

<b>Location:</b>	1158 14th Street (See map on reverse)
<b>Assessors Parcel Numbers:</b>	005-0378-017-01
<b>Proposal:</b>	To subdivide an 12,967.5 sq. ft. parcel into six Mini-Lots ranging in size from 1,929 sq. ft. to 2,625 sq. ft. and to construct a new single-family dwelling on each lot.
<b>Applicant:</b>	Michael McGhee
<b>Owner:</b>	Bobbie and Arrece Jameson
<b>Planning Permits Required:</b>	Tentative Tract Map for a 6-lot subdivision, Minor Conditional Use Permit to create a Mini-Lot Development containing six new residential units, Minor Variance to allow a reduced rear yard setback of 5'-0" (where 10'-0" is required), and Regular Design Review for new residential construction.
<b>General Plan:</b>	Mixed Housing Type Residential
<b>Zoning:</b>	R-70 High Density Residential Zone, S-20 Historic Preservation District Combining Zone
<b>Environmental Determination:</b>	Exempt; State CEQA Guidelines, Section 15332 Infill Development Project; Section 15315 Minor Land Divisions; Section 15303
<b>Historic Status:</b>	No Historic Status, Vacant Parcel
<b>Service Delivery District:</b>	III
<b>City Council District:</b>	3
<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>Leigh McCullen</b> at <b>510-238-4977</b> or <b>lmccullen@oaklandnet.com</b> .

**SUMMARY**

This project would provide for the construction of six residential dwelling units on an underutilized vacant parcel located at the northwest corner of 14<sup>th</sup> and Adeline Streets. The site is surrounded by one and two-unit residential structures and is within close proximity to several parks and schools, a senior center, and the West Oakland Bart Station.

The development would consist of three buildings with each building containing two units sharing one common interior wall and a driveway. The site has been design to reflect the pattern of development of the neighboring structures, with two buildings oriented toward Adeline Street and one building oriented toward 14<sup>th</sup> Street. The proposed units would include two stories of living space above a partially submerged garage. Separate home and lot ownership opportunities would be created for each proposed dwellings through the proposed mini-lot subdivision. The proposed mini-lot design would create an individual lot, containing separate front yards and private back yards, for each unit. The mini-lot subdivide would allow the development to function similar to a single-family residential development. A Tentative Tract Map to create six lots and a Minor Conditional Use Permit to permit a mini-lot site design, waiving the required lot area mini-lots, is required. A Minor Variance is also required to waive the rear yard setback that would normally be required if the lot were developed as a multi-family project pursuant to R-70 zone. The proposed rear setback variance would be appropriate in the case since the

rear yard of the existing parcel would function as a side yard of one of the proposed mini-lots and not as a rear yard.

The subject site is ideal for residential development due to its proximity to community services and public transportation. The project has been designed to reflect the pattern of neighborhood development and would provide for a functional and attractive living environment. Therefore, staff recommends approval of the Tentative Tract Map, Minor Conditional Use Permit, Minor Variance, and Design Review for the proposed project.

**PROJECT DESCRIPTION**

The proposed project would provide for the subdivision of a vacant, 12,967.5 square foot parcel into six lots as a Mini-Lot Development and the construction one dwelling unit on each of the proposed parcels. Four of the lots / units would be oriented toward Adeline Street and two lots / units would be oriented toward 14<sup>th</sup> Street. Each lot is designed to containing one dwelling unit with a private back yard, front yard, one open side yard, and one zero lot line side yard.

The proposed buildings feature traditional design elements and massing. Each building contains two units with each unit consisting of a partially underground garage and two stories of living space. The front elevation of the buildings would be articulated with two, two-story bay windows. The garage entry, although located on the front elevation, would be submerged three feet below finished grade, and therefore would not be a dominate visual feature of the dwellings. The front entry to each unit, located at the front corners of each building, would be raised two-feet above finished grade and accented with transom windows and columns. The dwellings would be finished in an attractive mix of materials including brick veneer at the garage level and smooth stucco and wood siding on the upper floors, with wood trim and wood accents.

**PROPERTY DESCRIPTION**

The subject 12,967.5 square foot site is located at the northwest corner of 14<sup>th</sup> and Adeline Streets. The site is vacant and does not contain any topographic features or landscaping.

