

071 11 10 02

## OAKLAND CITY COUNCIL

### ORDINANCE NO. 12770 C.M.S.

---

**ORDINANCE REZONING A PORTION OF THE 191-UNIT TASSAFARONGA VILLAGE RESIDENTIAL PROJECT SITE LOCATED AT 968 - 81ST AVENUE, A 0.03-ACRE PORTION OF 966 - 81ST AVENUE AND A 0.141-ACRE TAX DEFAULT PARCEL (APN 042-4206-0047-00), FROM THE M-30 GENERAL INDUSTRIAL ZONE TO THE R-50 MEDIUM DENSITY RESIDENTIAL ZONE.**

**WHEREAS**, the 2.36-acre portion of the 191-unit Tassafaronga Village Residential Project ("Project"), located at 968-81st Street, a portion of 966-81st Street and a tax default parcel identified as APN042-4206-0047-00,, is currently located in the M-30 General Industrial Zone by the Oakland Zoning Regulations; and

**WHEREAS**, the intent of the M-30 General Industrial Zone is to create, preserve, and enhance areas containing a wide range of manufacturing and related establishments; and

**WHEREAS**, according to the Zoning Regulations, residential development is not permitted in the M-30 General Industrial Zone; and

**WHEREAS**, the Project proposes 191 residential units; and

**WHEREAS**, the intent of the R-50 Medium Density Residential Zone is to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and single-family dwellings in desirable settings for urban living, and is typically appropriate to areas of medium density residential development; and

**WHEREAS**, in accordance with the California Environmental Quality Act ("CEQA"), the City issued a Notice of Intent ("NOI"), indicating an intent to adopt a Mitigated Negative Declaration ("MND") on the Project; and

**WHEREAS**, a MND on the Project, SCH #2006082134, was released by the City and circulated for public review and comment from August 28, 2006 to September 18, 2006; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on the MND and the Project on September 20, 2006; and

**WHEREAS**, on September 20, 2006, the Planning Commission adopted the MND and adopted related CEQA findings, approved the application for Conditional Use Permits, and Variances (collectively called "Development Permits"), recommended approval of a General Plan amendment to the City Council (from Business Mix to Mixed Housing Type), recommended approval of a Redevelopment Plan amendment to the City Council, and recommended approval of rezoning to the City Council; and

**WHEREAS**, the Planning Commission found that the Project is consistent with the proposed rezoning; and

**WHEREAS**, the Planning Commission also found, in part, that the proposed rezoning is consistent with the overall goals, objectives, and policies of the General Plan in that the proposed rezoning and the Project will foster a healthy, vital, and distinctive residential neighborhood with adequate open space, provide quality housing for a range of incomes, contribute to a thriving, diverse, and attractive shopping district that provides a variety of goods, services, and entertainment which is oriented to and well served by public transit, pedestrian, and bicycle facilities, support the use of alternative transportation, and promote sustainable residential development and smart growth; and

**WHEREAS**, the Community and Economic Development Committee met to consider the MND and the Project on September 26, 2006; and

**WHEREAS**, the City Council held a duly noticed public hearing on October 3, 2006; and

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

**WHEREAS**, the public hearing was closed by the City Council on October 3, 2006;

**NOW, THEREFORE**, the Council of the City of Oakland does ordain as follows:

**SECTION 1.** The City Council, as the final decision-making body of the lead agency, confirms and adopts (i) the environmental findings made and adopted by the Planning Commission, as set forth in Exhibit A ("CEQA Findings") of this ordinance, prior to taking action on the Project and (ii) the Conditions of Approval attached as Exhibit B of this ordinance; all incorporated by reference herein.

**SECTION 2.** The designation and location of zones and zone boundaries on the Zoning Map are hereby amended as shown on the map attached to this ordinance as Exhibit C, and adopts the findings of the City Planning Commission, as summarized in the above recitals, as well as findings in the October 3, 2006, City Council Agenda Report.

**SECTION 3.** The City Council finds that it is necessary, desirable, and in the public interest to amend the Zoning Map for the reasons set forth herein and in the October 3, 2006, City Council Agenda Report.

