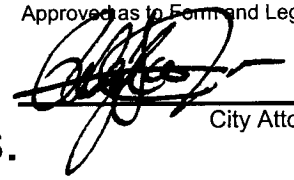


OAKLAND CITY COUNCIL


City Attorney

OFFICE OF THE CITY CLERK
RESOLUTION No. 80897 C.M.S.

2007 SEP 27 AM 9:21

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, ON BEHALF OF THE CITY OF OAKLAND, TO EXECUTE AN AGREEMENT WITH THE CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST) FOR THE PURPOSE OF PERMITTING THE POLICE DEPARTMENT TO PRESENT THE POST CERTIFIED EMERGENCY VEHICLE OPERATIONS COURSE (EVOC) TO ONE HUNDRED FIFTY (150) POLICE OFFICER TRAINEES, AND TO RECEIVE UP TO SIXTY-SIX THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$66,750) IN REIMBURSEMENT FUNDS

WHEREAS, the California Commission on Peace Officer Standards and Training (POST) has requested that the City of Oakland Police Department present the POST certified Emergency Vehicle Operations Course (EVOC) to California Law Enforcement personnel who are full-time, on-duty employees of POST reimbursable agencies; and

WHEREAS, POST will reimburse the City for each full-time, on-duty POST reimbursable student who attends a City of Oakland POST presentation at a rate of \$445 per student, up to a maximum amount of \$66,750 during the period of July 1, 2007 through June 30, 2008; and

WHEREAS, it is in the best interests of the City of Oakland to execute an agreement with POST for the purposes described above; and

WHEREAS, the City of Oakland has executed similar agreements with POST since 1995; now, therefore, be it

RESOLVED: That the City Administrator or her designee is hereby authorized to submit and execute an agreement between the City of Oakland and POST for the purposes described above; and be it

FURTHER RESOLVED: That reimbursement funds in an amount of up to \$66,750 shall be appropriated to the Police Department in General Purpose Fund: 1010, Training Org.: 103430, in Training Program PS09, into a project to be determined.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 16 2007, 20_____

PASSED BY THE FOLLOWING VOTE:


AYES- ~~10~~ 16, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID and PRESIDENT DE LA FUENTE - 7

NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused- Brooks - 1

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

- **Policy 8.2 – Making Compatible Interfaces Between Densities – The height of development in Urban Residential and other higher density residential areas should step down as it nears lower density areas to minimize conflicts at the interface between the different types of development.**

The subject property is not located within one of the Urban Residential areas, which are usually zoned R-70, R-80, and R-90 Zones, and which typically do not contain a set height limit. The subject property is not located adjacent to any lower density zoning districts or uses. The adjacent buildings on Claremont Avenue are commercial buildings and the adjacent site on Telegraph is a civic building.

- **Policy 4.2 – Protection of Residential Yards – Action 4.2.1 – Lot Coverage Limits – Prepare a study of lot coverage or floor area ratio limits for single family residential zoning districts, with assistance from local architects, builders, and residents.**

The subject property is not located within a single family residential district.

If the answers to all of the above questions are yes, or if the General Plan is silent, you must then determine whether or not the proposed project is permitted under the zoning regulations. To determine this, the following to questions are applied:

- **Is the proposed activity and facility permitted under the zoning regulations?** – The proposed activities (residential and retail), and facilities (multi family residential and non-residential) are permitted under the C-28 regulations.
- **Is the project consistent with other regulations of the zone?** – This is where the project is not consistent with the regulations of the C-28 Zone. The proposed project contains a density higher than that permitted within the C-28 Zone, but is consistent with the density of the General Plan. The proposed project is also taller in height than permitted by the C-28 Zone, is consistent with the relevant General Plan policies as stated above.

When a proposed project is consistent with the relevant General Plan policies but not permitted under the zoning regulations, this constitutes an “express conflict” with the General Plan, and a “Best Fit Zone” may be applied. The applicant had requested a “best fit” zone of C-45 because it is one of the zones listed in the General Plan Conformity Guidelines, however; given the current status of the re-zoning process in the Temescal district the Zone of C-30 has been chosen for the area that the subject property is located within, and is shown in the Conformity Guidelines as “another possible zone”. Given this the Director has designated a “best fit” zone of C-30 for the project site. **At the public hearing on this item the Planning Commission granted the “best fit” zone of C-45 as requested by the applicant. This decision was based upon the General Plan Conformity Guidelines, which indicate the C-45 Zone as a “best fit” zone for the Community Commercial General Plan areas, and because the property is located at the junction of two major arterials which is consistent with the description of the C-45 Zone.**

ZONING ANALYSIS

The subject property is located within the C-28, Commercial Shopping District Zone, which is intended to create, preserve, and enhance major boulevards of medium-scale retail establishments featuring some specified higher density nodes in attractive settings oriented to pedestrian comparison shopping, and to encourage mixed-use residential and nonresidential developments, and is typically appropriate along major thoroughfares near residential communities. Given the reasons discussed above the Director designated the property as a “best fit” zone of C-30, District Thoroughfare Commercial Zone, which is intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in convenient locations, and is typically appropriate along major thoroughfares. The main difference between the C-28 zone and the C-30 zone in terms of permitted building envelope is the allowed height within the two zones. The following table illustrates the differences between the height regulations of the C-28 zone and the C-30 “best fit” zone, as well as a reference to the current rezoning process for the Temescal District and the proposed height limits for the subject property.