**NEIGHBORHOOD CONTEXT**

The subject site is located within the Oak Center Redevelopment Area. Surrounding land uses include residential development to the east, west, and north and Lowell Park located to the south. There are many nice examples of turn of the century residential architecture found within the neighborhood with a mixture of more recent residential structures. Unit types consist of a mixture of one and two unit buildings, with similar forms including street facing pedestrian entries, two stories of living space over raised foundations, and sloping roof lines. Several parks and schools, a senior center, and the West Oakland Bart Station are located within close proximity of the subject site.

**DESIGN**

The proposed buildings feature traditional design elements and massing. Each building contains two units with each unit consisting of a partially underground garage and two stories of living space. The front elevation of the buildings would be articulated with two, two-story bay windows. The garage entry, although located on the front elevation, would be submerged three feet below finished grade, and therefore would not be a dominate visual feature of the dwellings. The front entry to each unit, located at the front corners of each building, would be raised two-feet above finished grade and accented with transom windows and columns. The dwellings would be finished in an attractive mix of materials

including brick veneer at the garage level and smooth stucco and wood siding on the upper floors, with wood trim and wood accents.

**GENERAL PLAN ANALYSIS**

The General Plan Land Use Designation for the subject site is the Mixed Housing Type Residential. This designation would permit one residential unit per 1,089 square feet of lot area or 11 units on the subject site. The proposed density would fall within the permitted density range. In addition to meeting the Mixed Housing Type density requirements the project would also be consistent with Neighborhood Objectives and Policies N3, N6, N7, and N9 of the City of Oakland General Plan. These objectives and policies encourage in-fill development, increased home ownership, and the orderly development of residential neighborhoods with homes that are oriented towards the street, that avoid blocking sunlight and views from neighboring dwellings, that are consistent with the surrounding neighborhood character, and that maintain a positive and safe public image. The project, which would provide for the appropriate development of an underutilized, undeveloped parcel located within a residential neighbor, is an in-fill housing project. The project would also create additional home ownership opportunities within an established residential neighborhood. All of the proposed lots will be directly accessed via frontage along Adeline Street or 14<sup>th</sup> Street. The dwelling units are sited in a manner that is consistent with the surrounding neighborhood, with the front entries oriented to the street and setbacks from adjoining properties that adequately avoid blocking sunlight and views.

**ZONING ANALYSIS**

The proposed project is located within the R-70, High Density Residential Zone and the S-20 Historic Preservation District Combining Zone. The R-70 zone is intended to create, preserve, and enhance areas for apartment living at high densities in desirable settings, and is typically appropriate to areas having good accessibility to transportation routes and major shopping and community centers. The relevant development standards and the site’s compliance with these standards if it were developed as a single parcel are as follows:

***R-70 Development Standards***

	Required	Proposed	Variance
<b>Front Setback / Adeline St.</b>	10’-0”	20’-0”	
<b>Street Side Setback / 14<sup>th</sup> St</b>	5’-0”	5’-9” and 20’-0”	
<b>Rear Setback</b>	10’-0”	5’0”	X
<b>Maximum Residential Density</b>	1 per 450 square feet of lot area	1 per 2,161 square feet of lot area	
<b>Group Open Space Area</b>	150 sf group per unit (900 sf total)	2,625 + square feet	
<b>Parking</b>	One per unit	One per unit	
<b>Height</b>	40 feet	33 feet	

The entire project, including the site design, lot configurations, and building design, has been planned as a Mini-Lot Development pursuant to Section 14.102.320 of the Oakland Planning Code. The Mini-Lot Development process allows the creation of small, substandard lots and the waiver of certain zoning regulations if the entire project complies with all zoning standards that would apply if it were developed as a single lot. A Conditional Use Permit, Tentative Tract Map, and Design Review are required for

Mini-Lot Developments. The Mini-Lot Development process facilitates comprehensively designed developments while creating separate ownership opportunities for individual dwellings and lots.