**SECTION 4.** The City Council finds and determines that this ordinance complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

**SECTION 5.** The record before this Council relating to this Project application includes, without limitation, the following:

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

**SECTION 6.** 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, 2nd floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA..

**SECTION 7.** If any part of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance, and this Council hereby declares that it would have passed the remainder of this ordinance if such invalid portion thereof had been deleted.

**SECTION 8.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

**SECTION 9.** That, the recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 17 2006, 2006

**PASSED BY THE FOLLOWING VOTE:**

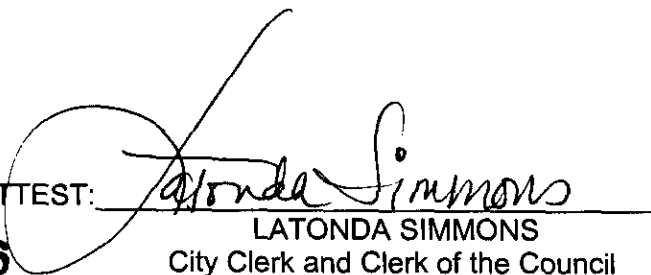
AYES- **BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL,  
REID, QUAN, AND PRESIDENT DE LA FUENTE** - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:

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

Introduction Date: **OCT 3 2006**

## **EXHIBIT A**

### **CEQA FINDINGS**

#### **Tassafaronga Village Residential Project (Case File Nos. GP06-182; RZ06-183; CMDV06-184; ER06-0013)**

#### **California Environmental Quality Act (CEQA) Findings for Adoption of the MND:**

1. The Initial Study/Mitigated Negative Declaration was prepared by the City of Oakland as the Lead Agency, was properly circulated for public review and comment for 22 days.
2. The State Clearinghouse approved a reduced public review and comment period (20 days instead from 30 days) pursuant to Section 15105 (d) of the CEQA Guidelines.
3. The Initial Study/Mitigated Negative Declaration was independently reviewed and analyzed by the City Planning Commission and reflects the independent judgment of the Planning Commission. Such independent judgment is based on review and consideration of the information contained in the Initial Study/Mitigated Negative Declaration EIR and on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the Mitigated Negative Declaration and the administrative record as a whole). The Planning Commission recognizes that the Mitigated Negative Declaration contains certain additions, clarifications, modifications or other revisions (as the result of the public review and comments on the Initial Study/Mitigated Negative Declaration, public agency responses to those comments, and refinements to the project description and project alternatives), but that such work does not present significant new information requiring recirculation of the Mitigated Negative Declaration. Such information, revisions, and additional data do not include any new significant environmental impacts that would result from the project or from a new mitigation measure and they do not reflect any substantial increase in the severity of any environmental impact, nor do they propose any additional feasible project alternative or mitigation measure that is materially different from others previously analyzed that would clearly lessen the significant environmental impacts of the project that has not been adopted. No recirculation of the Mitigated Negative Declaration is required. No information indicates that the Mitigated Negative Declaration was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Mitigated Negative Declaration.
4. The Initial Study/Mitigated Negative Declaration and its findings and conclusions are adopted by the City Planning Commission as its source of environmental information, except where otherwise expressly stated. The Initial Study/Mitigated Negative Declaration is legally adequate and was completed in compliance with CEQA and the City's Environmental Review Regulations.
5. The Initial Study/Mitigated Negative Declaration identifies all potential significant adverse environmental impacts and feasible mitigation measures or standard conditions of approval that would reduce these impacts to a less-than-significant level. All of the mitigation measures identified in the Initial Study/Mitigated Negative Declaration, as they may have been modified,

and again in the Mitigation Monitoring and Reporting Program, will be adopted and implemented as Conditions of Approval for the Project.

6. The approval of the Project complies with CEQA; and the Initial Study/Mitigated Negative Declaration was presented to the City Planning Commission, which reviewed and considered the information contained therein prior to acting on any of the development approvals for the Project.
7. The monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the attached Mitigation Monitoring and Reporting Program incorporated into the Conditions of Project approval. Adoption of this Program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of the CEQA Guidelines. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Oakland, the applicant, or other identified public agencies of responsibility.