Attribute	C-28	C-30	Proposed TEM	Project
Height	40 feet	None*	45’/55’ setback	45’/59’ setback**

* The C-30 Zone requires a residential building to be no more than 40 feet in height at the rear yard setback line, but it may increase in height two feet vertically per each one foot setback horizontally.

** The proposed project contains a pitched roof, and the top of the pitch reaches 59’ above grade, however the midpoint is at 55’ above grade, thus trying to remain consistent with the proposed future height regulations.

Density

The “best fit” C-30 Zone allows for a maximum density of one dwelling unit per 450 square feet of lot area. Given the site square footage of 11,777, the maximum number of dwelling units permitted under the Planning Code would be 26. The current C-28 zone contains the same density allowances as the C-30 Zone. The proposed project exceeds the permitted density under the Planning Code, but is consistent with the allowed General Plan density as described earlier in this report. An Interim Conditional use permit is required to achieve the increased density as set forth under the General Plan. The project site is located at the intersection of two North Oakland corridors and is located within an area designated as a “Grow and Change” area, which is where growth will be focused to lead Oakland into the next century. Correlated with transportation and infrastructure improvements, grow and change areas will emphasize significant changes in density, activity, or use, which are consistent with the land use diagram. Given the location of the project site, staff believes that the use permit for the increased density is appropriate for this site.

Open Space

The C-30 zone requires open space for dwelling units at a rate of 150 square feet per dwelling. Group open space may be substituted at a 2:1 ratio with private open space. The total open space requirement for the proposed 33 dwelling units is 4,950 square feet. The proposed project will contain 1,812 square feet of private open space (which counts for 3,624 square feet at 2:1). In

addition to the private open space, group open space is still required even with the full substitution of private open space at a rate of 30 square feet per unit, for a total of 990 square feet. The project proposes group open spaces in the amount of 1,935 square feet, thus meeting the open space requirement for the project.

Parking

The proposed project would include 33 residential units and less than 3,000 square feet of commercial retail space. The zoning requires one off street parking stall per dwelling unit, however, no off street parking is required for the commercial space since it is less than 3,000 square feet. The parking will be provided in the amount required by Code, located at the ground floor of the building with access off of Claremont Avenue. The garage itself will be tucked behind commercial spaces and a lobby entrance so that it will be shielded from public view, with the exception of the garage door.

Height Variance

The C-30 Zone sets a height limit at the rear setback line of 40 feet. The zone then allows the height of a building to increase by two feet in height per foot that it steps back from the rear property line. The proposed project would encroach into this "height reduction plane" setback at points along the rear elevation. The intent of this regulation is to require buildings to step down so that there can be a mutual sharing of openness between the rear yards of adjacent properties for residents to enjoy. Although the adjacent property that shares a rear yard is not a residential property, and currently contains an open parking lot and non residential rear yard, the intent of this regulation would not be served, as the future redevelopment of the adjacent lot over time could be likely, and the granting of this variance could negatively impact future development. Staff recommends, as a Condition of Approval, that the building be redesigned to meet the C-30 provisions for the rear yard setback and height reduction plane. The inclusion of this requirement would not dramatically impact the design of the building and only would cause the loss of minimal square footage.

KEY ISSUES

Design

The proposed project had gone before the Design Review Committee on March 28, 2007. At the meeting several design changes were recommended by staff and the Commissioners present at the meeting. At the meeting the following recommendations were made:

- Telegraph Ave. Façade – The Design Review Committee had recommended a more "urban" façade for the Telegraph Avenue elevation. Previously a large portion of the façade contained shingle and board and batten siding. The project was modified to include the shingles only on the bay projections and remove the board and batten siding. The back exterior wall now includes the use of heavy cement board siding to add a more urban look and durability. In addition, other measures were taken to reduce the bulk of

the Telegraph façade by providing more recesses into the building as recommended by the Design Review Committee.

