

<b>Location:</b>	<b>1240 1<sup>st</sup> Avenue</b> <b>(See map on reverse)</b>
<b>Assessors Parcel Numbers:</b>	<b>020-0128-011-01</b>
<b>Proposal:</b>	To demolish an existing 1-story commercial building and construct a new 7-story 22-unit multi-family residential building.
<b>Applicant:</b>	Gary Meyer, Berger Detmer Ennis Architects
<b>Owner:</b>	1240 1 <sup>st</sup> Avenue LLC
<b>Planning Permits Required:</b>	Regular Design Review (Planning Commission) for a new 7-story, 22-unit residential building with a floor area of more than 25,000 sq. ft. Minor Interim Conditional Use Permit to allow increased residential density under the Urban Residential General Plan Land Use Classification. Minor Variance to allow a reduced rear yard setback (10' required, 0' proposed), reduced stall width for parking spaces next to walls, and for tandem parking in vehicle lifts.
<b>General Plan:</b>	Urban Residential
<b>Zoning:</b>	C-40 Community Thoroughfare Commercial Zone
<b>Environmental Determination:</b>	Exempt, Section 15332 (In-fill Development Projects) of the State CEQA Guidelines
<b>Historic Status:</b>	Not a Potential Designated Historic Property; Survey rating: F3
<b>Service Delivery District:</b>	3
<b>City Council District:</b>	2
<b>Date Filed:</b>	June 28, 2005
<b>Action to be Taken:</b>	Adopt findings to approve the application
<b>Staff Recommendation:</b>	Approve
<b>Finality of Decision:</b>	Appealable to City Council
<b>For Further Information:</b>	Contact case planner <b>Andrew M. Smith</b> at <b>510-238-6414</b> .

**SUMMARY**

The proposal is to demolish an existing 1-story commercial building and construct a new 7-story 22-unit multi-family residential building. Parking will be provided with parking lifts that will be located within the building's ground level behind the lobby. The property is located at the convergence of 1<sup>st</sup> Avenue, 12<sup>th</sup> Street, and International Boulevard. The surrounding neighborhood is a mix of residential and commercial uses in a broad range of densities and intensities, ranging from a 23-story tall residential condominium building across the street to a 2-story commercial building next door. The applicant has applied for the following Minor Variances: 1) to waive the rear yard setback for the ground level garage that is partially located underground; 2) to allow a reduced parking space width for parking spaces located next to walls (an increased maneuvering aisle width has been proposed to compensate for the reduced parking space width); and 3) to allow tandem parking in mechanical parking lifts. Staff recommends that the Planning Commission confirm the Environmental Determination and approve the Minor Interim Conditional Use Permit, Minor Variances, and Design Review based on the attached findings and subject to the following conditions of approval.

**PROJECT DESCRIPTION**

The proposal is to demolish an existing 1-story commercial building and construct a new 7-story 22-unit multi-family residential building. Parking will be provided with parking lifts that will be located within the building's ground level behind the lobby. The applicant has applied for the following Minor Variances: 1) to waive the rear yard setback for the ground level garage that is partially located underground; 2) to allow a reduced parking space width for parking spaces located next to walls (an increased maneuvering aisle width has been proposed to compensate for the reduced parking space width); and 3) to allow tandem parking in mechanical parking lifts.

**PROPERTY DESCRIPTION**

The property is 5,891 sq. ft. in size and is located at the end of a dead-end portion of East 17<sup>th</sup> Street that extends off of Fruitvale Avenue. The property is located at the convergence of 1<sup>st</sup> Avenue, 12<sup>th</sup> Street, and International Boulevard. The surrounding neighborhood is a mix of residential and commercial uses in a broad range of densities and intensities, ranging from a 23-story tall residential condominium building across the street to a 2-story commercial building next door. The property is currently occupied by a vacant Casper's Hot Dogs restaurant that was built in 1951 and operated until approximately a year ago. The site had previously been occupied by several dwellings, a restaurant, and a furniture repair shop.

The subject property is located in an area that is very well served by AC transit bus service with lines extending down 1<sup>st</sup> Avenue, 12<sup>th</sup> Street, International Boulevard, and nearby East 12<sup>th</sup> Street and Foothill Boulevard. The project site is also located within a 15-20 minute walk from the Lake Merritt BART station.