## EXHIBIT B (REVISED)

### CONDITIONS OF APPROVAL

#### **Tassafaronga Village Residential Project** (Case File Nos. GP06-182; RZ06-183; CMDV06-184; ER06-0013)

This approval is subject to the following conditions (struck-out language was deleted, and underlined language was added, by the City Planning Commission at the hearing dated September 20, 2006):

### 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 staff report and the plans submitted on August 17, 2006 and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval

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

*a. Ongoing*

This approval shall become effective upon satisfactory compliance with these conditions. This approval shall expire on September 20, 2008, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the Director of Development may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

**3. Scope of This Approval; Major and Minor Changes**

*a. Ongoing*

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

**4. Modification of Conditions or Revocation**

*a. Ongoing*

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

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

**a. Required prior to issuance of building permit**

These Conditions of Approval shall be attached to any plans submitted for a building permit for this project.

**6. Indemnification**

**a. Ongoing**

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

**7. Lighting Plan**

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

The project applicant shall submit a plan for exterior lighting that is visible from the exterior of the building for review and approval by the Electrical Services Division. The plan shall include the design and location of all lighting fixtures or standards. The plan shall indicate lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site.

**8. Air Quality Compliance**

**a. During construction**

During construction, the project sponsor shall require the construction contractor to implement the following measures required as part of BAAQMD's basic and enhanced dust control procedures required for construction sites. These include:

**BASIC (Applies to all construction sites)**

- Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.
- Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.

**ENHANCED**

- All "Basic" controls listed above, plus



- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 miles per hour.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways
- Replant vegetation in disturbed areas as quickly as feasible.

***b. During construction***

To minimize construction equipment emissions during construction, the project sponsor shall require the construction contractor to:

1. Demonstrate compliance with BAAQMD Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1, requires an authority to construct and permit to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the “CAPCOA” Portable Equipment Registration Rule” or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
2. Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.

**9. Tree Permit**

***a. Prior to the issuance of grading or building permit***

Prior to receiving a building permit, the applicant must secure a tree removal permit, and abide by the conditions of that permit, prior to removal of any trees located on the project site or in the public right-of-way adjacent to the project.

***b. Prior to the issuance of grading or building permit***

To the extent feasible, removal of the large trees and other vegetation suitable for nesting shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting birds or raptors. If the survey indicates the potential presence of nesting birds or raptors, the results shall be coordinated with the California Department of Fish and Game (CDFG) and suitable avoidance measures shall be developed and implemented. Construction shall observe the CDFG avoidance guidelines which are a minimum 500-foot buffer zone surrounding active raptor nests and a 250-foot buffer zone surrounding nests of other birds. Buffer zones shall remain until young have fledged.

***c. During construction***

Adequate protection shall be provided during the construction period for any trees which are to remain standing. Measures deemed necessary by the Tree Reviewer in consideration of the size, species, condition and location of the trees to remain may include any of the following:

1. Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
2. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
3. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
4. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
5. If any damage to a protected tree should occur during or as a result of work on the site, the applicant shall immediately notify the Public Works Agency of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
6. All debris created as a result of any tree removal work shall be removed by the applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the applicant in accordance with all applicable laws, ordinances, and regulations.

***d. Prior to the issuance of grading or building permit***

Replacement plantings shall be required in order to prevent excessive loss of shade, erosion control, groundwater replenishment, visual screening and wildlife habitat in accordance with the following criteria:

1. No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
2. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Ancutus merciesii* (Madrone), *Aesculus californica* (California Buckeye) or *Umbelluiana californica* (California Bay Laurel).

3. Replacement trees shall be of twenty-four (24) inch box size, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
4. Minimum planting areas must be available on site as follows:
  - a) For *Sequoia sempervirens*, three hundred fifteen square feet per tree;
  - b) For all other species listed in #2 above, seven hundred (700) square feet per tree.
5. In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
6. Plantings shall be installed prior to the issuance of a certificate of occupancy, subject to seasonal constraints, and shall be maintained by the applicant until established. The Tree Reviewer may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the applicant's expense.