The proposed project would meet all of the required R-70 development standards except the rear yard setback. A variance is requested to reduce the normally required 10-foot rear setback to 5 feet. As a result of the proposed Tentative Tract Map and Mini-Lot Development design the existing rear lot line of the site would become the side lot line of one of the proposed lots. Since this lot line would become a side line through the proposed subdivision, a five-foot setback, consistent with the side yard setback requirements, is proposed. Since the site is a corner lot, the existing rear lot abuts the adjacent neighbor's side yard which again visually and functionally creates an effect that the existing rear lot line is actually a side lot line. Allowing a setback consistent with the side yard setback requirements along a lot line that functions as a side yard and that visually appears to be a side yard would be a logical design solution consistent with the intent of the Code. Although the 10-foot rear setback normally required for the lot if it were developed as if it were a single parcel would be reduced, each of the proposed mini-lots would have adequate 20- to 30-foot deep rear yards which would allow adequate light, air and usable open spaces for each individual unit.

A Tentative Tract Map is required to subdivide the property into six lots. Through the Mini-Lot Development regulations, the minimum lot area, frontage, and setback requirements may be waived for each of the proposed lots upon the granting of a Conditional Use Permit. The proposed lots range in size 1,929 to 2,625 square feet. Although smaller than the 4,000 square foot minimum lot area, each of the proposed lots would have adequate light, air, usable open spaces, and parking for each individual unit, while maintaining appropriate setbacks from adjacent properties.

Regular Design Review is required for the six proposed dwellings. The proposed dwellings feature traditional design elements and massing. Each building contains two units with each unit consisting of a partially underground garage and two stories of living space. The front elevation of the buildings would be articulated with two, two-story bay windows. The garage entry, although located on the front elevation, would be submerged three feet below finished grade, and therefore would not be a dominate visual feature of the dwellings. The front entry to each unit, located at the front corners of each building, would be raised two-feet above finished grade and accented with transom windows and columns. The dwellings would be finished in an attractive mix of materials including brick veneer at the garage level and smooth stucco and wood siding on the upper floors, with wood trim and wood accents.

## **ENVIRONMENTAL DETERMINATION**

The project is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Section 15315 (Minor Land Divisions), and 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. The findings contained environmental hazard report prepared submitted to the file show that site does not appear on any state hazard lists. Further the site is not on the City's list of contaminated parcels. Additionally, no variances are required specifically for the subdivision, only six new parcels will be created, the site has not involved in a division of a larger parcel within the previous two years and has an average slope of less than 20 percent.

## **KEY ISSUES AND IMPACTS**

***New In-Fill Housing***

This project would provide for six new residential dwelling units on a vacant underutilized parcel. The project would also create additional home ownership opportunities within an established residential neighborhood. The subject site is ideal for residential development due to its proximity to community services and public transportation. The project has been designed to reflect the pattern of neighborhood development and would provide for a functional and attractive living environment. Overall, the project reinforces numerous neighborhood policies of the General Plan.

***Further Implementation of the Oak Center Urban Renewal Plan***

The subject site is located within the Oak Center Redevelopment Area. The Oak Center Urban Renewal Plan, adopted in 1970, indicates that the site should be redeveloped with residential uses based on a maximum density of 40 units per acre. At 20 units per acre the proposal is well below the permitted density of the Plan. The proposed project is consistent with the land use designation of the specific plan and the general development standards therein.

**RECOMMENDATIONS:**

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

Prepared by:

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LEIGH A. MCCULLEN  
Planner III

Approved by:

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GARY PATTON  
Deputy Director of Planning and Zoning

**ATTACHMENTS:**

- A. Building Services memorandum and conditions of approval
- B. 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 17.102.320 of the Oakland Planning Code (Use Permit Criteria for waiver of certain requirements in mini-lot developments), Section 17.148.050(a) of the Oakland Planning Code (Minor Variance findings), Section 17.136.070(a) of the Oakland Planning Code (Design Review Criteria for residential facilities), Section 16.24.040 of the Oakland Municipal Code (Lot Design Standards), and Section 16.08.030 of the Oakland Municipal Code (Tentative Map Findings) 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 6-lot mini-lot development and the construction of six dwellings (one per lot) will improve the appearance and function of the subject property in relation to the surrounding neighborhood which is predominately residential in nature. The scale, bulk, coverage, and density are all similar to the surrounding neighborhood which consists of a mixture of single- and multi-family dwellings. The project site is located within an area that is already well served by civic facilities and utilities.

- 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 subject site is ideal for residential development due to its proximity to community services and public transportation. The project has been designed to reflect the pattern of neighborhood development and would provide for a functional and attractive living environment.