**GENERAL PLAN ANALYSIS**

The proposed project falls under the Urban Residential General Plan Land Use Classification, and is therefore subject to Neighborhood Objectives N1, N2, N3, N5, N6, N8, N9, N10, and N11 of the City of Oakland General Plan. These objectives and policies encourage increased housing through in-fill development; a mix of housing costs, unit sizes, types, and ownership structures; increased residential densities near commercial and transit corridors; pedestrian friendly development; and residential development that is consistent with the surrounding neighborhood character, and that maintains a positive and safe public image. The proposed project will create a pedestrian friendly development that is located near several neighborhood commercial and transit corridors and will also create additional in-fill housing opportunities by providing additional housing in an established neighborhood that is served by existing infrastructure. The Urban Residential General Plan Land Use Classification calls for residential densities of up to 125 units per gross acre, considerably more than the density allowed by the C-40 Zone regulations. The proposed project is designed to the maximum density specified in the General Plan; however it is consistent with the surrounding neighborhood character and scale. Additionally, the subject property is located in an area designated as "grow and change" by the Oakland General Plan. The "grow and change" designation is used where growth will be focused in areas that can accommodate significant increases in intensity. Given the site's location at the convergence of several urban corridors in close proximity to the central business district, and the extensive public services and infrastructure that serve the project site, staff feels that the maximum residential density called for by the Urban Residential General Plan Land Use Classification is appropriate for the proposed project.

**ZONING ANALYSIS**

The subject property is located within the C-40 Community Thoroughfare Commercial Zone. The proposed project complies with all of the applicable Planning Code regulations except for the following:

Rear Setback: A 10-foot rear yard setback is required for residential buildings (no rear setbacks are required for commercial buildings). The applicant has proposed a 20-foot rear yard setback for all but the ground floor podium level that contains the parking garage, for which no rear yard setback is proposed. Due to the topography of the subject property a majority of the ground floor area that will be located within the rear setback will be located partially below grade, resulting in a building height in the rear yard setback area of approximately 5 feet above finished grade, plus the railing for the landscaped rooftop open space area. Staff feels that the proposed variance is acceptable given the topography of the project site, the context of the surrounding neighborhood, and the relatively minor encroachment into the setback area (up to half of the proposed variance would normally be allowed by right as an exception pursuant to Section 17.108.130(K) of the Oakland Planning Code).

Parking Space Width: An additional 3 feet of parking space width is required for parking spaces that are located adjacent to a wall along one or both sides. This provision is meant to allow for increased space for maneuvering vehicles into the parking spaces, and to allow room to open car doors. The applicant has proposed parking spaces that are only 2 feet wider, but has increased maneuvering aisle width to slightly over 26 feet wide (rather than the 24-foot minimum width) to provide adequate room for maneuvering vehicles into the parking spaces. Additionally, staff feels that there is adequate room to open vehicle doors in these parking spaces because none of the affected parking spaces are proposed to be compact spaces.

Tandem Parking: In an effort to reduce the amount of building mass that is devoted to vehicular parking, the applicant has proposed mechanical parking lifts that will be partially located underground. Due to the fact that in some cases the lifts will need to be operated in order to gain access to the parking spaces, this arrangement is considered to be tandem parking under the provisions of the Oakland Planning Code. Staff feels that the proposed parking lifts are acceptable because each parking space will still be independently accessible, and there is adequate room within the proposed parking garage to allow for vehicle queuing while operating the lifts.

**ENVIRONMENTAL DETERMINATION**

The project is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Section 15332 (In-Fill Development Projects) of the State CEQA Guidelines. The project is consistent with the Zoning and General Plan; is substantially surrounded by urban uses; has no value as habitat for endangered, rare, or threatened species; will not result in any significant effects related to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.

**KEY ISSUES AND IMPACTS**

1. Residential Density

As discussed above under General Plan Analysis section, the proposed project has been designed to the maximum residential density called for by the Urban Residential General Plan Land Use Classification of one unit per 261 sq. ft. of lot area. As stated earlier, given the site's location at the convergence of several urban corridors in close proximity to the central business district, and the extensive public services and

infrastructure that serve the project site, staff feels that the maximum residential density called for by the Urban Residential General Plan Land Use Classification is appropriate for the proposed project.

