lateral loads caused by surcharge loads on the adjoining ground surface. We recommend walls be designed to resist the equivalent fluid pressures indicated in the table below. The appropriate design values should be chosen based on the condition of the wall (restrained or unrestrained) and the angle of the slope behind the wall. Unrestrained wall pressures should only be considered applicable where it would be structurally and architecturally acceptable for the wall to laterally deflect 2 percent of the wall height. Retaining walls that are part of the building foundation system should be designed for the restrained condition.

Condition	Cut Slopes		Fill Slopes	
	4:1 <sup>1</sup> or flatter	2:1	4:1 or flatter	2:1
Unrestrained	40 pcf <sup>2</sup>	65 pcf	50 pcf	70 pcf
Restrained	60 pcf	90 pcf	70 pcf	90 pcf

<sup>1</sup> Inclination behind wall, horizontal to vertical.

<sup>2</sup> "pcf" signifies "pounds per cubic foot" equivalent fluid pressure.

- A linear interpolation should be used to determine design values for retaining walls where the slope behind the wall is between 4:1 and 2:1. Slopes steeper than 2:1 are not anticipated at the site.
- For surcharge loads, increase the ultimate (non-factored) design pressures behind the wall by an additional uniform pressure equivalent to one-half (for restrained condition) or one-third (for unrestrained condition) of the maximum anticipated surcharge load applied to the surface behind the wall.

The above pressures assume that sufficient drainage will be provided behind the walls to prevent the build-up of hydrostatic pressures from surface and subsurface water infiltration. Adequate drainage may be provided by a subdrain system (see Typical Retaining Wall Subdrain Detail, Figure 4) consisting of a 4-inch, rigid, perforated pipe, bedded in ¾-inch, clean, open-graded rock. As shown on Figure 4, the recommended location of the subdrain pipe is behind the heel of the footing. Although we have observed the subdrain pipe is often placed on top of the heel of the footing, it has been our experience that this may lead to moisture seeping through the wall resulting in dampness and staining on the opposite wall face despite the application of waterproofing. However, if such seepage or dampness is acceptable (in front of landscape walls, for example), then the subdrain pipe may be placed on top of the heel of the footing. To prevent ponding of water on top of the heel of the footing, we recommend that the top of the heel be sloped to drain away from the wall with a minimum positive gradient of 5 percent. The perforated drainpipe should be sloped to drain with a minimum positive gradient of 2 percent. The entire rock/pipe unit should be wrapped in an approved, non-woven, polyester geotextile such as Mirafi 140N or 140NL, or a 4-ounce equivalent. The rock and fabric placed behind the wall should be at least one foot in width and should extend to within one foot of finished grade. The upper one foot of backfill (6 inches for walls less than 5 feet in height) should consist of on-site, compacted, relatively impervious soils (an impermeable plug). We should note flexible, perforated pipe (flexline), 2000-Pound Crush, Leachfield, and ASTM F810 pipe are not acceptable for use in the subdrain because of the likelihood of damage to the pipe during installation and the difficulty of future cleaning with mechanical equipment without damaging the pipe. We recommend the use of Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the drain system. The subdrain pipe should be connected to a system of closed pipes (non-perforated) that lead to suitable discharge facilities. At the location where the perforated subdrain pipe connects with the solid discharge drainpipe, drainrock backfill should be discontinued. A "clay plug" should be constructed out of relatively impervious soils to direct collected water into the perforated pipe and minimize the potential for water collecting around the solid drainpipe and saturating the adjacent soils. We recommend waterproofing be applied to any proposed retaining walls where applicable. The specification of the type of waterproofing and the observation of its installation should be performed by the architect and/or structural engineer.

In addition to the drainage details noted above, the "high" end and all 90-degree bends of the subdrain pipe should be connected to a riser which extends to the surface and acts as a cleanout. The number of cleanouts can be reduced by installing "sweep" 90-degree bends or pairs of 45-degree bends in succession instead of using "tight" 90-degree bends. "Sweep" 90-degree bends are similar to those used in sanitary sewer pipe connections.

Lined surface ditches with a minimum width of 12 inches should be provided behind any walls that will have an exposed sloping surface steeper than 4:1 behind them. These ditches, which will collect runoff water from the slopes, should be sloped to drain (minimum 2 percent positive gradient) to suitable discharge facilities. If the lined surface ditches consist of reinforced concrete, expansion joints should be provided every 10 feet. The top of the walls should extend at least one foot above the ditch (6 inches for walls less than 5 feet in height). All structural backfill placed behind retaining walls should be compacted in accordance with the requirements provided in "Section 7.01, Site Preparation and Earthwork." Special care (such as the use of lightweight equipment) should be taken during wall backfill compaction operations to minimize overstressing of the wall.

Retaining walls should be supported on foundations designed in accordance with Section 7.02, Building Foundations.

#### 7.06 Surface Drainage

We recommend the rainwater collected on the roof of the building be transmitted through gutters and downspouts to closed pipes that discharge through the curb to the street curb at the front of the property. The ground surface within 5 feet adjacent to the structures should slope away from the buildings at least 5%. Planter areas located immediately next to the buildings should be avoided. If they are necessary, each planter should contain an area drain to allow the collection of water. The use of Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the drain system, is recommended.

Some nominal maintenance of the drainage facilities should be expected after the initial construction has been completed. To assist in maintaining proper drainage and erosion control measures for the site, we have included a "Guide to the Maintenance of Hillside Home Sites," Appendix A.

Should ownership of this property change hands, the new owner should be informed of the existence of this report, not adversely change the grading or drainage facilities, and understand the importance of maintaining proper surface drainage.

#### 7.07 Upslope Drainage

If the source of moisture resulting in persistently wet soils in the east-central portion of the lot is not identified and mitigated, a shallow upslope subdrain should be installed in this area along the east side of the lot in order to intercept near surface seepage and minimize the impact of this water on the site improvements. The subdrain trench should extend to approximately 4 feet below the surface grade. The subdrain system should consist of a 4-inch rigid perforated pipe bedded in ¾-inch clean, open-graded rock. The entire rock/pipe unit should be wrapped in an approved non-woven, polyester geotextile. The rock and fabric should be at least one foot in width and should extend to within one foot of the finished grade. The upper one foot of backfill should consist of on-site, compacted, impervious soils. The perforated subdrain pipe should be connected to a closed (non-perforated) drainpipe that discharges onto to the street curb at the front of the lot.

We recommend Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the subdrain system. In addition, the "high" end and all 90-degree bends of the subdrain pipe should be connected to a riser which extends to the surface and acts as a cleanout. The number of cleanouts can be reduced by installing "sweep" 90-degree bends or pairs of 45-degree bends in succession instead of using "tight" 90-degree bends. "Sweep" 90-degree bends are similar to those used in sanitary sewer pipe connections.

#### 7.08 Plan Review

We recommend our firm be provided the opportunity for a general review of the geotechnical aspects of the final plans and specifications for this project in order that the geotechnical recommendations may be properly interpreted and implemented. Specific items which we recommend our firm review and which the plans should contain include, but are not limited to, the following:

- *General:* a citation of this geotechnical investigation report (in the general notes);
- *Building foundations:* footing dimensions and depths, mat dimensions and depth of embedment, pier dimensions and depth, grade beam void, drainrock depths, vapor barrier and sand, as applicable;



- Slabs: import fill depth, recompaction of subgrade, slab void, as applicable; and
- Drainage: gradient away from structure, downspout collector pipes, surface or subdrain collector system, discharge location.

If our firm is not accorded the privilege of making the recommended review, we can assume no responsibility for misinterpretation of our recommendations.

#### 7.09 Construction Observation

The analyses and recommendations submitted in this report are based in part upon the data obtained from the three soil borings. The nature and extent of variations across the site may not become evident until construction. If variations then become apparent, it will be necessary to re-examine the recommendations of this report.

We recommend our firm be retained to provide geotechnical engineering services during the earthwork, foundation construction, and drainage phases of the work. This is to observe compliance with the design concepts, specifications, and recommendations and to allow design changes in the event that subsurface conditions differ from those anticipated prior to the start of construction. Specifically, we recommend that a representative of our firm observe the following aspects of the construction:

- Earthwork: site clearing and debris removal, excavations, subgrade preparation for slabs or filling, compaction operations, as applicable;
- Foundations: footing trench excavations, excavations for mat foundations, pier drilling, as appropriate; and
- Drainage: downspouts, area drains, surface ditches, positive surface gradients adjacent to the structures, discharge location.

It should be noted that earthwork and foundation observations by our firm, as the project geotechnical engineer of record, are required by most cities and counties. Drainage observations by our firm are not typically required, but in our experience, we have often discovered adverse drainage installations that otherwise would have created problems following construction, and this is why we recommend our services be utilized. Nonetheless, it is usually the owner's prerogative whether they wish to engage our services or simply rely on the quality of their contractor's work regarding drainage improvements.

In order to effectively accomplish our observations during the project construction, we recommend that a pre-construction meeting be held to develop a mechanism for proper communications throughout the project. We also request that the client or the client's representative (the contractor) contact our firm at least two working days prior to the commencement of any of the items listed above. If our representative makes a site visit in response to a request from the client or the client's representative and it turns out that the visit was not necessary, our charges for the visit will still be forwarded to the client.

#### 7.10 Wet Weather Construction

Although it is possible for construction to proceed during or immediately following the wet winter months, a number of geotechnical problems may occur which may increase costs and cause project delays. The water content of on-site soils may increase during the winter and rise significantly above optimum moisture content for compaction of subgrade or backfill materials. If this occurs, the contractor may be unable to achieve the recommended levels of compaction without using special measures and would likely have to:

- Wait until the materials are dry enough to become workable;
- Dispose of the wet soils and import dry soils; and
- Use lime or cement on the native materials to absorb water and achieve workability.

If utility trenches, footing excavations, or pier holes are open during winter rains, then caving of the trenches, piers or footing excavations may occur. Also, if the footing trenches or pier holes fill with water during construction, or if saturated materials are encountered at the anticipated bottom of the excavations, the footings or piers may need to be extended to greater depths to reach adequate support capacity than would be necessary if dry weather construction took place.

We should also note that it has been our experience that increased clean-up costs will occur, and greater safety hazards will exist, if the work proceeds during the wet winter months. Furthermore, engineering costs to observe construction are increased because of project delays, modifications, and rework.

#### 7.11 Contingencies

As with any type of construction, project delays could result from unfavorable environmental conditions or unanticipated site conditions. As discussed in Section 7.10, Wet Weather Construction, poor weather, particularly heavy rains, could saturate site soils such that the recommended levels of soil compaction could not be attained without the use of special construction measures. Heavy rains could also cause caving of existing excavations, pier holes, or trenches that may require the contractor to perform clean-up and additional excavation work to meet project specifications. The presence of unanticipated old fill or buried debris could also require the contractor to perform additional work to remove these materials or extend proposed foundations to deeper depths. Project delays resulting from unfavorable or unanticipated conditions cannot be predicted but should be incorporated into the overall planning of the project as a contingency in both the project schedule and budget.

Delays may also result from poor project management and/or poor contractor performance. Typical problems that may occur during construction include scheduling conflicts, failure to schedule our representative's site visits efficiently, poor contractor performance, or failed tests. Good project communication between our firm's representative(s) and you and/or your representative should help to reduce the occurrence of these problems.

However, despite thorough planning and effective communication, delays on some projects are unavoidable and will often result in additional engineering and construction costs. Based on our experience with similar projects, a contingency fund of about 10 to 15 percent of the total project cost should be included in the final project budget to cover these additional expenses.

7.12 Future Performance

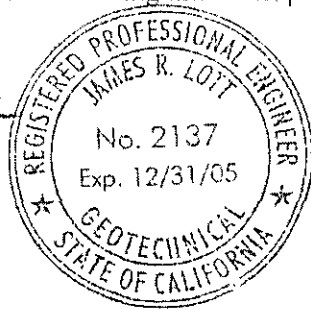
All owners or occupants of homes on hillsides should realize that landslide movements are always a possibility, although generally the likelihood is very low that such an event will occur. The probability that landsliding will occur is substantially reduced by the proper maintenance of drainage measures at the site (see detailed discussion in Appendix A). Therefore, the homeowners should recognize their responsibility for performing such maintenance. Consequently, we recommend that a copy of our report be provided to any future homeowners of the property if the home is sold, so they will also be aware of their maintenance responsibilities.

If you have any questions concerning this letter, please call us.

Very truly yours,



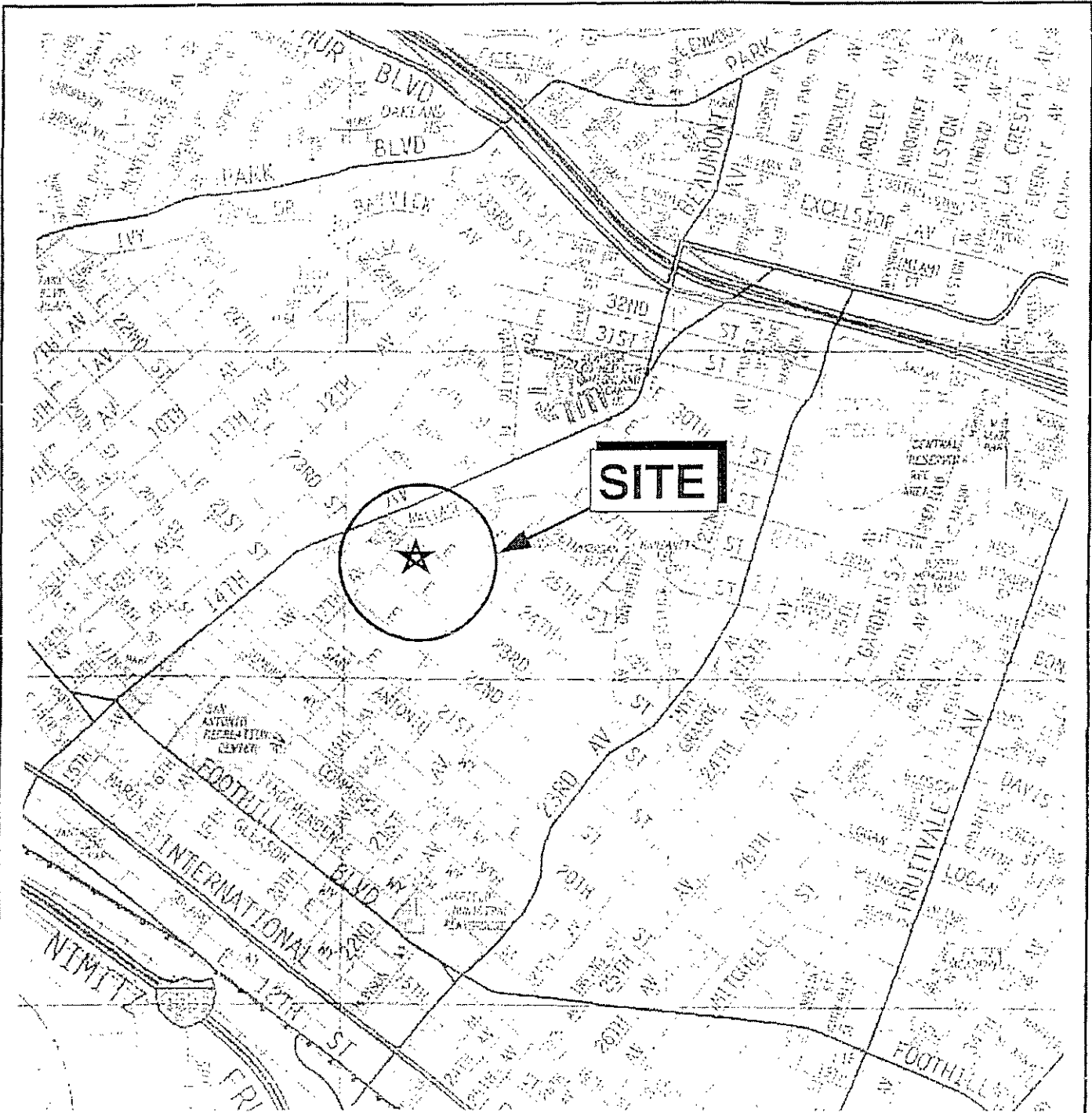
James R. Lott, G.E.  
Associate Engineer