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

The proposed six-unit residential project will enhance the predominately residential nature of the surrounding neighborhood.

- 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 General Plan Land Use Designation for the subject site is the Mixed Housing Type Residential. This designation would permit one residential unit per 1,089 square feet of lot area or 11 units on the subject site. The proposed density would fall within the permitted density range. In addition to meeting the Mixed Housing Type density requirements the project would also be consistent with Neighborhood Objectives and Policies N3, N6, N7, and N9 of the City of Oakland General Plan.

**SECTION 17.102.320 - Use Permit Criteria for waiver of certain requirements in mini-lot developments:**

**A. That there is adequate provision for maintenance of the open space and other facilities within the development.**

Each of the six proposed mini-lots will be completely self contained and the development does not include any shared open space areas or other facilities. Therefore, maintenance will be provided by the individual homeowners without the need for a homeowners association or joint maintenance agreement.

**B. That the total development meets all the requirements that would apply to it if it were a single lot.**

With the exception of the variances being granted as part of this approval (see findings below), the total development meets all of the zoning requirements that would apply if it were a single lot.

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

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

The proposed project would meet all of the required R-70 development standards except the rear yard setback. A variance is requested to reduce the normally required 10-foot rear setback to 5 feet. As a result of the proposed Tentative Tract Map and Mini-Lot Development design the existing rear lot line of the site would become the side lot line of one of the proposed lots. Since this lot line would become a side line through the proposed subdivision, a five-foot setback, consistent with the side yard setback requirements, is proposed. Since the site is a corner lot, the existing rear lot abuts the adjacent neighbor's side yard which again visually and functionally creates an effect that the existing rear lot line is actually a side lot line. Allowing a setback consistent with the side yard setback requirements along a lot line that functions as a side yard and that visually appears to be a side yard would be a logical design solution consistent with the intent of the Code. Although the 10-foot rear setback normally required for the lot if it were developed as if it were a single parcel would be reduced, each of the proposed mini-lots would have adequate 20- to 30-foot deep rear yards which would allow adequate light, air and usable open spaces for each individual unit. The proposed variance for the reduced rear yard setback will facilitate a superior design that will improve the livability and operational efficiency of the project.

**B. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that**

such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

The proposed variance for the reduced setback would facilitate a superior design that will improve the livability and operational efficiency of the project. The reduced rear yard setback would provide for an increased amount of private usable open space and privacy for each of the proposed dwellings.

- 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.**

Since the site is a corner lot, the rear yard setback abuts the adjacent neighbor's side yard setback, and in effect functions as a side yard itself rather than a rear yard. Allowing a setback consistent with the side yard setback requirements along a lot line that functions as a side yard and that visually appears to be a side yard would be a logical design solution consistent with the intent of the Code and would not adversely affect the abutting property.

- 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 variance will not constitute a grant of special privilege as it will only serve to facilitate the residential development of the subject property in a manner consistent with the surrounding neighborhood.

- 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 subject site is surrounded by a mixture of one and two unit residential structures on small lots. The site design is compatible with the surrounding neighborhood character and maintains the existing pattern of development. The scale, height, length, width, bulk, coverage, and exterior treatment of the six dwellings are all compatible with the surrounding neighborhood.

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

The proposed six-unit residential project will enhance the predominately residential nature of the surrounding neighborhood and will increase home-ownership opportunities within an established residential neighborhood.

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

This site does not contain any topographic or landscaped features. A preliminary landscape plan, which illustrates substantial on-site landscaping, has been submitted. As a condition of approval, a final landscape plan, which must include size, species and locations of all planting materials and to installation of one street tree per every 25 feet of street frontage, will be submitted prior to the issuance of a building permit.

**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.

- D. **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 General Plan Land Use Designation for the subject site is the Mixed Housing Type Residential. This designation would permit one residential unit per 1,089 square feet of lot area or 11 units on the subject site. The proposed density would fall within the permitted density range. In addition to meeting the Mixed Housing Type density requirements the project would also be consistent with Neighborhood Objectives and Policies N3, N6, N7, and N9 of the City of Oakland General Plan.