2. Neighborhood compatibility & design

The proposed building will be seven stores tall, for a total height of 82 feet (91 feet to the top of the stair tower). The immediately adjacent buildings to the sides are two and three stories tall, and the neighborhood to the south and east is generally typified by buildings between two and four stories in height. However, located directly across the street is a residential condominium building that is 23 stories tall, and the subject property is located within an area that has been designated as a “grow and change” area by the Oakland General Plan. The “grow and change” designation is used where growth will be focused in areas that can accommodate significant increases in intensity.

Due to the orientation of the site, a majority of the shadow cast by the proposed building will be onto the adjacent street rather than the neighboring properties. The design of the building also respects the context of the surrounding neighborhood by retaining a relatively modest footprint and twice the minimum required rear yard setback for all but the ground floor level. The front façade of the ground floor level has been designed so as to minimize the prominence of the vehicular entrance, and to accentuate the pedestrian entrances, and maintain an appropriate pedestrian scale that is appropriate for and will further enhance the existing urban environment. Higher quality siding materials such as stone has been proposed for the ground floor façade. The proposed blank side walls of the upper floors will be broken up by small reveals at each floor level, and the lower two to three floors will be concealed by the neighboring building on the adjacent lots to the sides. Furthermore, as the surrounding neighborhood continues to grow and change as called for by the Oakland General Plan, the relatively low buildings in the surrounding neighborhood will likely be replaced by taller structures that will match and possibly exceed the height of the proposed project. This is particularly likely for the immediately adjacent lots which are relatively underused at the present time and which offer significant opportunities for future development (such as the adjacent motel and parking lot to the southwest, the 2-story commercial building to the northeast, and the vacant lot to the southeast). Lastly, large open space areas are provided on the two rooftop areas (behind the 7<sup>th</sup> floor units and on top of the garage/podium level).

**RECOMMENDATIONS:**

1. Affirm staff’s environmental determination.
2. Approve the Minor Interim Conditional Use Permit, Minor Variance, and Design Review application subject to the attached findings and conditions.

Prepared by:

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ANDREW M. SMITH  
Planner III

Approved by:

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GARY V. PATTON

Deputy Director of Planning and Zoning

Approved for forwarding to the  
City Planning Commission:

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CLAUDIA CAPPIO  
Director of Development

**ATTACHMENTS:**

A. Project plans

## FINDINGS FOR APPROVAL

This proposal meets the required findings under Section 17.134.050 of the Oakland Planning Code (General Use Permit Criteria), Section 17.148.050(a) of the Oakland Planning Code (Minor Variance findings), and Section 17.136.070(a) of the Oakland Planning Code (Design Review Criteria for residential facilities); as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

### **SECTION 17.134.050 – General Use Permit Criteria:**

- 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 project is consistent with the context of the surrounding neighborhood and the long term plans envisioned by the Oakland General Plan. The property is located one block from Lake Merritt, and is located within walking distance of several public schools. Additionally, the subject property is located in close proximity to a multitude of mass transit options, and the addition these dwelling units will not result in an appreciable increase in traffic on the adjacent streets. Furthermore, the addition of living units to the area will likely have a positive impact on the businesses of local merchants, and will likely spur additional new development in the area, as called for by the Oakland General Plan.

- 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 provide a convenient and desirable living environment due to its proximity to downtown and Lake Merritt, and it will feature an attractive contemporary design.

- 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 new dwelling units will provide much needed housing for the area and will become a benefit to the neighborhood through increased housing stock, and through the addition of residents and the associated increase in use of local merchants and services.

- 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.**

The proposed project has been reviewed for and found to comply with all applicable design review criteria.

- 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 proposed project will create a pedestrian friendly development that is located near several neighborhood commercial and transit corridors and will also create additional in-fill housing opportunities by providing additional housing in an established neighborhood that is served by existing infrastructure. Additionally, the subject property is located in an area designated as “grow and change” by the Oakland General Plan. The “grow and change” designation is used where growth will be focused in areas that can accommodate significant increased in intensity. Given the site’s location at the convergence of several urban corridors in close proximity to the central business district, and the extensive public services and infrastructure that serve the project site, the maximum residential density called for by the Urban Residential General Plan Land Use Classification is appropriate for the proposed project.