#### **10. Cultural Resources found during Site Work and Construction**

##### ***a. During construction***

Pursuant to CEQA Guidelines 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" shall be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project sponsor and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

In considering any suggested mitigation proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project sponsor shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for historical resources or unique archaeological resources is carried out.

Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find shall be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation, subject to approval by the City of Oakland, which shall assure implementation of appropriate mitigation measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and

treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

**b. *During construction***

In the event of an unanticipated discovery of a trace fossil during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

**c. *During construction***

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and follow the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made.

If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and a timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

**11. Geotechnical Investigation**

**a. *Prior to issuance of grading permits***

A site-specific, design level geotechnical investigation for each construction site within the project area shall be required as part of this project. Specifically:

1. Each investigation shall include an analysis of expected ground motions at the site from known active faults. The analyses shall be in accordance with applicable City ordinances and policies, and consistent with the most recent version of the California Building Code, which requires structural design that can accommodate ground accelerations expected from known active faults.
2. The investigations shall determine final design parameters for the walls, foundations, foundation slabs, and surrounding related improvements (utilities, roadways, parking lots and sidewalks).
3. The investigations shall be reviewed and approved by a registered geotechnical engineer. All recommendations by the project engineer, geotechnical engineer, will be included in the final design.
4. Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the project design phase, shall be incorporated in the project.

Final seismic considerations for the site shall be submitted to and approved by the City of Oakland Building Services Division prior to the commencement of the project.

**12. State, Federal, or County Authority Environmental Approval.**

***a. Prior to issuance of any demolition, grading or building permit.***

Prior to issuance of a building permit, the applicant shall demonstrate, through written verification, that required clearances have been granted and any applicable conditions have been met for previous contamination at the site from the appropriate State, Federal or County authorities, ~~or the applicant shall submit a Phase I and/or Phase II report for the existing buildings.~~ The Planning Director shall review and provide a determination on the completeness of the reports.

**13. Lead-based paint, Asbestos or PCB-equipment Assessment**

***a. Prior to demolition***

Future demolition or renovation activities shall require the project sponsor to prepare an assessment for the potential presence of lead-based paint or coatings, asbestos, or PCB-containing equipment prior to commencing demolition activities.

If the required assessment finds presence of lead-based paint, asbestos, and/or PCBs, the project sponsor shall create and implement a health and safety plan to protect workers from risks associated with hazardous materials during demolition or renovation of affected structures.

If the required assessment finds presence of lead-based paint, the project sponsor shall develop and implement a lead-based paint removal plan. The plan shall specify, but not be limited to, the following elements for implementation:

1. Develop a removal specification approved by a Certified Lead Project Designer.
2. Ensure that all removal workers are properly trained.
3. Contain all work areas to prohibit off-site migration of paint chip debris.
4. Remove all peeling and stratified lead-based paint on building and non-building surfaces to the degree necessary to safely and properly complete demolition activities according to recommendations of the survey. The demolition contractor shall be responsible for the proper containment and disposal of intact lead-based paint on all equipment to be cut and/or removed during the demolition.
5. Provide on-site personnel and area air monitoring during all removal activities to ensure that workers and the environment are adequately protected by the control measures used.
6. Clean up and/or vacuum paint chips with a high efficiency particulate air (HEPA) filter.
7. Collect, segregate, and profile waste for disposal determination.
8. Properly dispose of all waste.

If the required assessment finds presence of asbestos, the project sponsor shall ensure that asbestos abatement shall be conducted prior to building demolition or renovation.

If the required assessment finds presence of PCBs, the project sponsor shall ensure that PCB abatement is conducted prior to building demolition or renovation.