**Section 16.24.040 (Lot Design Standards):**

***FINDINGS FOR APPROVAL***

- A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:
  - 1. Lots created in conjunction with approved private access easements;
  - 2. A single lot created with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

All lots within the proposed subdivision have required frontage and access to a public street.

- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.**

The side lot lines of all the proposed lots would run a right angles to either 14<sup>th</sup> Street or Adeline Street.

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

All zoning requirements specified in Title 17 of the Oakland Municipal Code (Oakland Planning Code) have been met except where a Variance for rear yard setback (see attached findings) and a Conditional Use Permit to waive minimum lot area pursuant to Section 14.102.320 have been granted.

- D. Lots shall be equal or larger in measurement than the prevalent size of existing lots in the surrounding area.**

Pursuant to Section 16.16.170(F)(2) of the Oakland Municipal Code (Lot Design Standards), this requirement is not applicable to Planned Unit Developments (PUD). The proposed project is a mini-lot development which is effectively the same as a PUD but smaller in size.

- E. Lots shall be designed in a manner to preserve and enhance natural outcropping of rock, specimen trees or groups of trees, creeks or other amenities.**

No such amenities exist on the subject property.

**Section 16.08.030 (Tentative Map Findings; pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act)):**

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

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

The proposed subdivision is consistent with the Oakland General Plan as specified in the findings above.

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

***FINDINGS FOR APPROVAL***

The proposed project falls under the Mixed Housing Type Residential General Plan Land Use Designation, and is therefore subject to the Neighborhood Objectives and Policies N3, N6, N7, and N9 of the City of Oakland General Plan. These objectives and policies encourage in-fill development, increased home ownership, and the orderly development of residential neighborhoods with dwellings that are oriented towards the street, that avoid blocking sunlight and views from neighboring homes, that are consistent with the surrounding neighborhood character, and that maintain a positive and safe public image. All of the proposed lots will be directly accessed via frontage along Adeline Street and 14<sup>st</sup> Street, and are sited in a manner that is consistent with the surrounding neighborhood. The proposed project will create additional in-fill housing opportunities by providing additional dwellings in an established neighborhood that is served by existing infrastructure, and will increase home ownership by creating four new individual lots.

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

The subject property is physically suitable for the type of development in that it is flat, served by existing road and utilities, and is located in a residential neighborhood.

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

The proposed residential density is compatible with the surrounding neighborhood.

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

The subject property does not contain any notable fish or wildlife habitat, and is surrounded by developed residential and commercial properties.

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

The subject property is not known to contain any environmental hazards such as contaminated soils or other toxic substances that would be disturbed and threaten public health. In addition, the proposed development would be served by public water and sewer service, and would therefore not require the use of on-site sewage disposal or domestic water well.

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

The subject property contains no such easements.

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

The design of the subdivision and the siting of the proposed dwellings allow for significant southern exposure, and in doing so provides for future passive or natural heating or cooling opportunities.

**Additional findings demonstrating compliance with California Environmental Quality Act (CEQA) Guidelines:**

The project is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Section 15315 (Minor Land Divisions) and Section 15332 (In-Fill Development Projects). 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; the site can be adequately served by all required utilities and public services; and only two small commercial buildings will be demolished. Additionally, no variances are required specifically for the subdivision, only six new parcels will be created, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel has an average slope of less than 20 percent.

**CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS:**

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

**a. *Ongoing.***

This approval of the Tentative Parcel Map shall expire two (2) calendar years from the effective date of its granting, unless the applicant files a Parcel Map with the City Engineer within two (2) years from the date of this letter. Failure to file a Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map. Upon written request and payment of appropriate fees submitted no later than the expiration date of this approval, the Zoning Administrator may grant an extension of this Tentative Parcel Map, 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.

The approval of the Conditional Use Permit, Minor Variance, and Design Review application shall expire two (2) calendar years from the date of recordation of the Parcel Map 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 and the Subdivision Regulations 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. The proposal shall specifically comply with any conditions required by the Building Services Division, per the attached memoranda, dated April 30, 2004.

**3. Changes to Approval**

**a. *Ongoing.***

Changes to approved plans that would amend the Tentative Parcel Map shall be submitted to and approved by the Zoning Administrator prior to recordation of the Final Parcel Map. 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. 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:**

**6. Building Services Division conditions of approval.**

a. *Ongoing*

The applicant shall comply with all conditions of approval listed in the attached Building Services Memorandum dated September 15, 2005.