JRL/mm

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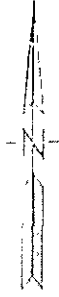
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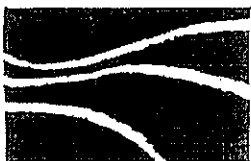


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


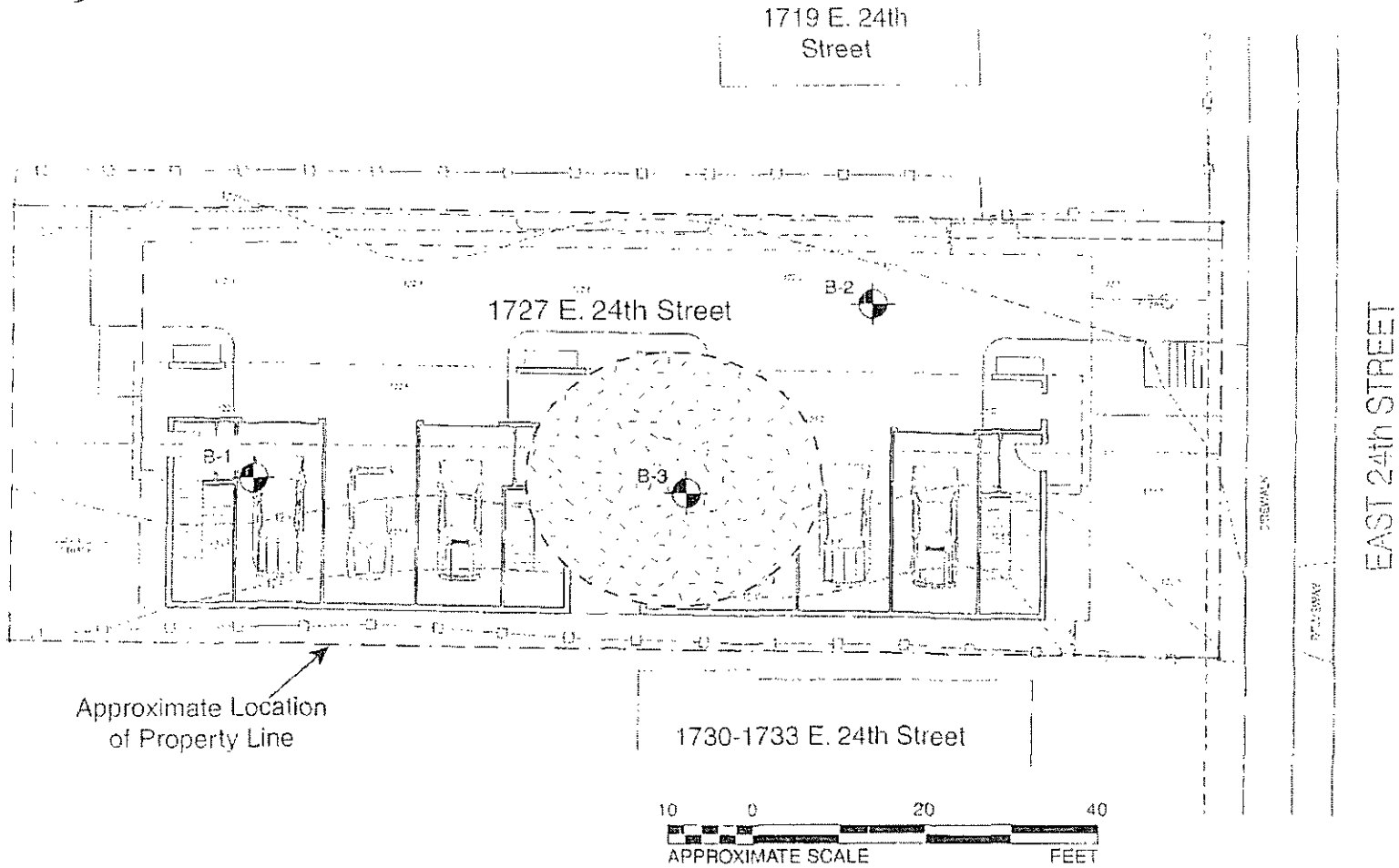
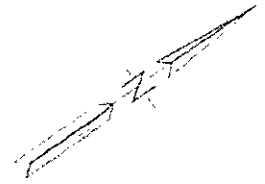
Source: 1996 Thomas Brothers Maps



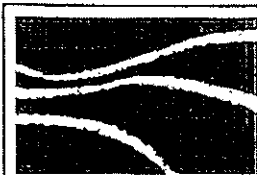
 <p><b>ALAN KROPP &amp; ASSOCIATES</b> <i>Geotechnical Consultants</i></p>	<p><b>VICINITY MAP</b> 1727 E. 24TH CONDOS Oakland, California</p>		
	PROJECT NO.	DATE	FIGURE 1
	2422-1	August 2005	

# LEGEND

- B-1  Approximate location of exploratory boring
-  Approximate area of persistent wet surface soil



BASE: Site Plan drawn by Hochhauser Blatter, Architecture and Planning, unfiled and undated.



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*Geotechnical  
Consultants*

## SITE PLAN

1727 E. 24TH STREET  
Oakland, California

PROJECT NO.  
2422-1

DATE  
August 2005

FIGURE 2

## SOIL CLASSIFICATION CHART







PRIMARY DIVISIONS			SECONDARY DIVISIONS		
			CRITERIA *	GROUP SYMBOL	GROUP NAME
COARSE-GRAINED SOILS <small>MORE THAN 50% OF FINES THROUGH NO. 20 SIEVE</small>	GRAVELS <small>MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE</small>	CLEAN GRAVELS <small>LESS THAN 5% FINES</small>	$C_u \geq 4$ AND $1 \leq C_c \leq 3$ <sup>4</sup>	GW	Well-graded gravel
			$C_u < 4$ AND/OR $1 > C_c > 3$	GP	Poorly-graded gravel
		GRAVELS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	GM	Silty gravel
			FINES CLASSIFY AS CL OR CH	GC	Clayey gravel
	SANDS <small>50% OR MORE OF COARSE FRACTION PASSES NO. 4 SIEVE</small>	CLEAN SANDS <small>LESS THAN 5% FINES</small>	$C_u \geq 6$ AND $1 \leq C_c \leq 3$	SW	Well-graded sand
			$C_u < 6$ AND/OR $1 > C_c > 3$	SP	Poorly-graded sand
SANDS WITH FINES - MORE THAN 12% FINES		FINES CLASSIFY AS ML OR MH	SM	Silty sand	
		FINES CLASSIFY AS CL OR CH	SC	Clayey sand	
FINE-GRAINED SOILS <small>60% OR MORE PASSES THE NO. 200 SIEVE</small>	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50%	INORGANIC	$P_i > 7$ AND PLOTS ON OR ABOVE "A" LINE	CL	Lean clay
			$P_i < 4$ OR PLOTS BELOW "A" LINE	ML	Silt
		ORGANIC	LIQUID LIMIT - OVERDRIED LIQUID LIMIT - NOT DRIED $< 0.75$	OL	Organic Clay & Organic Silt
			$P_i$ PLOTS ON OR ABOVE "A" LINE	CH	Fat clay
	SILTS AND CLAYS LIQUID LIMIT 50% OR MORE	INORGANIC	$P_i$ PLOTS BELOW "A" LINE	MH	Estic silt
			LIQUID LIMIT - OVERDRIED LIQUID LIMIT - NOT DRIED $< 0.75$	OH	Organic Clay & Organic Silt
		ORGANIC			
			PRIMARY ORGANIC MATTER, DARK IN COLOR AND ORGANIC ODORS	PT	Peat

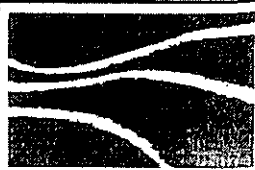
REFERENCE: Unified Soil Classification System (ASTM D 2487-00)

\* Criteria may be done on visual basis, not necessarily based on lab testing

$$A - C_u = D_{60}/D_{10} \quad \& \quad C_c = (D_{30})^2 / (D_{10} \times D_{60})$$

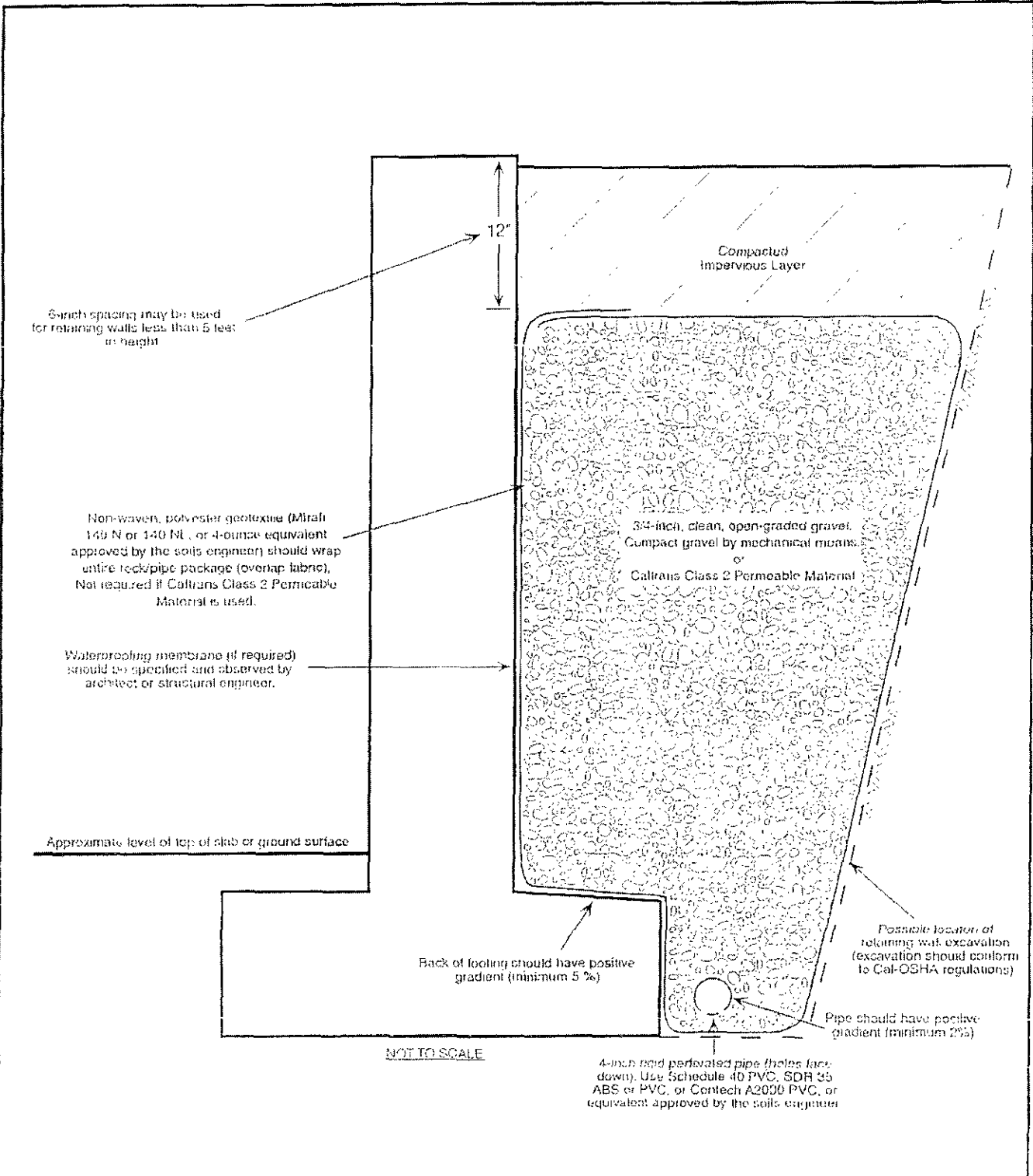
GRAIN SIZES								
U. S. STANDARD SERIES SIEVE				CLEAR SQUARE SIEVE OPENINGS				
200	40	10	4	3/4"	3"	12"		
SILTS AND CLAYS		SAND			GRAVEL		COBBLES	BOULDERS
		FINE	MEDIUM	COARSE	FINE	COARSE		

ABBREVIATIONS	SYMBOLS
<p><u>INDEX TESTS</u></p> <p>LL - Liquid Limit (%) (ASTM D 4318-00)</p> <p>PI - Plasticity Index (%) (ASTM D 4318-00)</p> <p>-200 - Passing No. 200 Sieve (%) (ASTM D 1140-00)</p> <p><u>STRENGTH TESTS</u></p> <p>PP - Field Pocket Penetrometer test of unconfined compressive strength (kips/sq.ft.)</p> <p>TV - Field Torvane test of shear strength (kips/sq.ft.)</p> <p>UC - Laboratory unconfined compressive strength (kips/sq.ft.) (ASTM D 2166-00)</p> <p>TXUU - Laboratory unconsolidated, undrained triaxial test of undrained shear strength (kips/sq.ft.) (ASTM D 2850-03a)</p> <p><u>MISCELLANEOUS</u></p> <p>ATOD - At time of drilling</p> <p>ksf - kips per square foot</p> <p>psi - pounds per square inch (indicates relative force required to advance Shelby tube sampler)</p>	 Standard Penetration Test Split Spoon (2-inch O.D.)  Modified California Sampler (3-inch O.D.)  Thin-walled Sampler Tube (3-inch O.D.)  Rock Core  Bag Sample  Groundwater Level



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KEY TO EXPLORATORY BORING LOGS		
1727 E. 24TH STREET CONDOS Oakland, California		
PROJECT NO.	DATE	FIGURE 3
2422-1	August 2005	



6-inch spacing may be used for retaining walls less than 5 feet in height

Non-woven, polyester geotextile (Mirafi 149 N or 140 NL, or 4-ounce equivalent approved by the soils engineer) should wrap entire rock/pipe package (overlap fabric). Not required if Caltrans Class 2 Permeable Material is used.

Waterproofing membrane (if required) should be specified and observed by architect or structural engineer.

Approximate level of top of slab or ground surface

Back of footing should have positive gradient (minimum 5%)

Possible location of retaining wall excavation (excavation should conform to Cal-OSHA regulations)

Pipe should have positive gradient (minimum 2%)

NOT TO SCALE

4-inch rigid perforated pipe (holes face down). Use Schedule 40 PVC, SDR 35 ABS or PVC, or CorTech A2000 PVC, or equivalent approved by the soils engineer

- Notes:
1. Not a structural drawing
  2. All dimensions should be considered minimums
  3. See text for further discussion of detail



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<b>TYPICAL RETAINING WALL SUBDRAIN DETAIL</b>		
1727 E. 24TH STREET CONDOS Oakland, California		
PROJECT NO.	DATE	FIGURE 4
2422-1	August 2005	

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 123 feet		LOGGED BY: VS					
DEPTH TO GROUNDWATER: see notes		BORING DIAMETER: 3-1/2 inches		DATE DRILLED: 6-17-05					
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLDG. / FT.	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
CLAY, silty, sandy, with some subrounded-to-rounded gravel; dry (FILL ↓)	Dark Brown	Stiff	CL	1					
CLAY, silty, with some rounded-to-subrounded-to-subangular gravel; dry to moist	Mottled Yellowish Brown to Strong Brown	Stiff	CL	2		[50]	20	106	PP = 1.25 ksf
CLAY, very silty, with abundant sand (fine, subrounded-grained) with small rounded iron-oxide staining; dry to moist	Mottled Yellowish Brown to Strong Brown	Very Stiff	CL	4		[64]	16	111	PP = 4.5 ksf
-decreased sand and increased subangular-to-subrounded gravel; dry	Dark Grayish Brown			5		[54]			
SAND (very coarse, subrounded-grained), very clayey, with abundant angular to rounded coarse gravel; moist	Yellowish Brown	Dense to Very Dense	SC	10					
				11		(50 / 6")	10		PP = 2.5 ksf
-increased sand (medium-to-coarse-grained), decreased clay and gravel	Dark Grayish Brown		SM	16		57			



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EXPLORATORY BORING LOG			
1727 E. 24th STREET CONDOS Oakland, California			
PROJECT NO.	DATE	SHEET	BORING NO.
2422-1	August 2005	1 of 2	1



DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 123 feet			LOGGED BY: VS				
DEPTH TO GROUNDWATER: see notes		BORING DIAMETER: 3 1/2 inches			DATE DRILLED: 6-17-05				
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	Depth (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND (fine grained), very silty, sandy, with fine grained gravel; dry	Strong Brown	Dense	SM	21		50			

Bottom of boring at 21 feet and 6 inches

NOTES

- No groundwater was encountered at the time of drilling and the boring was grouted following drilling.
- Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
- Penetration resistance values (blow counts) enclosed in brackets ( [ ] ) were recorded with a 3.0-inch O.D. Modified California sampler; these are not standard penetration resistance values.
- Elevations were determined from a site survey by David Logan, Land Surveyor, dated February 7, 2005.
- Approximate unconfined compressive strength values were recorded in the field using a pocket penetrometer. These values are shown on the logs and are preceded by the symbol "PP".