#### **14. Remediation Oversight**

The project applicant shall ensure that environmental assessment and remediation is either performed under the oversight of the ACDEH or other agencies, (e.g. RWQCB and DTSC), ~~or conducted by qualified professionals with experience in soil and groundwater contamination remediation. In cases where regulatory involvement is not necessary, soil and groundwater removal and disposal shall still occur to mitigate the potential hazards that could result from removal of soil and/or groundwater during construction.~~

#### **15. Soil Management Plan**

##### ***a. Prior to issuance of any demolition, grading or building permit***

To reduce environmental risks associated with encountering contaminated soil that is discovered during grading and construction, the project applicant shall ensure that impacted soil is handled in accordance with an approved Soil Management Plan, which shall be prepared to outline required procedures for handling and disposing impacted soil. All disposal and transportation of contaminated soil shall be done in accordance with State and federal agencies and under federal (RCRA) and State laws. All contaminated soil determined to be hazardous or non-hazardous waste shall be adequately profiled for acceptable disposal before it can be removed from the site.

#### **16. Groundwater**

Groundwater pumped from the subsurface would be contained onsite prior to treatment and disposal to ensure environmental and health issues are resolved pursuant to oversight agencies. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building.

#### **17. NPDES Permit**

##### ***a. Prior to and during demolition, grading and construction activities***

The project shall comply with all City of Oakland Grading Permit requirements and all NPDES Permit requirements as follows:

##### ***b. Grading Plan, Erosion and Sedimentation Control Plan, and Drainage Plan***

City of Oakland Municipal Code Chapter 13.16 and Section 15.04.780 require that the project applicant prepare a grading plan for the proposed project. Because during project construction the volume of the excavated fill material would exceed 50 cubic yards and involve depths of excavation that exceed five feet, the project sponsor must prepare a grading plan, erosion and sedimentation control plan, and drainage plan.

- The required grading plan shall include drainage, erosion, and sediment control measures and incorporate construction BMPs to prevent pollutants from entering the storm sewer to the maximum extent practicable.
- The grading plan shall discuss existing, temporary, and final drainage facilities. Erosion and sediment control shall combine interim and permanent measures to minimize erosion, stormwater runoff, and sedimentation. Such measures, at a minimum, shall include provision of filter materials at the catch basin to prevent debris or dirt from flowing into the storm drain system. According to the City Public Works Agency, such filter materials shall be applied to catch basins within private areas. As proposed by the project, filter protection at catch basins and inlets shall include filter

fabric covering the grates, straw bales or wattles circling the inlet, or some combination of these and/or other measures.

- The plan shall specify that, after construction is complete, the sponsor shall ensure that the storm drain system is inspected and the sponsor shall clear the system of any debris or sediment.
- Preparation and implementation of the grading plan shall include preparation of the construction stormwater pollution prevention plan (SWPPP) (discussed below).

**c. NPDES Permit and Construction Stormwater Pollution Prevention Plan (SWPPP)**

The project sponsor shall apply for and comply with all requirements of the ACCWP NPDES General Construction Permit. As required by the permit:

- The sponsor shall prepare a SWPPP in coordination with a project's grading plan. The SWPPP shall describe erosion and sedimentation control measures as recommended in the California Stormwater Best Management Practice Handbook (Stormwater Quality Task Force, 2003).
- The project sponsor shall prepare the SWPPP and submit a notice of intent to the RWQCB prior to construction activities, as required by the RWQCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project.
- At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; best management practices (BMPs), and inspection and monitoring program.
- After construction is completed, the project sponsor shall submit a notice of termination to the RWQCB.

**d. Infiltration**

The project sponsor shall implement site design/landscape characteristics as feasible, which maximize infiltration (where appropriate), provide retention or detention, slow runoff, and minimize impervious land coverage, so that post-development pollutant loads from the site have been reduced to maximum extent possible. Where feasible, the project shall introduce measures to help reduce the rate and volume of stormwater runoff.

**e. Discharge**

For projects that will discharge directly to water bodies listed as impaired (under section 303(d) of CWA), ensure that post-project runoff does not exceed pre-project levels for such pollutants through implementation of the control measures addressed in the NPDES C.3 provision, to the maximum extent practicable.

**18. Compliance with General Plan Noise Element**

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

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, screens, and walls) shall be incorporated into project building design. Final recommendations for sound-rated assemblies will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phase.

## **19. Construction Related Noise Control**

### ***a. During construction***

The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Department.