**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 with the 10-foot rear yard setback would result in a practical difficulty in accommodating the required number of parking spaces for the proposed development. Additionally, the variance is only proposed for the ground floor parking garage, and no rear yard setback is normally required for commercial buildings.

The proposed variance for parking space width for parking spaces located next to walls allows for an effective design solution that improves the maneuverability and access for all proposed parking spaces because the design also includes a maneuvering aisle that is considerably wider than the minimum required.

The proposed variance for tandem parking located in parking lifts allows for an effective design solution that will reduce the amount of building mass that is devoted to vehicular parking while still meeting the intent of the code by providing individually accessible parking spaces for all of the future tenants of the building.

- 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 with the 10-foot rear yard setback would deny the applicant the ability to achieve the housing density prescribed in the Oakland General Plan as there is no practical design solution to accommodate the minimum required number of parking spaces on a single level within the setbacks, and the relatively small size of the lot makes ramped parking impractical.

The proposed variance for parking space width for parking spaces located next to walls allows for an effective design solution that improves the maneuverability and access for all proposed parking spaces because the design also includes a maneuvering aisle that is considerably wider than the minimum required.

The proposed variance for tandem parking located in parking lifts allows for an effective design solution that will reduce the amount of building mass that is devoted to vehicular parking while still meeting the intent of the code by providing individually accessible parking spaces for all of the future tenants of the building.

- 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 neighboring properties that are adjacent to the area of the proposed rear yard setback variance is utilized as a parking lot and would be negligibly affected. Additionally, due to the topography of the subject property a majority of the ground floor area that will be located within the rear setback will be located partially below grade, resulting in a building height in the rear yard setback area of approximately 5 feet above finished grade, plus the railing for the landscaped rooftop open space area. The variances for the parking space width and tandem parking will have no impact on the surrounding area.

- 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 use, overall area, and scale of the development are consistent with the zoning regulations, and the rear yard variance will allow the development to achieve the density prescribed by the Oakland General Plan.

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

The proposed variance involves more than two dwelling units.

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

The proposed variance involves more than two dwelling units.

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

- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**

- b. **Over 60 percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see Illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.**

The proposed variance involves more than two dwelling units.

**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 proposed design will create a building that is well related to other mid-rise residential buildings in the area, particularly those on Lakeshore Drive. At seven stories, it is considerably shorter than the 23-story residential condominium building located directly across the street, and should serve as a transition to the residential neighborhoods to the south and east. The proposed finishes are consistent with those on other contemporary multi-story residential buildings in the area.

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

The proposed design will enhance desirable neighborhood characteristics by replacing an abandoned fast-food restaurant with a contemporary condominium building containing 22 residential units. The addition of residential units is consistent with the Oakland General Plan which strives to increase the density of the downtown area and nearby neighborhoods, and thereby increase pedestrian traffic and the use of existing local services.

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

The proposed design is consistent with the existing use of the site in terms of the existing topography and landscape. The existing site is covered by an asphalt parking lot that is essentially level with a retaining wall at the rear of the property where it steps up approximately 5 feet to the adjacent grade. In the proposed design, the building footprint will cover the entire site and the foundation wall of the new structure will replace the existing retaining wall at the rear of the property. The proposed street trees will be an improvement to the landscaping of the property as the site is currently barren.

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

The proposed project is not located on a hill.

- 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 proposed project will create a pedestrian friendly development that is located near several neighborhood commercial and transit corridors and will also create additional in-fill housing

opportunities by providing additional housing in an established neighborhood that is served by existing infrastructure. Additionally, the subject property is located in an area designated as “grow and change” by the Oakland General Plan. The “grow and change” designation is used where growth will be focused in areas that can accommodate significant increased in intensity. Given the site’s location at the convergence of several urban corridors in close proximity to the central business district, and the extensive public services and infrastructure that serve the project site, the maximum residential density called for by the Urban Residential General Plan Land Use Classification is appropriate for the proposed project.

## CONDITIONS OF APPROVAL

### STANDARD CONDITIONS:

#### 1. Effective Date, Expiration, and Extensions

##### *a. Ongoing.*

The approval of the Minor Interim Conditional Use Permit, Minor Variance, and Design Review application shall expire two (2) calendar years from the date of approval unless actual 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.