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**EXPLORATORY BORING LOG**

1727 E. 24 STREET CONDOS  
Oakland, California

PROJECT NO.	DATE	SHEET	BORING NO.
2422-1	August 2005	2 of 2	1

DRILL RIG: <i>Continuous Solid Flight Auger</i>		SURFACE ELEVATION: ± 123 feet		LOGGED BY: VS					
DEPTH TO GROUNDWATER. see notes		BORING DIAMETER: 3-1/2 inches		DATE DRILLED: 6-17-05					
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWB/FT	MOISTURE CONTENT (%)	WET DENSITY (pcf)	OTHER TESTS
CLAY, silty, sandy, with some sand (rounded-to-subrounded-grained), with medium to thick roots; moist	Brown	Stiff	CH	1	[16]	18			LL = 66 PI = 43 -200 = 74%
				2					
				3					
SAND (very coarse-subrounded-to-subangular-grained), silty, clayey, with abundant angular to subrounded gravel, with abundant iron-staining between sand grains; moist to wet	Yellowish Brown	Medium Dense	SC	4	[43]				
				5					
		Very Dense		6					
				7	[50 6"]				
				8					
				9					
- decreased iron-staining				10	[57]				
				11					
				12					
CLAY, silty	Strong Brown	Very Stiff	CL	13					
				14					
SAND (medium-to-fine-grained) silty; wet	Strong Brown	Very Dense	SM/SC	15					
				16		40			
- increased clay matrix, moist	Light Yellow Brown to Strong Brown	Dense		17					
				18					
				19					
				20					



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**EXPLORATORY BORING LOG**  
 1727 E. 24th STREET CONDOS  
 Oakland, California

PROJECT NO.	DATE	SHEET	BORING NO
2422-1	August 2005	1 of 2	2

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 123 feet				LOGGED BY: VS			
DEPTH TO GROUNDWATER: not encountered		BORING DIAMETER: 3 1/2 inches				DATE DRILLED: 6-17-05			
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOW COUNT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND (medium-to-fine-grained) silty, clayey; moist	Strong Brown	Dense	SM/SC	21		36			

Bottom of boring at 21 feet and 6 inches

NOTES

- No groundwater was encountered at the time of drilling and the boring was grouted following drilling.
- Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
- Penetration resistance values (blow counts) enclosed in brackets ([ ]) were recorded with a 3.0-inch O.D. Modified California sampler; these are not standard penetration resistance values.
- Elevations were determined from a site survey by David Logan, Land Surveyor, dated February 7, 2005.
- Approximate unconfined compressive strength values were recorded in the field using a pocket penetrometer. These values are shown on the logs and are preceded by the symbol "PP".



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**EXPLORATORY BORING LOG**

1727 E. 24 STREET CONDOS  
 Oakland, California

PROJECT NO.	DATE	SHEET	BORING NO.
2422-1	August 2005	2 of 2	2

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 123 feet		LOGGED BY: VS					
DEPTH TO GROUNDWATER see notes		BORING DIAMETER: 3-1/2 inches		DATE DRILLED: 6-17-05					
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SILT, sandy, clayey, with wood chips; wet (FILL)	Black	Loose	CL	1					
CLAY, silty, with little gravel; moist	Yellowish Brown	Stiff to Very Stiff	CL	2		[8]			LL = 46 PI = 32 -200 = 79 PP = 1.75 ksf
		Very Stiff to Hard		3		[46]	20	107	
				4					
				5		[89]	19	105	LL = 48 PI = 32 -200 = 79 PP = 4.5 ksf
				6					
				7					
				8					
				9					
				10		[56]			

Bottom of boring at 11 feet

NOTES

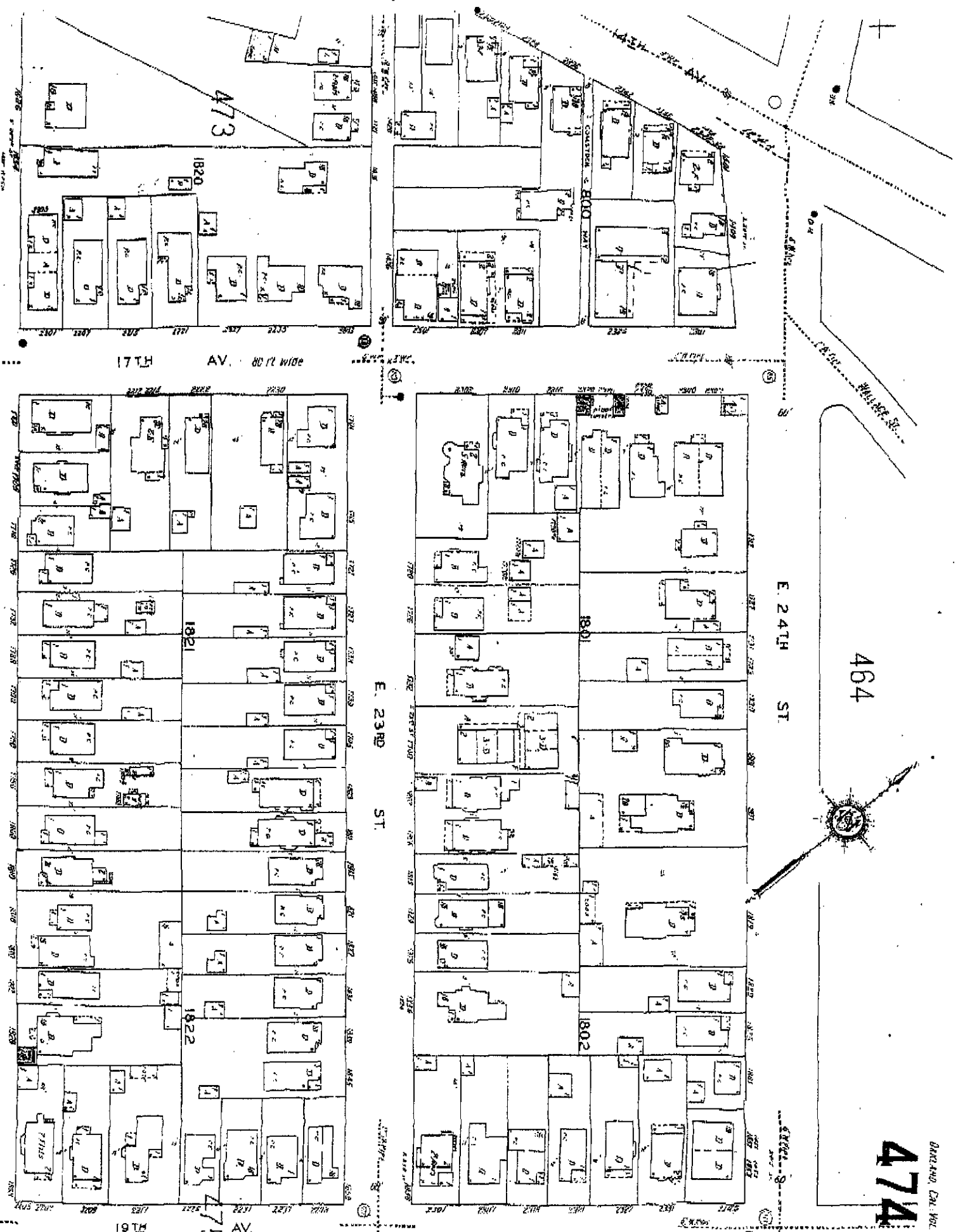
- No groundwater was encountered at the time of drilling and the boring was grouted following drilling.
- Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
- Penetration resistance values (blow counts) enclosed in brackets ([ ]) were recorded with a 3.0-inch O.D. Modified California sampler; these are not standard penetration resistance values.
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**EXPLORATORY BORING LOG**  
1727 E. 24th STREET CONDOS  
Oakland, California

PROJECT NO.	DATE	SHEET	BORING NO.
2422-1	August 2005	1 of 1	3



473

1820

17TH AV. 80 FT WIDE

CONCRETE & BLDG. MATS.

E. 24TH ST.

464

E. 23RD ST.

1801

1802

1821

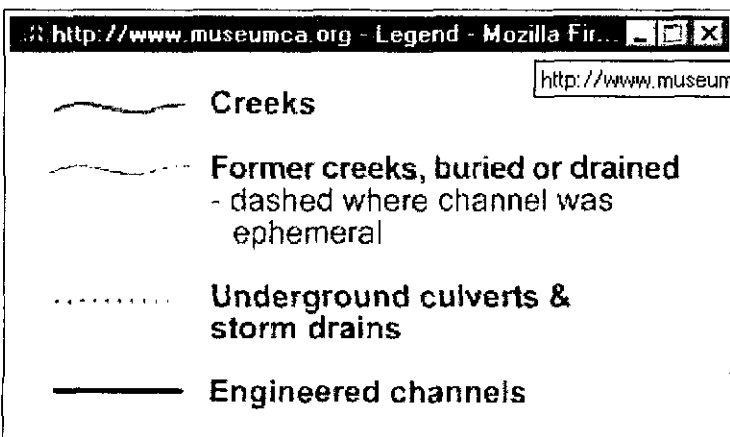
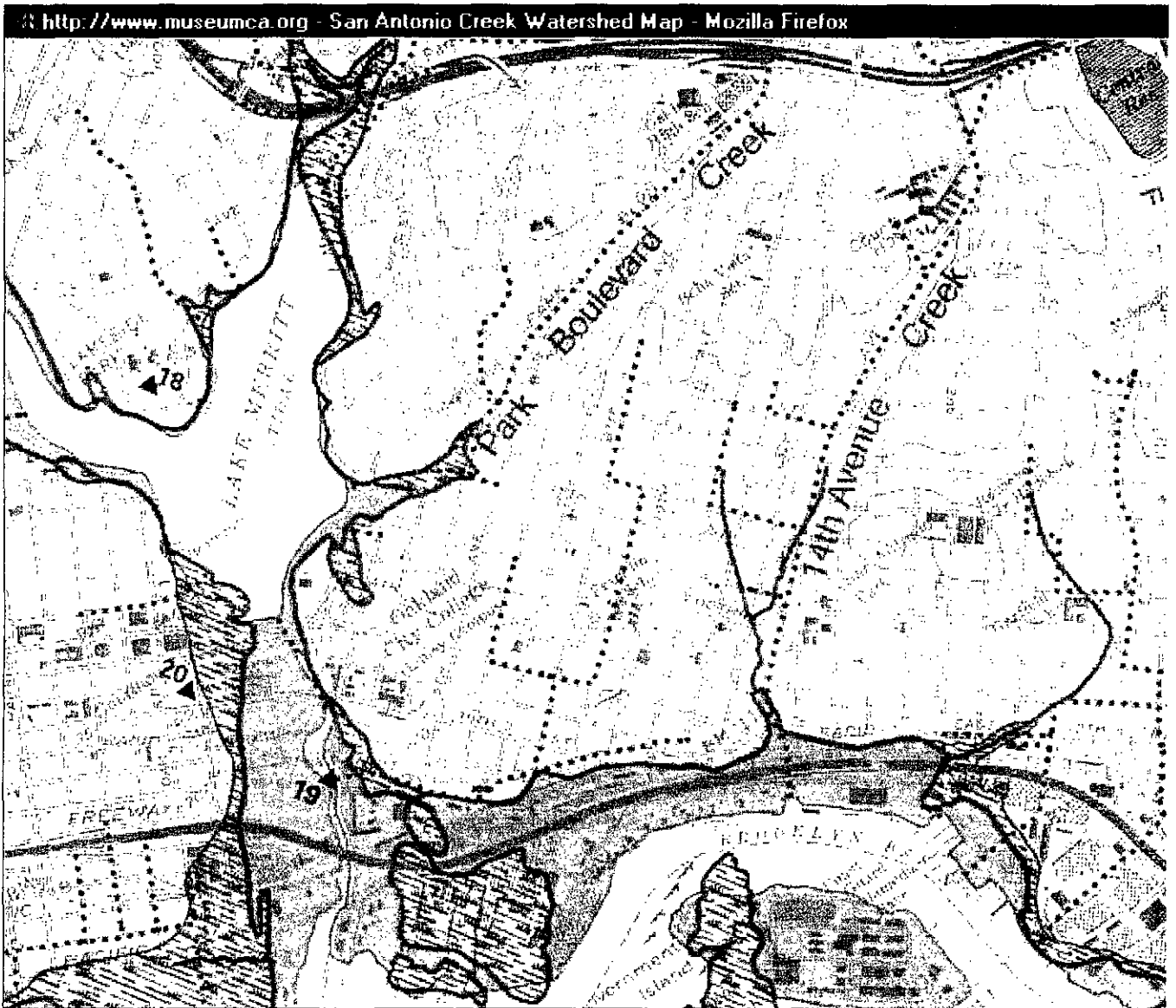
1822

474

DARTMOUTH COL. VOL.

1816 AV.

### Map showing creeks and underground culverts



Summary statement opposing the project at 1727 East 24<sup>th</sup> street

My name is Robert Klinger & I have been an Oakland homeowner in the San Antonio area since 2000.

I am an elected representative to the Redevelopment Board, and I want you to know our neighborhood has been working hard to improve itself.

- We have been working on zoning overlay to protect our historic district for over 3 yrs now, and city planner Eric Angstadt says we are only 4-8 months from completion.
- We are also working on streetscaping projects for 14<sup>th</sup> Ave, for 19<sup>th</sup> Ave, for 23<sup>rd</sup> Ave and for East 21<sup>st</sup> St.

Because our neighborhood is such a good representation of Pre-WWII homes, the Oakland Heritage Alliance is planning their 2008 House Tour in the San Antonio Historical District.

The city staff report for this project says that our area is mostly single family homes, and that the proposed development at 1727 E. 24<sup>th</sup> St should be reduced in height and bulk. The neighbors agree wholeheartedly. Our answer to this problem is to suggest the developer build 3, not 4 units. This would be more acceptable to the neighborhood's pattern of development, and better meet the developer's financial projections.

I have personally spoken to the property owners in the parcels abutting this project, except for the other developer Ricky Troung next door, and they all oppose this development. They have all signed our petition.

The city code says that the proposed development "shall not adversely affect the livability of the abutting properties." We want the project reduced in size and the decks and balconies removed, to meet this condition.

This project, as proposed, will be 55 feet higher than the single-family homes adjacent on 17<sup>th</sup> Ave.

It will block our air and sunshine, and the decks will destroy any privacy in all of our backyards. This developer is from Rockridge where sun, privacy

and noise have all been major issues. The San Antonio community has the same need for air, sunshine and privacy that the folks in Rockridge do.

This project will threaten other homes on this steep hill, where we already have problems with soil erosion and slippage. The infamous Wallace St sliding homes are only a block away.

There is also a known underground stream beneath us, that feeds the 14<sup>th</sup> Ave Creek. We are extremely concerned that this project will disturb the streams and cause major problems for existing homeowners on San Antonio hill.