1. Such activities shall be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
2. Any construction activity proposed to occur outside of the standard hours of 7:00 a.m. to 7:00 p.m. for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior authorization of the Building Services Division.
3. Construction activity shall not occur on Saturdays, with the following possible exceptions:
  - a. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior authorization of the Building Services Division.
  - b. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
4. No extreme noise generating activities shall be allowed on Saturdays, with no exceptions.
5. No construction activity shall take place on Sundays or Federal holidays.
6. For clarification, construction activities include but are not limited to: tuck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

### ***b. During construction***

To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures: site-specific noise reduction program, subject to city review and approval, which includes the following measures:

1. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
2. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the



exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

3. Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.
4. If feasible, the noisiest phases of construction (such as pile driving) shall be limited to less than 10 days at a time.

## **20. Pile Driving Noise Attenuation**

### ***a. During construction***

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible:

1. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
2. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
3. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
4. The feasibility of temporarily improving the noise reduction capability of adjacent or nearby buildings, by the use of sound blankets for example, if acceptable to adjacent or nearby users.
5. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
6. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

## **21. Noise Complaints**

### ***a. Prior to issuance of building permits***

Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

1. A procedure for notifying the City Building Division staff and Oakland Police Department; (during regular construction hours and off-hours);
2. A plan for posting signs on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem;
3. A listing of telephone numbers (during regular construction hours and off-hours);
4. The designation of an on-site construction complaint and enforcement manager for the project;

5. Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of pile-driving activities about the estimated duration of the activity; and
6. A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

**22. Waste Reduction and Recycling**

***a. Required prior to issuance of a building or demolition permit***

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

**23. Recycling Space Allocation Requirements**

***a. Required prior to issuance of building permit***

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

**24. Construction Staging and Phasing Plan**

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

The applicant shall submit a Construction Staging and Phasing Plan for review and approval by the Building Services Division. The following information as well as any additional detailed information or conditions required by the Building Services Division shall be included in the plan and be consistent with all related conditions attached to this project:

1. Identification of construction staging areas.
2. Designation of main access routes to the site for construction equipment and materials, including truck routes that will be used for delivery or hauling away of materials.
3. Designation of construction worker parking areas and designation of specific on-street parking areas, if required.
4. Description of how construction equipment and materials will be protected against vandalism and theft.
5. Designation that no construction vehicles, materials, and other related equipment shall block the road or pedestrian access-ways to ensure vehicular and pedestrian access to neighboring homes or businesses.

**25. Construction Site Project Manager**

***a. Ongoing***

The applicant shall ensure that a Project Manager is designated who will be responsible for responding to any complaints from the neighborhood about excessive noise or construction issues during construction periods, The Manager's home telephone number and identification

photograph shall be conspicuously posted at the construction site. The Manager shall determine the cause of complaints and shall take prompt action to correct the problem. The Planning and Zoning Division shall be informed who the Manager is prior to the issuance of the grading permit.

**26. Approved Plans on Site**

**a. *During all construction activities.***

At least one (1) copy of the approved above referenced plans that include the Approval Letter and Conditions of Approval for this project, shall be available for review at the job site at all times.

**SPECIFIC CONDITIONS:**

**27. Rezoning, General Plan Amendment, and Redevelopment Plan**

**a. *Required prior to approval becoming effective***

This approval shall not become effective unless the Zoning Map, General Plan Land Use Map, and Land Use Map of the Coliseum Area Redevelopment Pan are amended by the City Council and such amendments have become effective. The City Council has the authority to consider and revise as appropriate (accept, reject or modify) the adjudicatory land use decisions of the City Planning Commission (including variances and conditional use permits), regardless of whether an appeal to the City Council is filed challenging such adjudicatory land use decisions.

**28. Mitigation Measure HYD-2 (MMRP)**

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

The project sponsor shall retain the project civil engineer of record to ensure that project development plans contain finished site grades and floor elevations that are elevated above the Base Flood Elevation of a 100-year flood event, subject to review and approval by Engineering Services.

