

<b>Location:</b>	434 North Street (See map on reverse)
<b>Assessors Parcel Number:</b>	016-1401-007-00
<b>Proposal:</b>	Construct a new two-story single-family dwelling containing approximately 1,427 square feet of floor area on a lot containing an existing 1,024 square-foot single-family dwelling for a total of two residential units on the lot.
<b>Applicant:</b>	Eli Israel
<b>Owners:</b>	Eli Israel & Michelle Medeiros
<b>Planning Permits Required:</b>	Major Conditional Use Permit to allow two residential units on a lot in the R-35 Zone; Regular Design Review to allow construction of a new building in the S-18 Zone in conjunction with a Conditional Use Permit
<b>General Plan:</b>	Mixed Housing Type Residential
<b>Zoning:</b>	R-35 Special One-Family Residential Zone; S-18 Mediated Residential Design Review Combining Zone
<b>Environmental Determination:</b>	Exempt, Section 15303 of the State CEQA Guidelines; new construction or conversion of small structures
<b>Historic Status:</b>	Potential Designated Historic Property (PDHP); Survey rating: D2+
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	1
<b>Date Filed:</b>	February 2, 2005
<b>Status:</b>	Pending
<b>Action to be Taken:</b>	Decision on application
<b>Staff Recommendation:</b>	Approval subject to conditions
<b>Finality of Decision:</b>	Appealable to City Council
<b>For Further Information:</b>	Contact the case planner, <b>Darin Ranelletti</b> , at (510) 238-3663 or by e-mail at <a href="mailto:dranelletti@oaklandnet.com">dranelletti@oaklandnet.com</a> .

**SUMMARY**

The applicant proposes to construct a new single-family dwelling on a lot containing an existing single-family dwelling for a total of two units on the lot. The site is located in the R-35 Special One-Family Residential Zone. The applicant has submitted an application for a Major Conditional Use Permit in accordance with the Zoning Regulations to allow two dwelling units on the lot. The site is also in the S-18 Mediated Residential Design Review Combining Zone. In the S-18 Zone, projects requiring a Conditional Use Permit also require Regular Design Review. The subject application is for both a Major Conditional Use Permit and Regular Design Review.

**PROJECT DESCRIPTION**

The project consists of a new single-family dwelling containing approximately 1,427 square feet of floor area. The new house would be two stories in height and contain three bedrooms. On the ground floor of the house would be an attached single-car garage.

**PROPERTY DESCRIPTION**

The subject property is rectangular in shape measuring 42 feet wide by 100 feet long comprising 4,200 square feet. The lot is relatively level. Currently the property contains one 1,024 square-foot single-family home located in the far rear of the lot. A small storage shed is located in front of the existing home.

The site is located on the 400 block of North Street in North Oakland between Dana Street and Colby Street. The 400 block of North Street consists of a mixture of single-family homes, duplexes, and small multi-unit apartment buildings.

**GENERAL PLAN ANALYSIS**

The site is designated Mixed Housing Type Residential (MHTR) by the Oakland General Plan. The intent of the MHTR designation is to create, maintain and enhance residential areas typically located near the City’s major arterials and characterized by a mix of single-family homes, townhomes, small multi-unit buildings and neighborhood businesses where appropriate. The proposal appears to meet the intent of the MHTR designation because it involves construction of a second single-family residence on a lot with an existing single-family home in a neighborhood with a mixture of single-family homes, duplexes, and small multi-unit apartment buildings.