Approving this project in the face of such known issues without a detailed plan for dealing with them, will open the City, the developer and the future condo owners to liability for future problems.

This lot, and the lot next door, have had projects like this proposed twice before, and both were turned down.

The new strategy is to break the development in two, and put the condos in lot by lot. When completed, this project will be twice the size we are looking at now, because whatever is approved on this lot, will be replicated on the adjacent lot.

The CEDA memo of 12/9/05 makes reference to a “shared access facility” for the driveway permit. It states, “the driveway openings may not meet standards for driveway separation” and “a driveway appeal may be required to meet the City’s standards”. It is clear to us that the way is being paved for a shared driveway between the 2 lots.

There are also financial inconsistencies; These 2 bedroom units are supposed to sell for \$500K each.

In our zip code, 94606, one 3-bedroom condo has sold in the last 9 months for \$431K, while 12-2 bedroom condos have sold in that time for an average of \$395K. The only way the developer can hope to get \$500K for his units is to sell them as 3 bedroom condos. Each unit has a private interior stairway to what will be the 3<sup>rd</sup> bedroom in the area marked “garage” on the current plans.



There simply is not enough parking, or open space. There isn't a designated area for trash cans. There isn't even a laundry facility provided for these \$500k condo's.

The Code requires that the site be physically suitable for the development that is proposed.

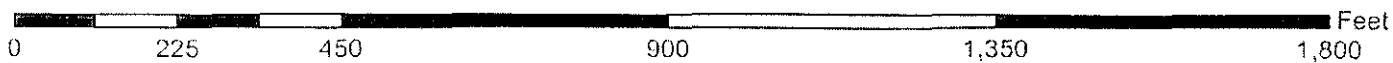
We have brought photographs, maps and testimony that show you this site is on an extremely steep grade, is on a lot that is highly elevated above the street level, is on an area where the land is sliding, and has underground streams that permeate the area on their way to the 14th Avenue Creek. It is situated in an area of predominantly single family homes, even by staff's report. It is simply not physically suitable for the proposed development.

This developer has altered his plans somewhat from the originals, and for that we thank him, but the reality is that he is not a resident homeowner who is trying to make better use of his property, he is a developer coming into our historic district and proposing something that just does not fit here. He will build his condos, sell them and leave any resulting problems for the neighborhood to handle.

For this and all the reasons we have stated in our documents, he should be held to every requirement, and not entitled to any accommodation. We request that you deny this project.

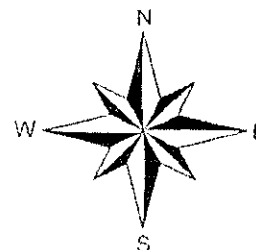
That said, we want you to understand that the San Antonio neighborhood would welcome an appropriate development plan for this lot, we just have concerns about the scope, size, and safety of this project.

# CITY OF OAKLAND PLANNING COMMISSION



*Key: ○ Means they oppose this project + signed the petition*

Case File: CDV05-507 & TPM8859  
Applicant: David Miller  
Address: 1727 E. 24th Street  
Zone: R-50



City of Oakland

Planning Commission Meeting Feb 28, 2007

RE: proposed project at 1727 East 24<sup>th</sup> street

Regarding the proposed project at 1727 East 24<sup>th</sup> street we oppose the project as presented. We request the following conditions as a condition of approval,

1. Project be limited to 3 units
2. 2 guest parking spaces be provided in addition to required spaces per unit computed at 3 bedrooms per unit.
3. The balcony protruding from the back of the project be removed
4. The decks that overlook 17<sup>th</sup> avenue be removed.
5. Any balconies or decks that remain should have solid fences to lessen the impact of visual and noise pollution.
6. Adequate facility be provided for trash storage with easy, low grade access to East 24<sup>th</sup> street
7. Adequate facility be provided for laundry
8. Open space be provided that is readily accessible to all units
9. Parking configured in a way to discourage it from being used as living quarters.
10. A study of soils and underground streams be undertaken and presented to the City and community for review. Project subject to approval of a satisfactory plan to deal with the issues presented. The developer establishes an escrow fund of \$500,000 for a period of 8 years from the completion of the project to indemnify neighbors, future purchasers of the property, and the City of Oakland from damage resulting from any and all phases of this or succeeding projects.

ATTACHMENT C

1727 E. 24<sup>th</sup> St.

Google

Eye alt 1161 ft

Image © 2007 TerraMetrics

Streaming | ||| | 100%



Pointer: 37°47'39.16" N 122°14'08.18" W elev 135 ft

# ATTACHMENT D

## CONDITIONS OF APPROVAL

### STANDARD CONDITIONS:

1. **Approved Use.**

*a. Ongoing.*

The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **October 16, 2006** and submitted on **October 16, 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 the approved plans, will require a separate application and approval. Any deviation from the approved drawings, conditions of approval or use shall required prior written approval from the Zoning Administrator.

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

*a. Ongoing.*

This permit shall expire ~~two calendar years~~ from the date of this letter, the effective date of its granting, 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. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

3. **Scope of This Approval; Changes to Approval**

*a. Ongoing.*

The project is approved pursuant to the Planning Code and Subdivision Regulations and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction.

4. **Modification of Conditions or Revocation**

*a. Ongoing.*

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

**5. Recording of Conditions of Approval**

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

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

**6. Reproduction of Conditions on Building Plans**

*a. Prior to issuance of building permit.*

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

**7. Defense, Indemnification & Holdharmless**

*a. Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.*

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency 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.

**8. Waste Reduction and Recycling**

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

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. This condition applies to a) new residential and commercial construction 2) commercial and apartment house demolition, and 3) commercial and apartment house additions and alterations with a permit valuation of greater than \$50,000. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7283 for information.

**9. 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. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to 1) new residential development of five or more units, 2) new commercial and industrial development that requires a building permit, and 3) additions that increase the gross floor area of the aforementioned projects by more than 30 percent. 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.

**10. Construction Hours for Minor Projects**

*a. During all construction activities*

Construction shall only take place between 7:30AM and 6:00PM, on Monday through Friday; 9:00AM to 5:00PM on Saturdays. No construction shall occur on Sundays or Federal holidays.

**SPECIFIC CONDITIONS:**

**11. Street Trees**

*a. Prior to issuance of building permit.*

The applicant shall provide two street trees along E. 24<sup>th</sup> Street (minimum 24" box size at time of planting) located within the street planting yard with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Tree Services Section and Building Services. Contact tree services at (510) 615-5850 for more information regarding the type of street tree to be planted and the best location.

**12. Decorative Pavers on Driveway**

*a. Ongoing.*

Decorative paving shall be constructed as indicated on the landscape plan, sheet A-5.

**13. Landscaping Maintenance**

*a. Ongoing.*

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

**14. Tentative Parcel Map**

*a. Prior to certificate of occupancy*

A Final Map shall be filed with the City Engineer within two (2) years from the date of approval of the Tentative Parcel Map, or within such additional time as may be granted by the Advisory Agency. Failure to file a Final Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

**15. Engineering Conditions**

*a. Prior to Submittal of Parcel Map*

All conditions of the Building Services Memorandum dated December 9, 2005 from David Mog shall be met prior to submittal of Final Parcel Map (see Attachment C).

**16. Open Truss on Front and Back Patio**

*a. Ongoing.*

The open truss with triple columns at corners, two facing each side, as shown on the elevations shall be constructed as shown.

**17. Windows**

*a. Ongoing.*

The windows shall be double hung wood windows with a minimum of a 2 inch recess and trim as shown on the approved plans

**18. Lower Hip Roof to 30 Feet**

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

The hip roof shall be reduced to 30 feet in height to meet the height requirement of the R-50 Zone. The front and rear gables may be 32 feet in height, as shown on the approved plans because they meet the allowed height projections in Section **Section 17.108.30C**.

**19. Change Hip Roof Over the Two Interior Decks**

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

The roof over the two interior decks shall be changed to a flat roof instead of a hip roof.

**20. Exterior Materials Details**

*a. Prior to issuance of building permit.*

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building including colors. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. In particular, the exterior porch details shall be submitted for Zoning approval prior to issuance of any building permits.

Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

**21. Landscape and Irrigation Plan**

*a. Prior to issuance of building permit.*

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

**APPROVED BY:** City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)



CITY OF OAKLAND  
2007 MAY 21 11:20

APPROVED AS TO FORM AND LEGALITY  
F. Fair  
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**A RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION FOR CONSTRUCTION OF A FOUR (4) UNIT CONDOMINIUM IN THE R-50 ZONE WITH A TWO (2) FOOT HEIGHT VARIANCE LOCATED AT 1727 E 24<sup>TH</sup> STREET (CASE FILE NUMBER(S) A07-103; CMDV05-507; & TPM8859.**

**WHEREAS**, on October 5, 2005, the developer Dave Miller applied for a Conditional Use Permit to construct four units in the R-50 zone, Design Review for building 4 new residential units, a Minor Variance for a 32 foot height building where 30 feet is required, Tentative Parcel Map to create 4 residential condominium units within a new residential building located at 1727 E 24<sup>th</sup> Street; and

**WHEREAS**, on February 28, 2007 a public hearing was held before the City Planning Commission for the project; and

**WHEREAS**, on February 28, 2007, 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 sections 15303 (b), 15183, and 15315 of the State CEQA Guidelines and the Planning Commission continued the meeting to March 7, 2007 to adopt the revised findings; and

**WHEREAS**, on March 7, 2007 the item was approved on the Consent agenda for the City Planning Commission; and

**WHEREAS**, an appeal of the Planning Commission's March 7, 2007 actions were filed by Modupe Ogunyemi on March 19, 2007, on behalf of the San Antonio Neighborhood Association ("Appellant"); and

**WHEREAS**, after giving due notice to the Appellants, the Applicant, all interested parties, and the public, the Appeal came before the City Council in a duly noticed public hearing on June 5, 2007; and

**WHEREAS**, the Appellants 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 June 5, 2007.

**Now, Therefore, Be It**

**RESOLVED:** The City Council independently finds and determines that this Resolution complies with CEQA, as the Project is categorically exempt from CEQA pursuant to CEQA Guideline Section 15303 “New Construction of Small Structures” and, and as a separate and independent basis, the Project is also exempt from CEQA pursuant to Section 15315, “Minor Land Divisions” of the State CEQA Guidelines and Section 153183, “Projects Consistent with a Community Plan, General Plan or Zoning” of the State CEQA Guidelines. 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 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 Application, 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 June 5, 2007, City Council Agenda Report and the March 7, 2007, Planning Commission report, which are hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission’s decision approving the Tentative Parcel Map, Conditional Use Permit, and Design Review is upheld, subject to the final conditions of approval adopted by the Planning Commission, as may be amended here; and be it

**FURTHER RESOLVED:** That, in support of the City Council’s decision to approve the Project, the City Council affirms and adopts the March 7, 2007 Staff Report to the City Planning Commission (including without limitation the discussion, findings, conclusions and conditions of approval) all attached as Exhibit “A”, as well as the June 5, 2007, City Council Agenda Report, attached hereto as Exhibit “B,” (including without limitation the discussion, findings, and conclusions), except where otherwise expressly stated in this Resolution; and be it

**FURTHER RESOLVED:** That, the City Council finds and determines that this Resolution complies with CEQA 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.

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;

5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; and be it

**FURTHER RESOLVED:** That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council’s decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA; and be it

**FURTHER RESOLVED:** That the recitals contained in this resolution are true and correct and are an integral part of the City Council’s decision.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2007

**PASSED BY THE FOLLOWING VOTE:**

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

**LEGAL NOTICE:**

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

## Exhibit A

[March 7, 2007 Planning Commission Staff Report]

<b>A.</b>	<b>Location:</b>	1727 E 24 <sup>th</sup> Street (APN: 022-0324-026-00)
	<b>Proposal:</b>	To construct a 4 unit residential building that totals 4,988 square feet. The residential building will be 2 stories in height over one level of parking. A subdivision of 1 lot to create 4 residential condominium units within a new residential building.
	<b>Applicant:</b>	David Miller
	<b>Owner:</b>	Oakland View Townhouses, LLC
	<b>Planning Permits Required:</b>	Conditional Use Permit for 4 units in the R-50 zone. Design Review for building 4 new residential units. Minor Variance for a 32 foot height building where 30 feet is required. Tentative Parcel Map to create 4 residential condominium units with a new residential building. <b>See Status Section, below.</b>
	<b>General Plan:</b>	Mixed Housing Type
	<b>Zoning:</b>	R-50, Medium Density Residential Zone
	<b>Environmental Determination:</b>	Exempt, Section 15303, State CEQA Guidelines, New construction of small new facilities and Section 15315, Minor land division.
	<b>Historic Status:</b>	Not a Potential Designated Historic Property (PDHP); survey rating: Vacant
	<b>Service Delivery District:</b>	3
	<b>City Council District:</b>	2
	<b>Status:</b>	This item was heard by the Planning Commission at the February 28, 2007 meeting. A straw vote was taken, with support for the project (including the Variance) expressed in a 6-0 vote in favor. Formal action on the application was continued to the consent calendar on March 7, 2007. This consent action will adopt Findings for the project (as well as the Conditions of Approval) and approve the Conditional Use Permit, Design Review, Variance and Tentative Parcel Map.
	<b>Action to be Taken:</b>	Decision on application based on staff report and straw vote from the February 28, 2007 Commission meeting.
	<b>Finality of Decision:</b>	<i>Appealable to City Council</i>
	<b>For Further Information:</b>	Contact case planner <b>Laura Kaminski</b> at (510) 238-6809 or by email: <b>lkaminski@oaklandnet.com</b>

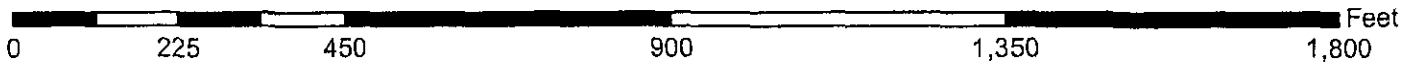
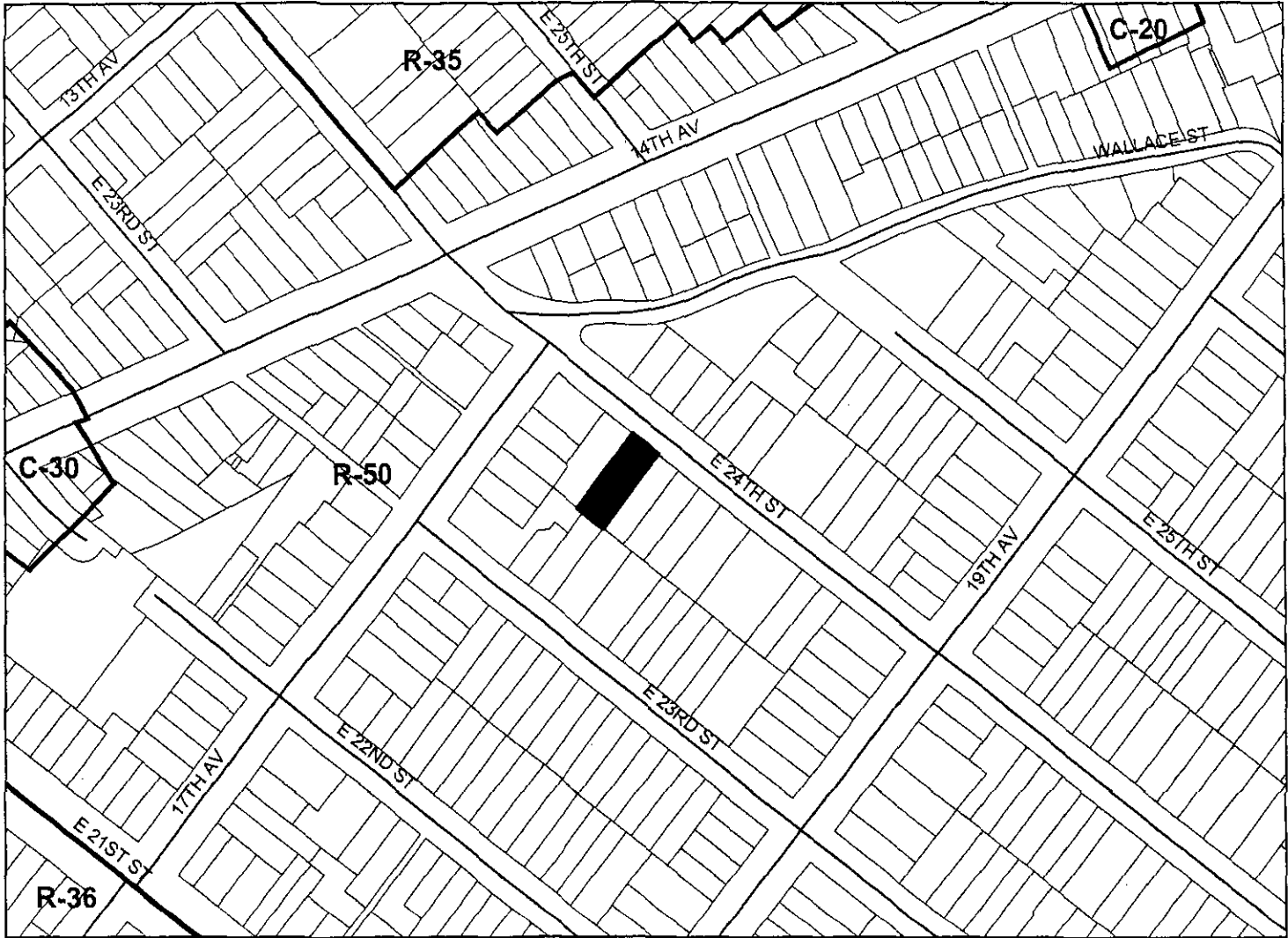
## PROJECT DESCRIPTION

The proposal is to construct a four unit residential building that totals approximately 4,988 square feet. The residential building will be three stories in height, with the ground level for parking. A subdivision of one lot to create four residential condominium units within the new residential building is also proposed. Each unit will have a one car garage, two bedrooms, and two bathrooms.