#### 2. Scope of This Approval

##### *a. Ongoing.*

The project is approved pursuant to the Planning Code of the Municipal Code only 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.

#### 3. Changes to Approval

##### *a. Ongoing.*

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. 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) 238-7073 for information.

#### 6. Construction hours

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

Construction hours will be limited to be between 7:00AM to 7:00PM, Monday through Friday. Subject to prior authorization of the Building Services Division and the Planning and Zoning Division, no construction activities shall be allowed on Saturdays until after the building is enclosed, and then only within the interior of the building with the doors and windows closed. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of residents' preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays.

**7. Construction Staging and Phasing Plan**

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

The project applicant and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management strategies to reduce traffic congestion and the effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction.

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

- i. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- ii. Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- iii. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours and lane closures will occur.
- iv. Provision for accommodation of pedestrian flow.
- v. Location of construction staging areas.
- vi. Provisions for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected.
- vii. A temporary construction fence to contain debris and material and to secure the site.
- viii. Provisions for removal of trash generated by project construction activity.
- ix. Dust control measures as set forth in condition no. 13.
- x. Noise control measures as set forth in condition no. 14.
- xi. A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager.

**8. Encroachment Permit.**

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

The applicant shall obtain any encroachment permits, privately constructed public improvements, waiver of damages or other approvals required by the Building Services Division, prior to grading permit and building permit issuance location of any permanent or temporary elements located in the public right of way.

**9. Site Maintenance.**

**a. During all construction activities.**

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

**10. 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.

**11. Best Management Practices.**

**a. During all construction activities.**

All work shall apply the “Best Management Practices” (BMPs) for the construction industry, including BMPs for dust, erosion and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.

**12. Dust Control Measures.**

**a. During all construction activities.**

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

- i. Watering all active construction areas as necessary to control dust;
- ii. Covering stockpiles of debris, soils or other material if blown by the wind;
- iii. Sweeping adjacent public rights of way and streets daily if visible soil material or debris is carried onto these areas.
- iv. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- v. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
- vi. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- vii. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
- viii. Replant vegetation in disturbed areas as quickly as possible.

**13. Construction Related Noise Control.**

**a. During all construction activities.**

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

- i. Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
- ii. An on-site complaint and enforcement manager shall be posted to respond to and track complaints.

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

**14. Construction Site Project Manager.**

**a. During all construction activities.**

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 day & evening telephone numbers 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.

**15. Neighbor Noticing of Access Obstructions.**

**a. During all construction activities.**

Construction vehicles, materials and other equipment shall not block the road so that neighbors would be adversely affected from getting to and from their properties. The applicant shall ensure that immediately adjacent property owners are notified in writing no less than 48 hours before any major delivery, hauling, detours, or lane closures related to the project's construction activities occur.

**16. Defense, Indemnification & Hold harmless**

**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.

**ADDITIONAL CONDITIONS:**

**17. Underground utilities.**

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

All new electric and telephone facilities (including transformers); fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer from the applicant’s structures to the point of service. This change shall be indicated on the building permit plan set and shall be subject to review and approval by the Zoning Administrator.

**18. Exterior lighting plan**

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

An exterior lighting plan shall be included in building permit plan set and shall be subject to review and approval by the Zoning Administrator. This plan shall include architectural drawings or photographs and specifications for all proposed exterior light fixtures. All exterior light fixtures shall be shielded to a point below the light bulb and reflector, except that partially shielded fixtures are acceptable on the front elevation of the ground floor.

**19. Building materials**

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

The exterior siding materials for the front elevation of the ground floor shall be limited to stone, tile, or another durable and high-quality material suitable for placement immediately adjacent to the sidewalk. This shall be included in building permit plan set and shall be subject to review and approval by the Zoning Administrator.

**20. Landscape installation and maintenance**

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

Automatic irrigation shall be provided for all proposed landscaping adjacent to the sidewalk and in all group usable open space areas. An irrigation plan shall be included in building permit plan set and shall be subject to review and approval by the Zoning Administrator.

**b. *Prior to final inspection.***

All proposed landscaping and irrigation shall be installed prior to final inspection of the building unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code.

**c. *Ongoing.***

All proposed landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements.

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