**29. Recordation of Mitigation Measures and Conditions of Approval**

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

The applicant shall execute and record with the Alameda County Recorder's Office a copy of the Mitigation Measures and conditions of approval for the project, on a form approved by the Planning and Zoning Division. Proof of recordation shall be provided to the Planning and Zoning Division.

**30. Subsequent Subdivision Approvals**

**a. *Prior to issuance of any building permits for the first unit***

The applicant must secure the appropriate subdivision approvals to create the multiple lots for this Development approval. Subdivision plans shall be subject to review by the Public Works Department to insure the following:

1. All streets within the development shall include traffic calming measure and shall be designed to the satisfaction of the public works department.
2. Public access easements shall be recorded over all private streets in the development.
3. In cases where a private street within the project area adjoins an existing public street, the new private street shall have a different name than the public street.

### **31. Parks and Open Space**

#### ***Required prior to approval of tentative map***

- a. All common areas and open space in the development, excluding streets, shall be privately owned and maintained by the Oakland Housing Authority.**
- b. The applicant shall submit a common area landscaping plan for approval by the Planning and Zoning Division. The landscaping plan shall show the proposed landscaping for all common areas in the development and shall contain the following:**
  1. Landscaping details, such as planting types, sizes, and quantities, surfaces, landscape features and structures, and all perimeter fencing and walls.
  2. Irrigation details.
  3. Proposed landscaping in all open spaces shall be designed to maintain clear lines of sight into the interior of the space from nearby residences and streets.
  4. A public kiosk or similar community notice board shall be placed in one of the open space areas located near the center of the development. This kiosk is to be used for displaying community-related information and shall be maintained and managed by the Oakland Housing Authority. The location and design of the kiosk shall be included on the landscaping plan.
- c. The applicant shall submit the following for review and approval by the Planning and Zoning Division:**
  1. Landscaping maintenance plan.
  2. **Parking** rules for the use of **parking** spaces.
  3. Enforcement plan for enforcing the **parking** rules.
- d. Ongoing**

Landscaping maintenance and the enforcement of park rules are the responsibility of the Oakland Housing Authority. Landscaping shall be maintained in a healthy condition.

### **32. Perimeter Walls**

#### ***a. Concurrent with the submittal for the site improvement plans***

The design of all walls proposed for the perimeter of the site shall be reviewed and approved by the Planning and Zoning Division. All walls shall be designed with high-quality materials and finishes and landscaping at the base of the wall, and shall be designed to provide for privacy for the residents of the project while maintaining visual transparency and visual interest. The wall proposed for the perimeter of the site where the project abuts industrially zoned properties shall be maintained at the current height of approximately 18 feet. This wall shall remain to provide for noise insulation between the site and adjacent residential uses.

### **33. Architectural Design**

#### ***a. Concurrent with the submittal for building permits***

The drawings submitted for a building permit shall be consistent with architectural details shown on plans dated August 17, 2006.

### **34. Lot Landscaping**

#### ***a. Concurrent with the submittal for building permits***

The drawings submitted for a building permit shall contain a landscaping plan for the landscaping of each lot to be reviewed and approved by the Planning and Zoning Division. The landscaping plan shall contain the following information:

1. Landscaping details, such as proposed planting types, sizes, and quantities and proposed fencing.
2. Irrigation details.
3. The proposed landscaping shall be primarily drought-tolerant.

**35. Underground Utilities**

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

The applicant shall submit plans for review and approval of the Planning and Zoning Division, Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, plans that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground by the developer from the applicant's structures to the point of service. The plans shall show all electric and telephone facilities installed in accordance with standard specifications of the serving utilities.

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

***a. Prior to occupancy of the townhouse ownership units***

A homeowners association (HOA) is required for a portion of the development. The proposed covenants, codes and restrictions (CC&Rs) for the HOA shall be reviewed and approved by the Planning and Zoning Division. The CC&Rs, or other equivalent instrument, shall clearly identify, at a minimum, the maintenance and enforcement responsibilities of the homeowners.

**APPROVED BY:** City Planning Commission: September 20, 2006

# PROPOSED ZONING MAP