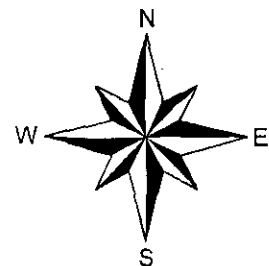
## PROPERTY DESCRIPTION

The subject site is a 7,000 square foot site fronting on E. 24<sup>th</sup> Street. The parcel is currently vacant. Directly northwest of the property is a single family home and directly southeast of the property is a triplex residential building. The surrounding uses are a mixture of mostly single family homes with some duplexes, triplexes, quadplexes, and a larger seven unit apartment building. The property is part of the San Antonio Hills neighborhood and there are two Designated Historic Properties on the same side of street as this property, at 1807 and 1819 E 24<sup>th</sup> Street. The two properties are both of a Victorian style.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CDV05-507 & TPM8859  
Applicant: David Miller  
Address: 1727 E. 24th Street  
Zone: R-50



## **GENERAL PLAN ANALYSIS**

The property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. *Mixed Housing Type Residential* encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

## **ZONING ANALYSIS**

The subject property is located within the R-50, Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development. The proposed development meets the medium density requirement. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space (with no private open space) is required. Four parking spaces are provided, which meets the one parking space per unit requirement.

### **Allowed Density**

The R-50 Zone allows 2 units as permitted by right and allows 5 units with a conditional use permit for this 7,000 square foot lot. The Mixed Housing Type Residential Land Use classification would allow 6 units on this 7,000 square foot lot. The proposed project of four dwelling units complies with the conditional use permit requirement of the R-50 Zone.

### **Height Variance**

The allowable height limit is 30 feet with some allowed projections. In **Section 17.108.30C**, gable ends up to 15 feet in width located on principal and accessory Residential Facilities can exceed the height limit by 10 feet if the maximum aggregate coverage of the building's horizontal area does not exceed 10 percent, but in all cases, no higher than the maximum height of the roof section on which they are located. There is no restriction of minimum horizontal distance from any abutting residentially zoned lot if the vertical projection above the prescribed height does not exceed four feet.

The front and rear gables that are above the decks off of the great room meet this allowed projection and are 32 feet in height (for a two foot projection). The hip roofs above the garages that are 32 feet in height do not meet this requirement and require a variance.

## **KEY ISSUES**

### **Design**

The design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and face the side of the property. The massing of the building in the front and rear is broken up by open porch elements on the third floor with gables and open truss work over them. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding,

asphalt shingle roofing, and painted wood fascia.

**ENVIRONMENTAL DETERMINATION**

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15303 (b), not more than six dwelling units; 15183, Projects consistent with General Plan; and 15315, division of property for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning.

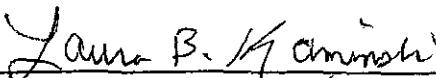
**CONCLUSION**

Staff feels that overall, the proposed project is a good infill use of the lot. The proposed development draws on some of the elements of design of the surrounding neighborhoods.

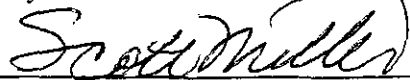
**RECOMMENDATIONS:**

1. Affirm staff's environmental determination.
2. Approve the Conditional Use Permits, Design Review, and Tentative Parcel Map subject to the attached findings and conditions.


Prepared by:

  
 \_\_\_\_\_  
 LAURA B. KAMINSKI  
 Planner II

Approved by:

  
 \_\_\_\_\_  
 SCOTT MILLER  
 Zoning Manager

Approved for forwarding to the City Planning Commission:

  
 \_\_\_\_\_  
 CLAUDIA CAPPIO  
 Director of Development

**ATTACHMENTS:**

- A. Findings for Approval
- B. Conditions of Approval
- C. Building Services Memorandum
- D. Tentative Parcel Map and Plans



**ATTACHMENT A**

**FINDINGS FOR APPROVAL**

This proposal meets all the required Use Permit criteria (Sections 17.134.050) and Design Review Criteria (Section 17.136.070) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

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

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed building is sited along E 24<sup>th</sup> Street in a lower to medium density residential neighborhood. The proposed design with the conditions applied does a good job of using various changes in the elevation and roof to visually reduce the impact of the height and bulk of the building in relation to the smaller scale neighborhood, and follows the General Plan which allows small multiple unit buildings within the Mixed Housing Type. The project would not impact any existing level of service for public streets, as E 24<sup>th</sup> Street is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and the addition of four dwelling units into this grid corridor would not create a significant impact.

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

The proposed development will be an attractive and functional living environment by providing a mixture of quality exterior materials and windows. Every unit will have a private deck as well as a group open space in the rear yard of 1,334 square feet, where only 800 square feet of group open space is required.

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

The development will enhance the area as a residential neighborhood by adding dwelling units to an existing vacant lot and provide four new residential units that can provide for needed home ownership opportunities in the City of Oakland.

- D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.**

See Design Review findings below.

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

The construction of four residential dwellings is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density. The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**17.136.070A - RESIDENTIAL DESIGN REVIEW CRITERIA:**

- A. 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 design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and the bulk and massing of the building is broken up by changes in the roof plane and open front and rear porch elements. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding, asphalt shingle roofing, and painted wood fascia.

- B. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The development will enhance the area as a residential neighborhood by adding dwelling units to a vacant lot. The design utilizes porch elements, gable roofs, and wood hung windows in keeping with characteristics of the neighborhood.

- C. The proposed design will be sensitive to the topography and landscape.**

The garages are sunk slightly into the hill to work with the topography of the site.

- D. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

The garages are sunk slightly into the hill to help minimize the overall height of the building and the massing of the building is broken up by changes in the roof plane.

- E. 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 construction of four new residential units is consistent with the Mixed Housing Type Residential General Plan Area. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density. The Mixed Housing type residential General Plan Area allows for a maximum residential intensity of one unit per 1,089 square feet of lot area, which would allow for a total of 6 dwelling units on the site of 7,000 square feet.

**SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:**

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

The Planning Commission finds that strict compliance would preclude an effective design solution, because a 5:12 pitch is more aesthetically appealing both on the exterior and interior than a 3:12 pitch roof.

- B. 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.**

The Planning Commission finds that strict compliance would preclude an effective design solution, because a 5:12 pitch is more aesthetically appealing both on the exterior and interior than a 3:12 pitch roof.

- C. 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.**

The granting of the height variance will not adversely impact the character of the neighborhood; the roof that is over the height limit is on the side of the property along where the driveway is located. Therefore there is a larger setback than required on that side yard of 17 feet compared to the required 5 feet.

- D. 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 granting of the variance would not constitute a grant of special privilege, since the variance does provide a better design solution.

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

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

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The proposal is consistent with the Mixed Housing Type General Plan designation by creating four condominium units.

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

The subject development site is physically suitable to accommodate four dwelling units because four parking spaces are being provided as well as the required amount of open space is provided.

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

*The proposed density is consistent with the General Plan density envisioned for the area.*

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

*This site has been previously developed and does not contain any wildlife habitat or waterways. A Geotechnical Investigation was performed in July of 2005.*

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

There should be no adverse health effects. This is in a residential development located in an existing neighborhood and it will introduce no new use classifications that are incompatible with the surrounding neighborhood.

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

There are no easements on this property at present to allow the public access to anything.

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

The subdivision has ample southern exposures that will enhance natural solar access and heating and cooling opportunities.

**16.24.040 - LOT DESIGN STANDARDS FOR PARCEL MAPS APPROVALS**

**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.**

This is a one lot subdivision for the purposes of creating condos so there are no new lots that are being created. Therefore, the above items A through E do not apply.

**ATTACHMENT B**

**CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS:**

**1. Approved Use.**

***a. Ongoing.***

The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **October 16, 2006** and submitted on **October 16, 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 the approved plans, will require a separate application and approval. Any deviation from the approved drawings, conditions of approval or use shall required prior written approval from the Zoning Administrator.

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

***a. Ongoing.***

This permit shall expire ~~two calendar years~~ from the date of this letter, the effective date of its granting, 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. Expiration of any valid building permit for this project may invalidate this approval. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

**3. Scope of This Approval; Changes to Approval**

***a. Ongoing.***

The project is approved pursuant to the Planning Code and Subdivision Regulations and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator. Major changes to the approved plans shall be reviewed by the Zoning Administrator to determine whether such changes require submittal and approval of a new, independent permit. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction.

**4. Modification of Conditions or Revocation**

***a. Ongoing.***

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

**5. Recording of Conditions of Approval**

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

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

**6. Reproduction of Conditions on Building Plans**

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

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

**7. Defense, Indemnification & Holdharmless**

**a. Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.**

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency 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.

**8. Waste Reduction and Recycling**

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

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. This condition applies to a) new residential and commercial construction 2) commercial and apartment house demolition, and 3) commercial and apartment house additions and alterations with a permit valuation of greater than \$50,000. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7283 for information.

**9. 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. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to 1) new residential development of five or more units, 2) new commercial and industrial development that requires a building permit, and 3) additions that increase the gross floor area of the aforementioned projects by more than 30 percent. 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.

**10. Construction Hours for Minor Projects**

**a. *During all construction activities***

Construction shall only take place between 7:30AM and 6:00PM, on Monday through Friday; 9:00AM to 5:00PM on Saturdays. No construction shall occur on Sundays or Federal holidays.

**SPECIFIC CONDITIONS:**

**11. Street Trees**

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

The applicant shall provide two street trees along E. 24<sup>th</sup> Street (minimum 24" box size at time of planting) located within the street planting yard with review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Tree Services Section and Building Services. Contact tree services at (510) 615-5850 for more information regarding the type of street tree to be planted and the best location.

**12. Decorative Pavers on Driveway**

**a. *Ongoing.***

Decorative paving shall be constructed as indicated on the landscape plan, sheet A-5.

**13. Landscaping Maintenance**

**a. *Ongoing.***

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

**14. Tentative Parcel Map**

**a. *Prior to certificate of occupancy***

A Final Map shall be filed with the City Engineer within two (2) years from the date of approval of the Tentative Parcel Map, or within such additional time as may be granted by the Advisory Agency. Failure to file a Final Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

**15. Engineering Conditions**

**a. *Prior to Submittal of Parcel Map***

All conditions of the Building Services Memorandum dated December 9, 2005 from David Mog shall be met prior to submittal of Final Parcel Map (see Attachment C).

**16. Open Truss on Front and Back Patio**

**a. *Ongoing.***

The open truss with triple columns at corners, two facing each side, as shown on the elevations shall be constructed as shown.

**17. Windows**

**a. *Ongoing.***

The windows shall be double hung wood windows with a minimum of a 2 inch recess and trim as shown on the approved plans



**18. Covenants, Conditions and Restrictions & Homeowner's Association.**

**a. Prior to certificate of occupancy**

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division to verify that a CC&R has been established. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site sidewalks, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold.

**19. Footprint of Building**

**a. Prior to approval of final map**

The footprint of the proposed building shall match that of the approved project CMDV05-507 unless changes will be made to project CMDV05-507.

**20. Exterior Materials Details**

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

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building including colors. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. In particular, the exterior porch details shall be submitted for Zoning approval prior to issuance of any building permits.

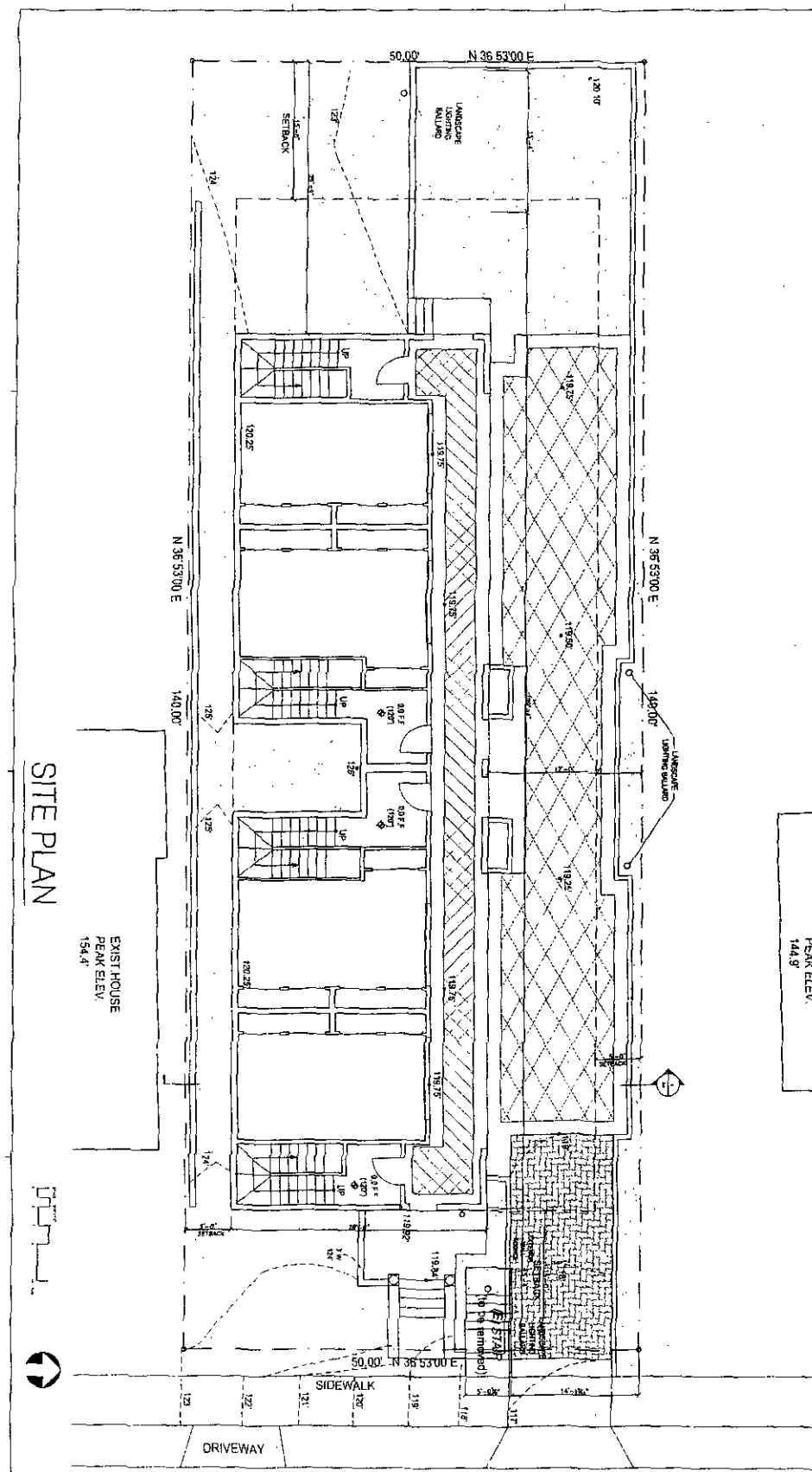
Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