- Claremont Ave. Façade – The only changes to the Claremont Avenue façade are that the garage door was increased in size to address safety issues with sight-distance issues with vehicles exiting the building, and the height of the building was slightly reduced to meet the intent of the proposed height regulations of the Temescal re-zoning process, which is a 45 foot tall base with a 55 foot maximum after setting the building back from the street.
- Exterior Materials – One of the items raised by staff at the Design Review Committee meeting was the issue of exterior materials. The reason this was an issue of concern is that the proposed project is removing three PDHP's from the property, and special findings are required regarding equal or better quality of design. While some of the materials have been altered at the upper level of the Telegraph Avenue elevation, staff still has concerns with the materials that are at the ground floor portions of the building on both street elevations. Currently the proposal is for stucco finish or cement panel tile. Staff recommends that the ground floor materials be stepped up in quality with a decorative ceramic or stone tile for the two story base of the building that is of very high quality and contains a dark earth tone color to match the Craftsman inspired design of the building. At a minimum, staff would recommend that the stucco base, if retained in the design, contain a smooth finish down to the tile bulk head, and without visible expansion joints.

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 15332 of the CEQA Guidelines. The project also complies with Section 15183, of the CEQA Guidelines for projects that are consistent with the General Plan or Zoning. The criteria for a Categorical Exemption under Section 15332 of the CEQA guidelines are as follows:

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

The proposed project is consistent with the Community Commercial General Plan designation by creating a mixed use development that contains ground floor commercial activities with dense residential use above.

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

The development site is located within the Oakland City limits, is less than five acres and is completely surrounded by urban uses.

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

The project site has been previously developed and does not contain any habitat for endangered, rare, or threatened species.

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

The proposed project underwent a full traffic analysis by a qualified traffic consultant, which was reviewed by the Transportation Services Division of Public Works Agency and CEDA Planning staff, and it was determined that the project will not contribute to the reduction of Level of Service (LOS) below an acceptable level for any nearby intersection. With implementation of standard conditions of approval, the project would not result in any significant impacts on traffic, noise, air quality, or water quality.

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

All required utilities are readily accessible on the surrounding streets, and the site will be adequately served by public services in the area.

CONCLUSION

Staff feels that the proposed project is a good reuse of the site as it provides the intensity envisioned for corridor development under the Oakland General Plan. The project is located in an area anticipated for growth and change as a manner of providing the density necessary to house a growing population in a area well served by public transportation, especially given the AC Transit Bus Rapid Transit line that runs along this portion of Telegraph Avenue. While the existing site contains potentially designated historic structures, the scale of those structures is no longer appropriate for an area that will be taking on the future anticipated population growth for the East Bay. Subject to the recommended project modifications and Conditions of Approval staff believes that the proposed project is appropriate and should be approved.

- RECOMMENDATIONS:**
1. Affirm staff's environmental determination.
 2. Approve the Major Design Review, and Interim Conditional Use Permit and Tentative Parcel Map subject to the attached findings and conditions, while denying the requested Minor Variance.

Prepared by:

PETERSON Z. VOLLMANN
Planner III

Approved by:

SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:

CLAUDIA CAPPIO
Director of Development

ATTACHMENTS:

- A. Project Plans
- B. Findings for Approval
- C. Conditions of Approval

ATTACHMENT B

Modifications to the Findings and Conditions of Approval as directed by the Planning Commission at the July 18, 2007 meeting are indicated in underlined type for additions and cross out type for the deletions.

FINDINGS FOR APPROVAL

This proposal meets all the required Use Permit criteria (Sections 17.134.050 & 17.01.100B), and Design Review Criteria (Section 17.136.070), and Minor Variance Criteria (Section 17.148.050) but in staff's view does not meet the required Variance criteria (17.148.050), as set forth below and which are required to approve the application. This proposal does not contain characteristics that require denial pursuant to the Tentative Map Findings (Section 16.08.030 & 16.24.040) of the Oakland Subdivision Regulations. Required findings are shown in bold type; reasons the proposal satisfies them or not are shown in normal type.

17.136.050A - 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 proposed project will contain a mixed use structure containing ground floor commercial with 33 dwelling units above. The project site is located on Telegraph Avenue, which is a major transportation corridor and thoroughfare for the City of Oakland as well as the East Bay, and is designated as an area slated for growth and change under the General Plan. The General Plan vision for Telegraph Avenue is for a mixed use corridor with local and city wide serving commercial uses with high density housing above. The subject building is one of many larger buildings that are anticipated for the Telegraph Avenue corridor. The proposed design will use a cement plaster (stucco) or tile for the two story ground floor base, which is seen in other buildings in the surrounding area, and frame the ground floor commercial and residential lobby entrances. The upper levels will contain a mix of shingles and board and batten siding on the Claremont elevation, and cement board siding and shingle bays on the Telegraph elevation, which are materials consistent with Craftsman era architecture seen in the area. The project will also contain gable roofs with large eaves that will help to break down the visual bulk of the building.

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

The proposed design will enhance the neighborhood character redeveloping an existing underutilized lot with a new mixed use development that incorporates high density housing above ground floor commercial on a transit corridor. The use of high quality exterior materials at the ground floor will provide a strong example for future developments along the corridor.

FINDINGS