**7. Window and Door Details.**

a. *Prior to issuance of building permit.*

The applicant shall submit to the Planning and Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations, and final architectural details of the structure. Details shall show wood or wood-like (such as aluminum clad) windows that have a minimum two inch recess from the surrounding exterior walls, have wood-like sash dimensions, and contain exterior trim with minimum depth of 2-inches from the surrounding exterior walls. Each window shall be single or double vertically hung.

**8. Exterior Materials Details.**

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show the details of the exterior of each building. These details shall include the labeling of all the materials and treatments proposed for the exterior of each building. The applicant shall also provide a material and color board for review and approval of the Planning and Zoning Division. All materials and treatments shall be of high quality that provides the building with significant visual interest. All material at ground level shall be made of durable material that can be maintained in an urban environment.

**9. Landscaping.**

a. *Prior to issuance of building permit.*

A landscape and irrigation plan shall be included in the building permit plan set and shall include the size, species, location, and method of irrigation for all plantings. All landscaping shall be installed prior to final inspection of the buildings unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code. This plan shall include full landscaping, including groundcover, for the entire property and adjacent right-of-way. A minimum of one 15 gallon front yard tree shall be installed on each of the proposed lots. The minimum planting size for all trees proposed in the landscaping plan shall be 15-gallons (unless a greater size is required elsewhere in

these conditions) and the minimum planting size for all tall shrubs proposed in the landscaping plan shall be 5-gallons. This plan shall be subject to review and approval by the Zoning Administrator.

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

The landscape and irrigation plan shall include a minimum of minimum one 15-gallon sized street tree per every 25 feet of street frontage. The species and locations shall be subject to review and approval by the Zoning Administrator and the Tree Division.

**10. Driveways and walkways.**

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

The use of decorative paving material for proposed for the driveways and walkways shall be indicated on the building permit plan set and shall be subject to review and approval by the Zoning Administrator.

**11. 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.

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

The building permit plan set shall indicate the location of all proposed utility meters and transformers. These features shall be located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way. This change shall be indicated on the building permit plan set and shall be subject to review and approval by the Zoning Administrator.

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

Trash enclosure areas shall be provided for each of the lots. These shall be screened from the street and abutting lots by a wall, fence, or dense landscaping at least 4 feet in height. This change shall be indicated on the building permit plan set and shall be subject to review and approval by the Zoning Administrator.

**12. Landscape maintenance**

**a. *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.

**13. Construction hours**

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

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

**14. 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.

**15. 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.

**16. Site Maintenance**

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

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

**17. Shared Driveway Use and Maintenance Agreement**

**a. *Prior to Recordation of the Final Map***

The owner or owners of each lot which will share a driveway shall prepare and execute to the satisfaction of the City Attorney, and file with the Alameda County Recorder, an agreement guaranteeing that the driveway will be maintained and reserved for the use of each dwelling it serves, for the duration of said dwellings.

**18. Lighting Plan**

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

The applicant shall submit a lighting plan for review and approval by the Planning and Zoning Division, with referral to other City departments as appropriate. 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.

**19. Public Improvements Plan**

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

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

**20. 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.

**21. Fire Prevention Unit/Hazardous Material Unit Conditions**

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

1. Prior to any excavation work at the site the property submit to the Oakland Fire Department, Fire Prevention Bureau, Hazardous Materials Unit a Phase II Work Plan for the geological assessment of the soil and groundwater at the above location. This workplan is to be reviewed and approve by the Fire Department.
2. The workplan shall discuss the advancing of a minimum of 4 exploratory soil boring to a depth of 17 feet below ground surface (bgs).
3. Collecting soil samples and groundwater grab samples from the borings and analyzing samples for all or part of the following constituents: total lead using EPA Method 6010; total petroleum hydrocarbons (TPH) as diesel (TPHd) and motor oil (TPHmo) by EPA Method 8015, TPH as gasoline (TPHg), benzene, toluene, ethyl benzene, xylenes (BTEX) and MTBE using EPA Methods 8015 and 8020, respectively.
4. In preparing the final report, it should include a description of your investigation; the results of soil and groundwater sample analyses; and your conclusions regarding the suitability of the site for residential development.

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