**21. Landscape and Irrigation Plan**

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

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

**APPROVED BY:** City Planning Commission: \_\_\_\_\_(date)\_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_(date)\_\_\_\_\_ (vote)



PEAK ELEV.  
144.9'

SITE PLAN

EXIST HOUSE  
PEAK ELEV.  
154.4'

**Oakland View Townhomes Project Data**

Address: 1727 E. 24th Street, Oakland, CA  
 APN: 02-029-008-00  
 Zoning: R3D1  
 General Plan: Mixed Housing, Medium Density  
 Lot Area: 6,925 sq ft  
 Lot Coverage: 39%  
 Building Height: 30 ft to edge of roof hp roof

Design/Planning Item	Requirements	Compliance
Front Setback	15' minimum	15' and 18' from sidewalk
Side Setback	5' minimum	5' and 17'
Rear Setback	15' minimum	25'
Lot Coverage	30% maximum	2,707 sq ft or 39%
No. of Dwelling Units Allowed	30 units	30 units
Open Space per Unit	R3D1, 4 W/ OUP	770 sq ft per unit
Parking Spaces per Unit	1 minimum	1 per unit

EAST 24th STREET

**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

131 E. ARBELLAGA  
SANTA BARBARA  
CALIFORNIA 93101  
805.962.5746

**Hochhausler**  
Blatter  
ARCHITECTURE  
AND PLANNING

DATE: 07/20/10  
DRAWN BY: [Name]  
CHECKED BY: [Name]

PROJECT NO. 1702  
SHEET NO. 1702  
SHEET TOTAL 1702

DATE: 07/20/10  
DRAWN BY: [Name]  
CHECKED BY: [Name]

DATE: 07/20/10  
DRAWN BY: [Name]  
CHECKED BY: [Name]

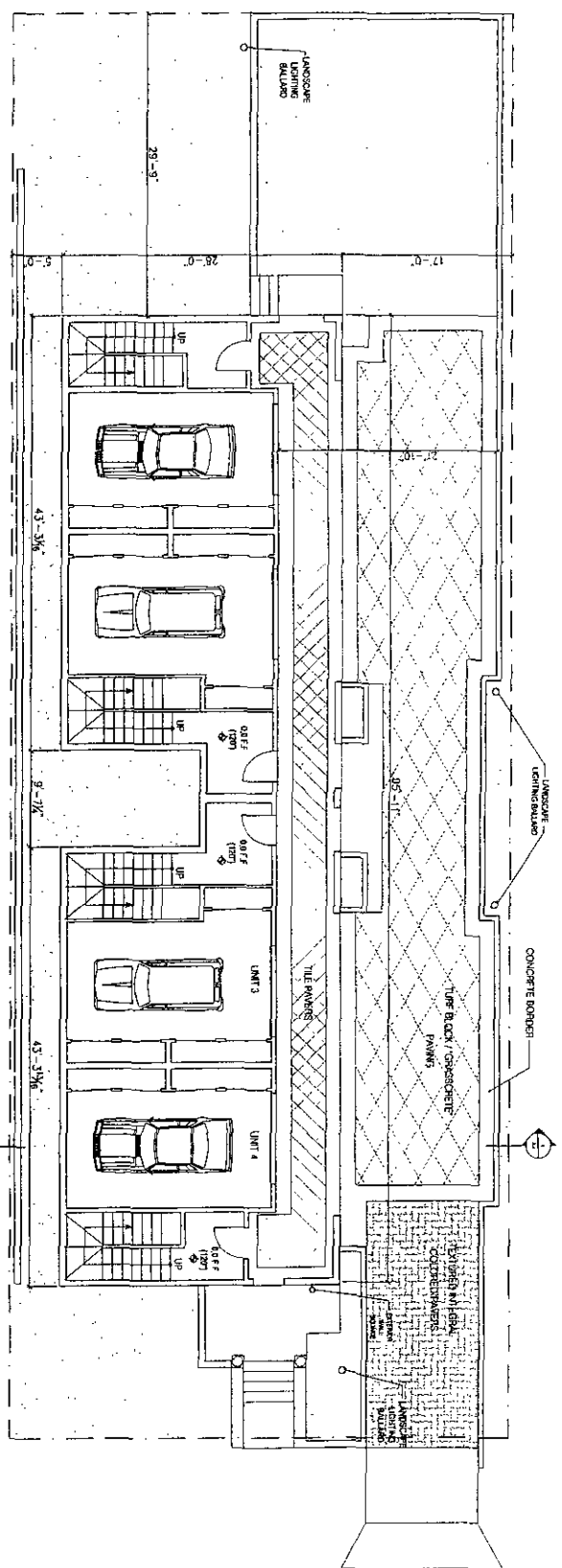
NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	11/10/00
2	REVISION	11/10/00
3	REVISION	11/10/00
4	REVISION	11/10/00
5	REVISION	11/10/00
6	REVISION	11/10/00
7	REVISION	11/10/00
8	REVISION	11/10/00
9	REVISION	11/10/00
10	REVISION	11/10/00

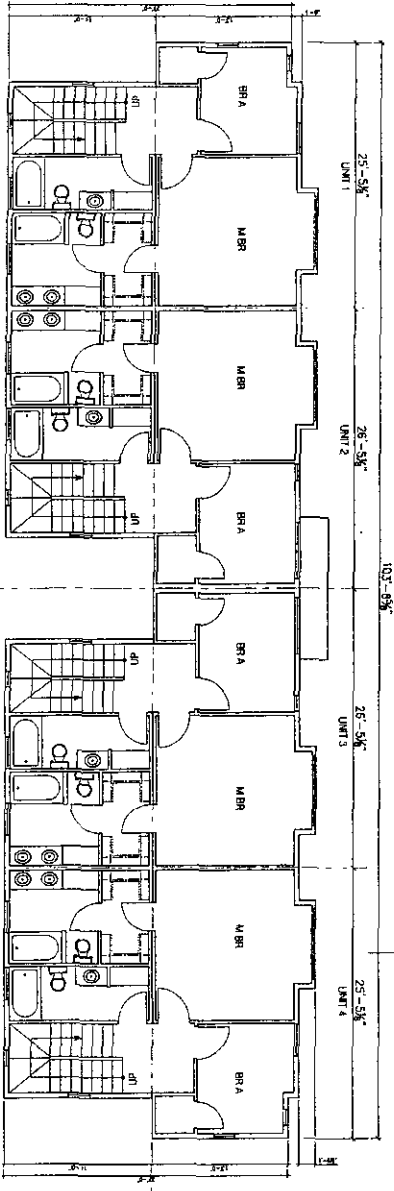
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**PROJECT NO.:** [Redacted]

**SCALE:**  
1" = 1'-0"

**DATE:** [Redacted]  
**BY:** [Redacted]

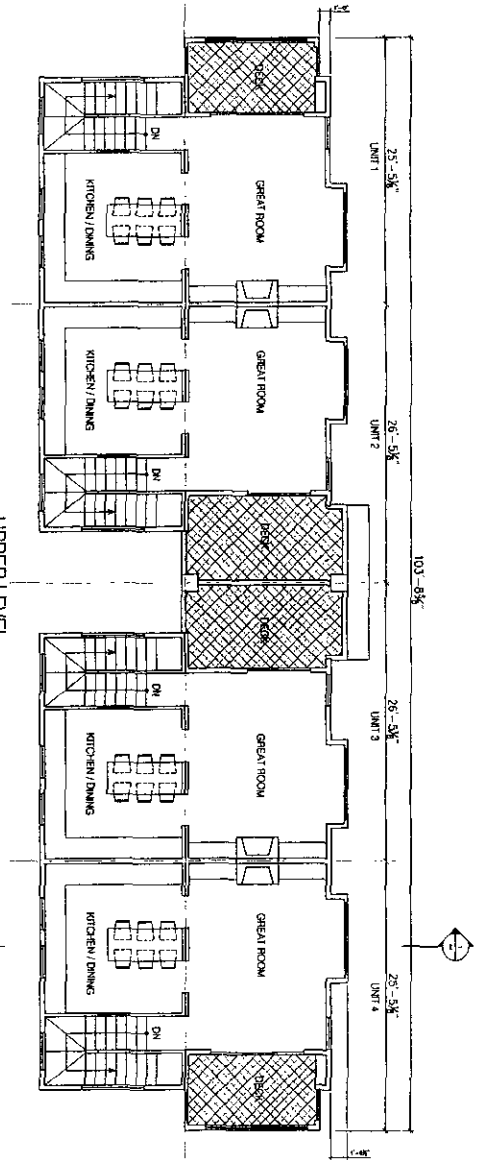


LOWER LEVEL

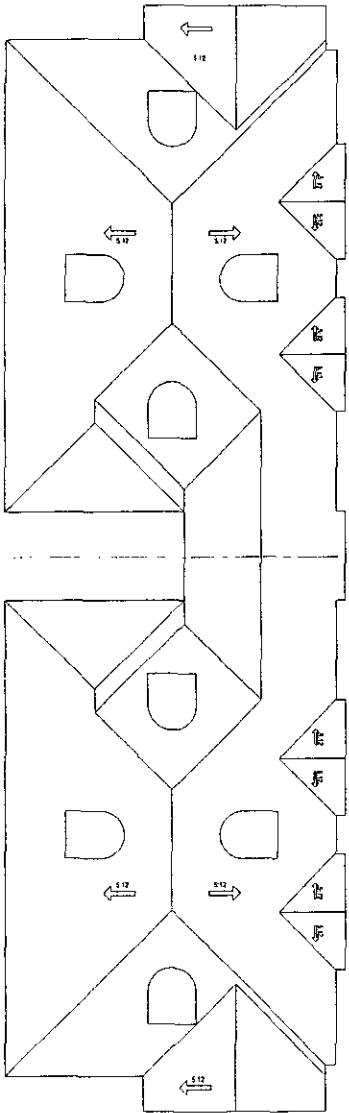


MID LEVEL





UPPER LEVEL



ROOF PLAN

Hochhaus  
Blatter

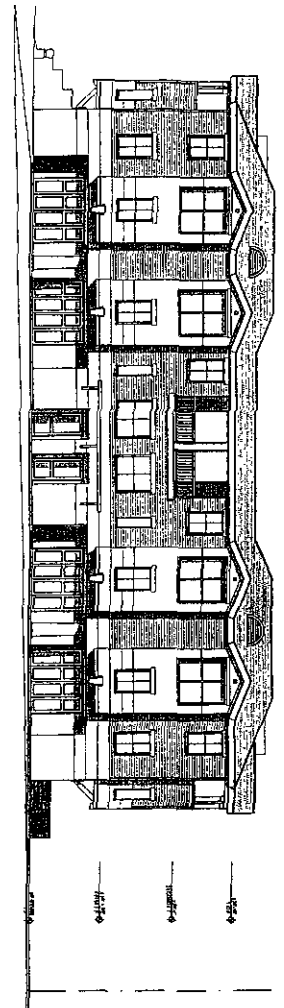
ARCHITECTURE  
AND PLANNING

101 E. ARBOL AVE.  
SANTA ANA, CALIFORNIA 92701  
805 962 2746

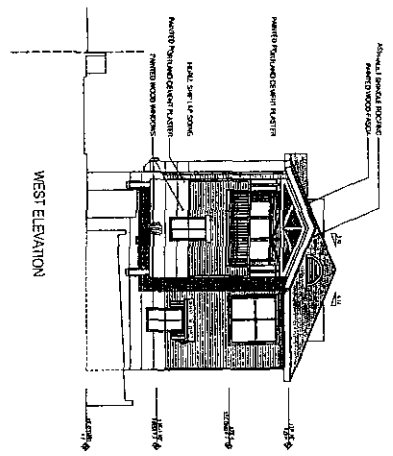
NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

NO.	DESCRIPTION	DATE	BY	CHKD.
1	ISSUED FOR PERMITS	11/15/05	JBL	JBL
2	ISSUED FOR CONSTRUCTION	11/15/05	JBL	JBL
3	ISSUED FOR OCCUPANCY	11/15/05	JBL	JBL
4	ISSUED FOR RECORDS	11/15/05	JBL	JBL

PROJECT NO. PH00  
SHEET NO. A-2  
OF 14 SHEETS  
DATE: 11/15/05



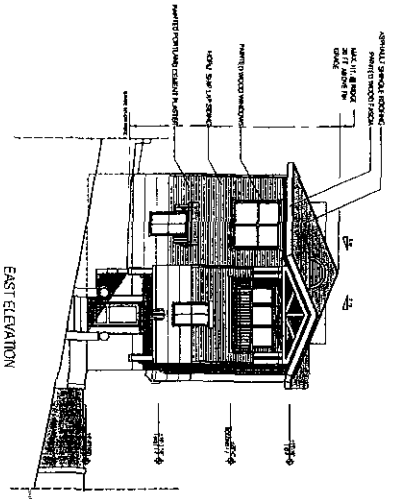
NORTH ELEVATION



WEST ELEVATION

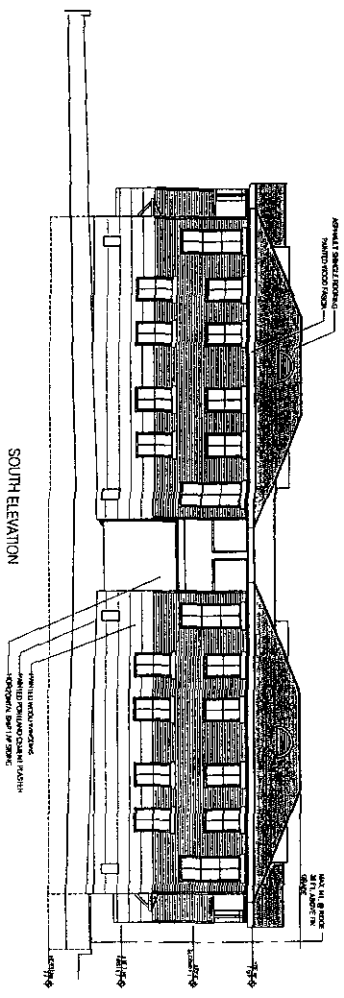
NORTH ELEVATION SCALE: 1/8" = 1'-0"

WEST ELEVATION SCALE: 1/8" = 1'-0"



EAST ELEVATION

EAST ELEVATION SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SOUTH ELEVATION SCALE: 1/8" = 1'-0"

Hochhausner  
Blatter  
ARCHITECTS URBAN  
AND PLANNING

122 E. ARRIELA  
SUITE 200  
OAKLAND, CA 94612  
908.953.2746

NEW DEVELOPMENT  
OAKLAND VIEW TOWNHOMES  
1727 E. 24th STREET  
OAKLAND, CA

NO. 10	DATE	DESCRIPTION

PROJECT NO. 1901  
SHEET NO. 1901  
DATE: 10/1/01

A-3  
SCALE: 1/8" = 1'-0"

Hochhaus  
Blatter

ARCHITECTURE  
AND PLANNING

121 E. ARBELLA  
SANTA BARBARA  
CALIFORNIA 93101  
805 962 2746

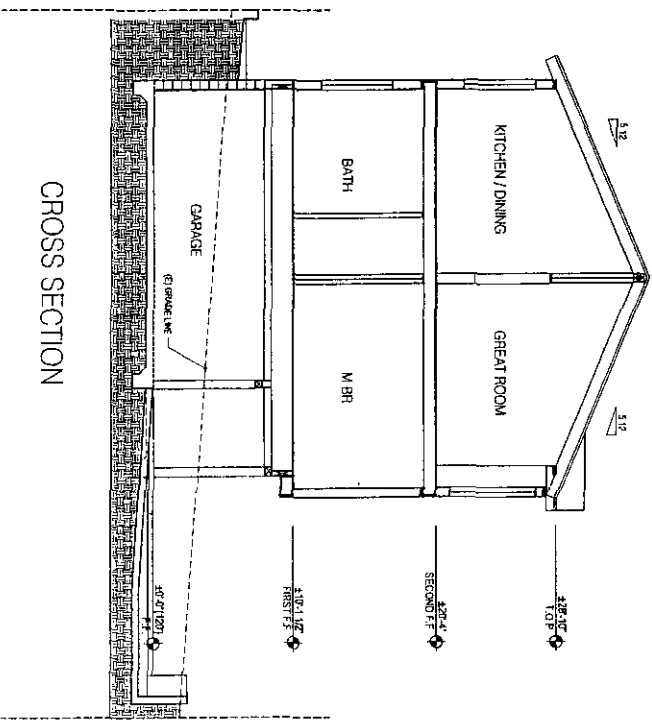
NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

NO.	REVISIONS	DATE
1	ISSUED FOR PERMITS	
2	REVISED	

DATE: 05/09/2009  
PROJECT NO: 09101  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: 1/8" = 1'-0"

SHEET NO: 09101  
SHEET: 09101  
PROJECT NO: 09101  
CROSS SECTION

A-4  
OF ALL SHEETS  
1/8" = 1'-0"



SECTION

PLANT LIST - PERENNIALS, GRASSES AND VINES

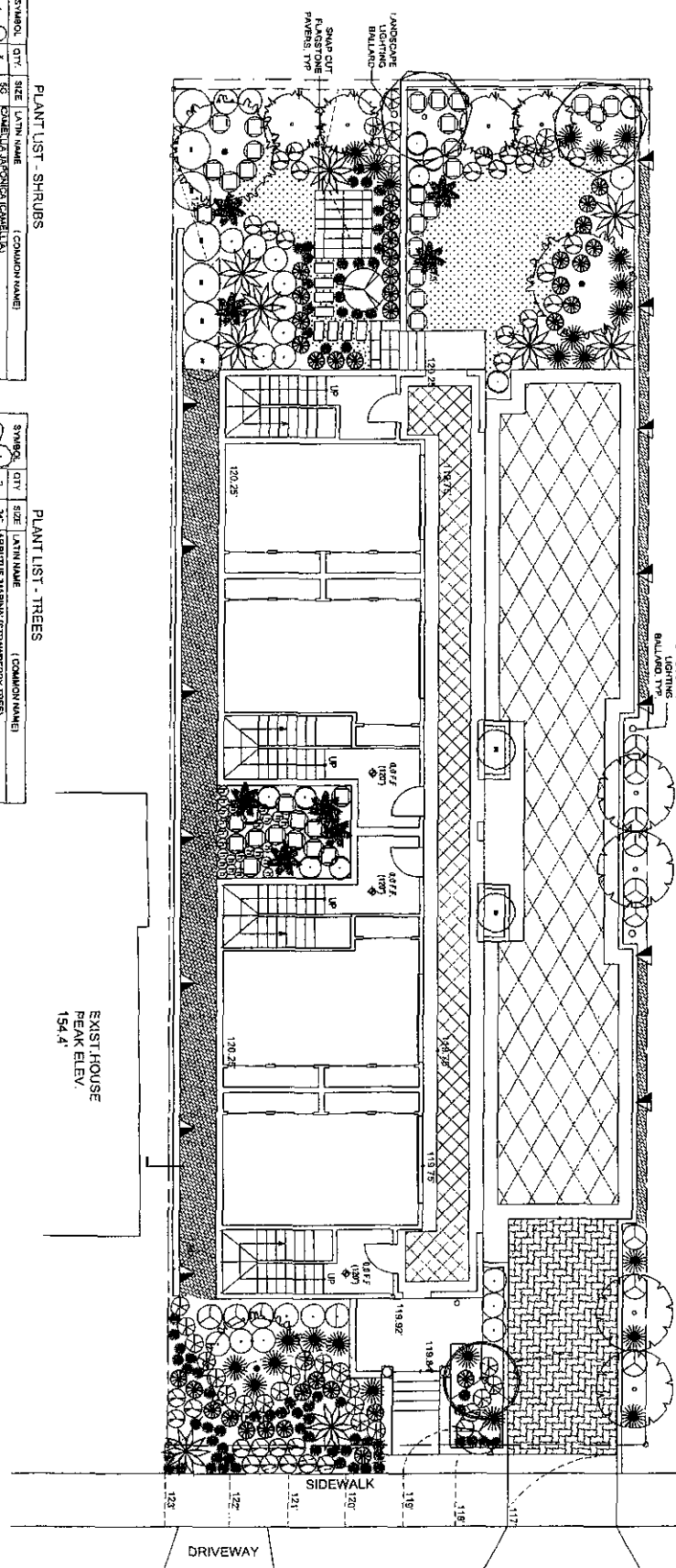
SYMBOL	QTY	SIZE	LATIN NAME	(COMMON NAME)
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11	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
12	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
13	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
14	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
15	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
16	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
17	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
18	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
19	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
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21	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
22	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
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25	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
26	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
27	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
28	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
29	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
30	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
31	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
32	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
33	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
34	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
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36	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
37	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
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40	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
41	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
42	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
43	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
44	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
45	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
46	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
47	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
48	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
49	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	
50	X	10	HELIOPSIS SCOPULORUBRA (SUNSHINE SEDUM)	

PLANT LIST - SHRUBS

SYMBOL	QTY	SIZE	LATIN NAME	(COMMON NAME)
1	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
2	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
3	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
4	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
5	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
6	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
7	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
8	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
9	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
10	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
11	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
12	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
13	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
14	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
15	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
16	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
17	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
18	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
19	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
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21	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
22	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
23	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
24	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
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29	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
30	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
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32	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
33	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
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36	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
37	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
38	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
39	X	40	CHALMERA LANCEOLATA (CAMELLIA)	
40	X	40	CHALMERA LANCEOLATA (CAMELLIA)	

PLANT LIST - TREES

SYMBOL	QTY	SIZE	LATIN NAME	(COMMON NAME)
1	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
2	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
3	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
4	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
5	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
6	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
7	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
8	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
9	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
10	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
11	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
12	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
13	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
14	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
15	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
16	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
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33	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
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35	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
36	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
37	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
38	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
39	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	
40	2	24"	LABRURUS VIRENS (STRAWBERRY TREE)	



EXIST HOUSE  
PEAK ELEV.  
144.9'

EXIST HOUSE  
PEAK ELEV.  
154.4'



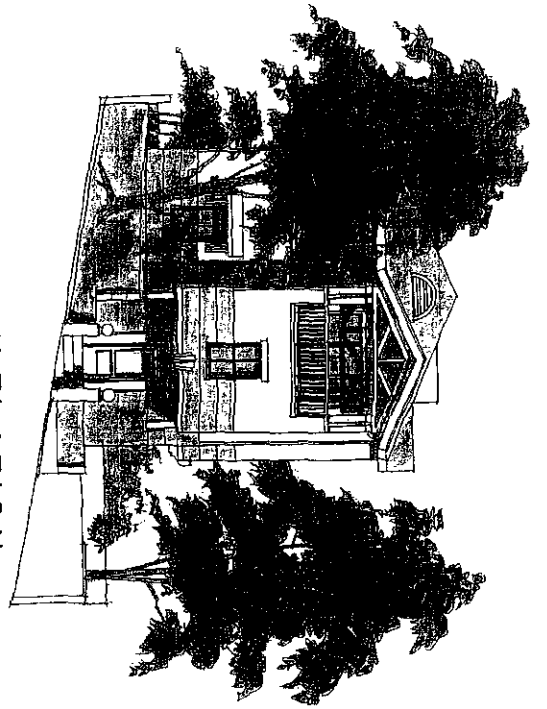
EAST 24th STREET

Preliminary Planting Plan

Proposed Project for  
Oakland View Townhomes  
1727 E. 24th St  
Oakland CA

DAVID R.  
BLACK &  
ASSOCIATES

DATE	10/17/08
BY	AS STONE
PROJECT	MT
NO.	06.01
OF	A-5



EAST ELEVATION



NORTH ELEVATION

Hochhausler  
Blatter

ARCHITECTURE  
AND PLANNING

121 E. ARBELA AVE  
SANTA BARBARA  
CALIFORNIA 93101  
805.962.2746

NEW DEVELOPMENT  
**OAKLAND VIEW TOWNHOMES**  
1727 E. 24th STREET  
OAKLAND, CA

NO.	DATE	DESCRIPTION

DATE: 08/15/00  
DRAWN BY: J. BLATTER  
CHECKED BY: J. BLATTER  
PROJECT NO. 1727  
SHEET NO. 1727-1

PROJECT NO. 1727  
SHEET NO. 1727-1

A-6  
DATE: 08/15/00  
DRAWN BY: J. BLATTER  
CHECKED BY: J. BLATTER



## Exhibit B

[June 5, 2007 City Council Agenda Report]

**CITY OF OAKLAND**  
*AGENDA REPORT*

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: June 5, 2007

RE: **Conduct a Public Hearing and Upon Conclusion Adopt a Resolution Denying the Appeal (Case # A07103) and Upholding the Planning Commission Approval of Case #CMDV05-507/TPM8859, for Construction of a Four (4) Unit Condominium in the R-50 Zone with a Two (2) Foot Height Variance at 1727 E. 24<sup>th</sup> Street**

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**SUMMARY**

On March 7, 2007, the City Planning Commission approved (by a 6-0 vote) a Conditional Use Permit to construct a 4 unit residential building in the R-50 zone that totals 4,988 square feet. A Tentative Parcel Map for a subdivision of one lot to create four residential condominium units within a new residential building was also approved. The residential building will be 2 stories in height over one level of parking for a total height of 32 feet where 30 feet is required. A two foot height variance was granted by the Planning Commission, which was contrary to staff recommendation.

On March 19, 2007, Modupe Ogunyemi, representing the San Antonio Neighborhood Association, filed an appeal of the Planning Commission's decision. The appellant argues that the City's Planning Commission failed to take into account impacts on the neighbors, topography, General Plan requirements, parking, and site suitability among other items.

Staff believes that the findings made for approval of the project as outlined in the March 7, 2007 Planning Commission staff report (Attachment A) clearly state the reasons why the project complies with the applicable regulations. Staff believes that the stated information in the appeal document does not depict any instance of "error" or "abuse of discretion" by the Planning Commission and therefore staff recommends that the Council deny the appeal, thereby upholding the Planning Commission's decision to approve the project. The Council has several options available regarding this appeal and this project (as outlined on page 11 in the Alternative City Council Actions section), including choosing to deny the appeal but also deny the variance (therefore upholding the approval).

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## **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. 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. All staff time required to process the applications for planning and building permits is fully cost-covered through fees.

## **BACKGROUND**

### **Project Description**

The proposal is to construct a four unit residential building that totals approximately 4,988 square feet. The residential building will be three stories in height, with the ground level for parking. A subdivision of one lot to create four residential condominium units within the new residential building is also proposed. Each unit will have a one car garage, two bedrooms, and two bathrooms.

### **Property Description**

The subject location is a 7,000 square foot site fronting on E. 24<sup>th</sup> Street. The parcel is currently vacant. Directly northwest of the property is a single family home and directly southeast of the property is a triplex residential building. The surrounding uses are a mixture of mostly single family homes with some duplexes, triplexes, quadplexes, and a larger seven unit apartment building. The property is part of the San Antonio Hills neighborhood and there are two Designated Historic Properties on the same side of street as this property, at 1807 and 1819 E. 24<sup>th</sup> Street. The two properties are both of a Victorian style.

### **Design**

The design utilizes porch elements, gable roofs, brackets, and wood hung windows in keeping with characteristics of the neighborhood. The garages are sunk slightly into the hill to help minimize the overall height of the building and face the side of the property. The massing of the building in the front and rear is broken up by open porch elements on the third floor with gables and open truss work over them. The materials will include painted wood windows, painted Portland cement plaster, horizontal ship lap siding, asphalt shingle roofing, and painted wood fascia.

### **Traffic and Transportation**

The proposal will add four new residential units with access on E. 24<sup>th</sup> Street. This will add four required parking spaces to the project site (one per dwelling). The project would not impact any existing level of service for public streets, as E. 24<sup>th</sup> Street is within a neighborhood with a street grid that has connections to both 17<sup>th</sup> Avenue and 19<sup>th</sup> Avenue, and the addition of four dwelling

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units into this grid corridor would not create a significant impact. An arterial, 14<sup>th</sup> Avenue, is located approximately 400 feet away.

### **General Plan Conformity**

The property is located within the Mixed Housing Type Residential General Plan Land Use Classification. This land use classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi unit buildings and neighborhood businesses where appropriate. Mixed Housing Type Residential encompasses a range of densities, from one or two units per lot up to a maximum of 30 units per gross acre. The proposed density is consistent with the General Plan density.

The Mixed Housing type residential General Plan Area allows for a maximum residential density of one unit per 1,089 square feet of lot area, which would allow for a maximum total of 6 dwelling units on this site of 7,000 square feet. The property is well within the allowable density for the site.

### **Zoning Conformity**

The subject property is located within the R-50, Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development. The proposed development meets the medium density requirement. Every unit will have a private deck as well as a group open space in the rear yard for a total of 1,334 square feet, where only 800 square feet of group open space (with no private open space) is required. Four parking spaces are provided, which meets the one parking space per unit requirement.

### **Allowed Density**

The R-50 Zone allows 2 units as permitted by right and allows up to 5 units with a conditional use permit for this 7,000 square foot lot. As stated above, the Mixed Housing Type Residential Land Use classification would allow 6 units on this 7,000 square foot lot. The proposed project of four dwelling units complies with the R-50 Zone density upon approval of a conditional use permit.

### **Height Variance**

The allowable maximum height limit is 30 feet, with some allowed projections. In **Section 17.108.30C**, gable ends up to 15 feet in width located on principal and accessory Residential Facilities can exceed the height limit by 10 feet if the maximum aggregate coverage of the building's horizontal area does not exceed 10 percent, but in all cases, no higher than the maximum height of the roof section on which they are located. There is no restriction of minimum horizontal distance from any abutting residentially zoned lot if the vertical projection above the prescribed height does not exceed four feet.

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The front and rear gables that are above the decks off of the great room meet this allowed projection and are 32 feet in height (for a two foot projection). The hip roofs above the garages that are 32 feet in height do not meet this requirement, and hence require a variance.

Staff's original recommendation called for denial of the two foot height variance. This recommendation was based on the ability to reduce the hip roof height to 30 feet and still generate the desired appearance.

### **Planning Commission's Approval**

At the February 28, 2007 hearing, the Oakland Planning Commission took public testimony from various interested parties, including the appellants, who objected outright to the development of the project and its impact on the neighborhood. The Planning Commission approved the project including the variance. Findings in support of the variance, based on the Commission's determination were submitted for the Planning Commission's March 7, 2007 meeting. The Planning Commission approved the project on March 7, 2007 by a 6-0 vote.

The Planning Commission found that the project complies with all the necessary requirements for approval and is consistent with the relevant policies of the General Plan and voted unanimously to approve the project. The staff report for the Planning Commission, which contains a more thorough discussion of the project and the findings made by the Planning Commission to approve the project, is included as Attachment A.

### **KEY ISSUES AND IMPACTS—ISSUES RAISED ON APPEAL**

#### ***Appellant's Arguments***

On March 19, 2007, Modupe Ogunyemi, representing the San Antonio Neighborhood Association, filed an appeal of the Planning Commission's decision. The appellant's letter is attached to this report (Attachment B). The appellant argues that the City's Planning Commission failed to take into account impacts on the neighbors, topography, General Plan requirements, parking, and site suitability among other items. Listed below in **bold** text is a summary of the arguments raised by the appellant. Staff's response to each argument follows each item in *italicized* text.

#### **Issues**

- 1. Limit the use to a single family or triplex to keep with what is on either side of the property. The historic properties are mentioned as concerns. The project does not maintain and enhance desired characteristics of the neighborhood.**

*Staff Response: The overall context of the neighborhood along with the zoning and the General Plan are all looked at in order to analyze the appropriate density. There are a mixture of single family homes, secondary units, duplexes, triplexes, along with four quadraplexes across the*

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street and one seven unit building across the street. The zoning allows for a maximum of a five unit residential building with a conditional use permit and the General Plan of Mixed Housing Type allows for a maximum of 6 residential units. Therefore, the applicant is not asking for the maximum density and the project meets the findings for the Conditional Use Permit to allow four units.

The design of the condominiums takes into account the historic architecture of the neighborhood. The front of the four units is designed to appear as one unit and uses porch elements, gable roofs, brackets and wood hung windows. Today it is too expensive to replicate the existing historic houses that are in the neighborhood nor would one want to do so because this would take away from the importance of these historic structures. Instead, it is appropriate to utilize certain elements of these houses in order to maintain the character of the neighborhood without trying to duplicate them.

Staff also notes that if scale and overall design are a concern, a single family house could be of the same overall size, scale, and design as the proposed project. The four unit density is well within the intensity found in the immediate area.

- 2. The General Plan analysis states that “the land use classification of mixed housing type is intended to create, maintain, and enhance neighborhood residential areas typically located near the City’s major arterials...” Neither of these conditions are met by this project. This project should be deemed not consistent with the general plan and rejected. If not rejected outright, it should be subject to further scrutiny, and an EIR report required. The maintain and enhance portion is not accomplished by putting in a condo and E 24<sup>th</sup> Street, 17<sup>th</sup> Avenue, and 29<sup>th</sup> Avenue are not major arterial streets.**

*Staff Response:* The General Plan “Mixed House Type Residential classification is intended to create, maintain, and enhance neighborhood residential areas typically located near the City’s major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings and neighborhood businesses where appropriate.” The proposed project is a small-multi-unit building which is located near the major arterial of 14<sup>th</sup> Avenue (1 ½ blocks away). The designation of the land as Mixed Housing Type Residential, means that the property is near a major arterial, otherwise it would be designated a different general plan category. The proposal also is below the General Plan density, which would allow 6 dwelling units on the site. The existing neighborhood has a mixture of single family and small multi-unit buildings. This proposal is designed from the front elevation to appear as a single family home and therefore will maintain and enhance the neighborhood. An EIR is not required because this 4 unit project satisfies criteria for a CEQA exemption (15303 and 15183)

- 3. The appellants are opposed to granting a permit to do harm to the neighborhood. They are opposed to the variance finding providing a grant of special privilege (Staff findings, Feb 28, 1007 section 17.148.050(a) subsection D).**

*Staff Response:* The Planning Commission determined that the higher pitch of the roof would create a better overall appearance to the front elevation of the condominiums instead of a lower

*pitch. Therefore this is not considered a grant of special privilege since it provides a better design solution.*

*The appellants, Mary Becker and Robert Klinger were granted a height variance of 3 feet 6 inches above the 30 foot height requirement for a 1,666 square foot addition that is 33 feet six inches tall on their property at 2302 17<sup>th</sup> Avenue in June of 2001, case #VDRD01-187. The variance was granted in part because it matched the height of the existing building, which shows that the height variance to allow a 32 foot height matches the character of the neighborhood which already has some buildings that are over the 30 foot height limit. Therefore this would not be a grant of special privilege and it would deprive the applicant of privileges enjoyed by owners of similarly zoned property in this very neighborhood if the variance was denied.*

*As previously noted, Staff did not recommend this height variance. The council could choose to deny the appeal but also deny the variance.*

- 4. The appellants bring up an older proposed project that had included this lot along with the property next door, stating that the true development project has not been presented. This approval will be used for justification for the second phase of the original project. A memo from David Mog dated December 9, 2005 is mentioned where a shared access facility is stated as a condition of approval.**

*Staff Response: The previously mentioned project was turned down and was proposed by a different developer. A new owner has purchased the property at 1727 E 24<sup>th</sup> Street. The only project that was approved at the Planning Commission was for a 4 unit residential condominium. The previous project was lacking in architectural detail and was proposed as an apartment building. If a project is proposed at the neighboring property, it will be reviewed as a separate permit. The Planning Commission can not deny a project based on the speculation of what may be proposed on a neighboring property that currently has a different owner. Any new project on a neighboring property will be reviewed on its own merit as to whether it meets the zoning and General Plan requirements.*

*The memo from Dave Mog on December 9, 2005 references driveway regulations which are under the "Shared Access Facilities – Guidelines for Development and Evaluation" for the four condominium units on this lot, it does not mention the driveway being shared by the adjacent lot.*

- 5. The garages will be used as a third bedroom for each unit.**

*Staff Response: The only way for the garages to be legally used as a bedroom is to obtain a zoning permit to approve this along with a building permit. Zoning will not approve the conversion of a garage into a bedroom because the property would then not maintain its required parking of one space per unit. If an owner were to convert the garage illegally to a bedroom, code enforcement action would be taken and the owner would be required to convert the garage back to its original use or face penalties. The Planning Commission can not base their decision on what speculative illegal changes an owner may make. The better design solution is for the garages to be constructed into the hillside in order to have less impact on the*

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property by being incorporated into the overall design of the condominiums and not a row of freestanding garages. If the garages were separated, this would also create much greater impervious surfaces on the property along with the potential of not being able to have enough space in order to meet the requirement for 4 parking spaces.

- 6. The project is on an incredibly steep hill and is at least 25 feet higher than neighboring properties on 17<sup>th</sup> Avenue, therefore the project will be 57 feet above the neighboring houses.**

*Staff Response:* Relatively speaking, this property is not that steep. The Planning Commission can only look at whether the project is meeting the height limitation on the lot itself, height is not measured from a neighboring lot. This would severely limit development on any hillside properties. There is an existing house between this property and those located on 17<sup>th</sup> Avenue, which creates a buffer between this project and those on 17<sup>th</sup> Avenue. The approximate cross slope of the parcel is 10%. Foundation design required for the project will be commensurate with the soils and slope of the site.

- 7. The balconies and decks will overlook the neighbors' properties.**

*Staff Response:* The balconies enhance the overall design of the project by breaking up the mass of the building with voids and add architecture details instead of creating a box. All of the balconies meet the setback requirements. The rear balcony exceeds the rear yard setback with a 26 foot rear setback where only 15 feet is required and the side balconies exceed the side yard setback with a 14 1/2 foot side yard setback where only 4 feet is required on the side of the condominium that faces toward 17<sup>th</sup> Avenue. The balconies on the other side have a setback of 19 feet, where 4 feet is required. All of the balconies are enclosed within the existing envelope of the condominium, which will reduce the areas from which one can look out. There is also another property in between the balconies and the houses along 17<sup>th</sup> Avenue. In short, no documentation has been submitted to substantiate privacy impacts to surrounding neighbors. Staff notes that the lot size and historic development pattern are more important factors than balcony size and placement.

- 8. The appellants refer to a Sanborn map from the 1970's for building coverage.**

*Staff Response:* The Sanborn map clearly does not represent the development that is there today. An attached aerial map (Attachment C) of the area shows development within a lot of the backyards of the houses behind 1727 E 24<sup>th</sup> Street along with buildings that are longer and take up large portions of the yards. The average coverage of the surrounding lots today is compatible with what is proposed. The Sanborn map is a snapshot in time that is not necessarily representative of today's neighborhood.

- 9. The appellants question adequate parking and places for children to play. They continue to assert that the steepness of the hill prevents children from playing on the street in front of their house.**



*Staff Response: The proposed development meets the parking requirement for the R-50 zone and exceeds the open space requirement by providing both group and private open space. The Planning Commission can not hold this property to a higher standard than is required on other lots or by code. The mention of children not being able to play in the street is not something that staff would ever recommend and the zoning regulations for open space do not assume that some of the open space used for a property would be for children to be playing in the street. It is also speculative to assume any children will live in the project.*

**10. The appellant is concerned about traffic impacts; they state the project puts a shared driveway between this project and the parcel next door, therefore creating a street. They further state the four units will bring too much traffic compared to two units.**

*Staff Response: As stated earlier, the project proposes for the driveway to be used on this property only, the Planning Commission can not deny a project based on what may or may not be proposed on a future neighboring project that is owned by a different owner. This driveway is not a street. The difference in traffic for 2 units compared to 4 units is not considered significant. At worst it is the difference between 12 trips average per day and 24 trips average per day.*

**11. This is a neighborhood of basically single family homes that is quiet and friendly, street parking is available, low levels of traffic allow children to play in the street, there is relatively low crime, people know each other. This project will not enhance these issues.**

*Staff Response: The neighborhood does have a mixture of single family homes along with secondary units and multi-family homes. Both the zoning and General Plan allow for small multi-family developments. The proposal is for condominiums that allow for individual ownership as opposed to rental apartments. Parking requirements are met, traffic will not be significantly increased. It is never recommended that children play in the street. Building a 4 unit condominium with asking prices of approximately \$400,000 or greater is indicative of a strong commitment, through reinvestment in a neighborhood, for the owners in the building to become part of the community the same as if it were a single family home.*

**12. The residential design review requires that the proposed design will be sensitive to the topography and landscape.**

*Staff Response: The creeks and underground streams map that was presented by the appellant are on the west side of 14<sup>th</sup> Avenue while this project is two blocks over and east of 17<sup>th</sup> Avenue. The zoning ordinance has requirements for creek permits if a project is within 100 feet from a creek, this proposal does not fall within that requirement so no creek permit is required. Engineering stated a soils report may be required and a Geotechnical report has been prepared and will be analyzed by the Engineering department for any potential problems with construction. As far as landscape, trees were cut down by a previous owner and there is nothing that the new owner can do about trees that were removed prior to his purchase of the property. The developer is proposing extensive landscaping including 14 new trees along with shrubs and*

*other plantings. As a condition of approval, staff has required that an automatic irrigation system be put in place to maintain the landscaping of the property.*

**13. The site is not physically suitable for this type of development, the site is on a very steep hill and is riddled with underground streams, and the site is located in an area of the hill which has problems with land slides. The project proposes an underground garage which will divert underground streams and cause problems. The geotechnical report presented by the developer found evidence of underground water consistent with underground streams. The project proposes to cover 81% of the surface area and will create problems with water runoff which the area is particularly susceptible to due to the steepness of the hill and the unstable (sliding) hill side.**

*Staff Response: The site is not on a "very steep hill," there is approximately a 10% slope from one side of the property to the other. According to Oakland standards it does not even fall into the City's different zoning standards when a property has greater than a 20% or 40% slope. There is no history of slides for this particular property and none were found in the Geotechnical report. There is no record of underground streams and the Geotechnical report did not state any existence of underground streams. Water that was found was attributed to a form of artificial discharge. There is no evidence to refute this factor except for speculation by the neighbors. Even if there are underground streams there are engineering measures that can be taken to work around the situation. USGS maps show a landslide area on the west side of 17<sup>th</sup> Avenue and they show a liquefaction area west of 14<sup>th</sup> Avenue, both of these areas are well west of the proposed site. The Geotechnical supports the USGS maps, therefore the experts from USGS and the consultant who did the Geotechnical report are more reliable than speculation by the neighbors.*

**14. The project does not meet the criteria for a Categorical Exemption under section 15303 (b); is not consistent with the General Plan. We request that an EIR be required under this determination.**

*Staff Response: The appellant generally states the project does not meet the criteria for Categorical Exemption but does not provide any substantial basis as to why they believe it does not meet section 15303 (b). It states that the project is not consistent with the General Plan but meeting the General Plan is not a specified criteria for 15303(b). Staff has found this project to be consistent with the General Plan (see Staff Response from Issue #2 on page 5 and 6). If the project did not meet the General Plan, a General Plan amendment would be required which would trigger additional CEQA analysis.*

*Section 15303 of the California Environmental Quality Act (CEQA) states:  
Class 3 consists of construction and location of limited numbers of new, small facilities or structures: installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:*

*(b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.*

*This is a four unit project which clearly falls under the six dwelling unit maximum in an urbanized area. Furthermore, the project is not precluded from using a categorical exemption pursuant to section 15300.2 (Exceptions) under CEQA. The project does not fall into the following Exceptions: (a) Location, the project is not in a particularly sensitive environment to be considered significant; (b) Cumulative Impact, there are not successive projects of the same type in the same place to create a cumulative impact; (c) Significant Effect, this project activity will not have a significant effect on the environment due to unusual circumstances; (d) Scenic Highway, this is not on a scenic highway; (e) Hazardous Waste Sites, this is not a hazardous waste site; and (f) Historical Resources, there is no significant impact on historic resources.*

**15. The project does not provide adequate facilities for trash storage and laundry.**

*Staff Response: Each unit will have individual garbage containers that will be wheeled out to the street from the garages like any other home owner. There is adequate storage space within the garage for garbage. At the Planning Commission meeting the applicant stated there will be laundry facilities within each unit, but this is up to the applicant and is not a City requirement. It makes the units more marketable if they have laundry space and hook-ups within, but owners can utilize a Laundromat if necessary.*

**SUSTAINABLE OPPORTUNITIES**

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

Economic: The project would contribute to the economic vitality of the San Antonio neighborhood by developing a vacant lot and bringing additional home ownership opportunities. 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 has had a geotechnical report performed and engineering will ensure that any required mitigation will be performed before and during construction.

Social Equity: The project involves a four unit housing development and increases housing opportunities for the City of Oakland.

**DISABILITY AND SENIOR CITIZEN ACCESS**

Any housing constructed on the property will be required to comply with local, state, and federal ADA access requirements.

## **STAFF RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council adopt the attached Resolution denying the appeal and uphold 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 in all significant respects with applicable general plan policies and zoning regulations and review procedures; and 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;

## **ALTERNATIVE CITY COUNCIL ACTIONS**

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

1. Uphold the Planning Commission's decision, but impose additional conditions on the project and/or modify the project.
2. Uphold the Planning Commission's decision, but impose the original conditions given by staff for the February 28, 2007 Planning Commission meeting and eliminate the height variance and change the hip roof over the two interior decks to a flat one (see Attachment D).
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.
5. Uphold the appeal and overturn 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 has an opportunity to review the proposed findings and resolution for denial.

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**ACTION REQUESTED OF THE CITY COUNCIL**

1. Affirm staff's environmental determination.
2. Affirm the Planning Commission's approval of a Conditional Use Permit to construct a four (4) unit residential building in the R-50 Zone, a Tentative Parcel Map for a subdivision of one lot to create four residential condominium units within a new residential building, and a minor height variance of (2) feet for a total height of 32 feet where 30 feet is required at 1727 E. 24<sup>th</sup> Street.

Respectfully submitted,

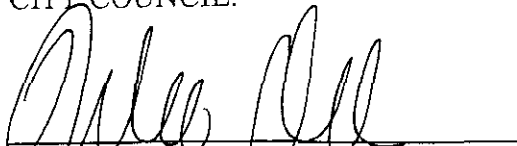


**CLAUDIA CAPPIO**  
Director of Development  
Community and Economic Development Agency

Reviewed by:  
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Planning & Zoning Division

Prepared by:  
Laura B. Kaminski  
Planner II  
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APPROVED AND FORWARDED TO THE  
CITY COUNCIL:

  
**Office of the City Administrator**

**ATTACHMENTS:**

- A. Planning Commission Staff Report including Project Drawings and approved conditions (dated March 7, 2007)
- B. Appeal Letter (dated March 19, 2007)
- C. Aerial of the neighborhood
- D. Planning Commission Staff Report original Staff recommended Conditions (dated February 28, 2007)

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