**ZONING ANALYSIS**

The property is located in the R-35 Special One-Family Residential Zone and the S-18 Mediated Residential Design Review Combining Zone. The intent of the R-35 Zone is to create, preserve, and enhance areas containing a mixture of single-family and two-family (duplex) dwellings in desirable settings for urban living. The R-35 Zone allows single-family homes and, on buildable parcels containing at least 4,000 square feet, two units on a lot with the granting of a Major Conditional use Permit. The intent of the S-18 Zone is to provide a process, known as Mediated Residential Design Review, by which owners of properties in close proximity to certain development projects have an opportunity to resolve directly with the project applicant, through mediation, any issues concerning the project design. Pursuant to the S-18 Zone regulations, projects requiring a Conditional Use Permit are not subject to the Mediated Residential Design Review process. Instead these projects, including the subject proposal, are subject to the Regular Design Review procedure. With the recommended conditions of approval (see attached “Conditions of Approval”) the project complies with all the zoning standards of the R-35 Zone. The project also appears to be consistent with the approval criteria of the Conditional Use Permit and Regular Design Review procedure (see attached “Findings for Approval”).

**ENVIRONMENTAL DETERMINATION**

This project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the State CEQA Guidelines (“New Construction or Conversion of Small Structures”) because the project consists of the construction of a second dwelling unit on a lot in a residential zone.

**KEY ISSUES AND IMPACTS**

***Density***

The block of North Street containing the subject site consists of a mixture of single-family homes, duplexes, and small multi-unit apartment buildings. Of the 16 properties on the block, not including the subject property, seven lots (44 percent) contain single-family homes, seven lots (44 percent) contain

duplexes (two units), and two lots (12 percent) contain small multi-unit apartment buildings. By introducing a second unit on a lot containing an existing unit, the proposal appears to be consistent with the numbers of units contained on lots in the neighborhood.

### ***Site Planning***

The proposed new house would be located towards the front of the lot. The existing house on the lot would remain located in the far rear of the property separated from the new house by approximately 21 feet. The new house would be setback from the front (south) lot line 20 feet, from the left (west) lot line five feet, and from the right (east) lot line nine feet. Since the existing house on the property is located on the extreme rear of the property and the front portion of the property, where a house would normally be located, is vacant, there exists a visual gap in the building pattern on the block. The proposed house would fill in that gap thereby continuing the building frontage rhythm along the street.

### ***Driveway***

A new driveway curb cut would be installed on the right (east) side of the front of the lot to accommodate a new driveway serving the proposed attached garage and an unenclosed parking area to the right (east) of the new house. The driveway is proposed to be 19 feet in width. The subject lot is 42 feet in width. Together with the proposed three-foot wide pedestrian walkway from the sidewalk to the new house, the amount of proposed paving in the front yard exceeds the 50 percent maximum allowed by the Zoning Regulations. Staff recommends a condition be placed on the approval of the project requiring the applicant to reduce the width of the driveway to 18 feet to comply with the front yard paving regulation (see Condition of Approval #9). Even at 18 feet wide, the new driveway would be wider and more visually prominent than other driveways in the neighborhood. In order to reduce the visual and drainage impacts of the new driveway, staff recommends a condition be placed on the approval of the project requiring the driveway to be paved with a decorative, permeable material (see Condition of Approval #9).

### ***Parking***

The Zoning Regulations require one and one-half off-street parking spaces per unit in the R-35 Zone (in the case of one unit, this number is rounded up to two parking spaces). The property currently has no off-street parking. Since the existing house was constructed prior to the off-street parking requirements, the property is considered legal non-conforming. The Zoning Regulations only require two off-street parking spaces to serve the new house since the existing house is considered to be “grandfathered” in terms of parking. The proposal includes two conforming off-street parking spaces—one enclosed space in the attached garage in the new house and one unenclosed space located on the paved area to the right (east) of the new house. Enough paved area exists to accommodate two additional tandem off-street parking spaces—one in front of the attached garage and one to the right (east) side of the house—for a total of four potential off-street parking spaces. The two tandem spaces would not be counted towards meeting the minimum number of parking spaces required by the Zoning Regulations.

### ***Building Size***

The proposed house would contain 1,427 square feet of floor area in addition to the 1,024 square-foot existing house on the lot for a total of 2,451 square feet of floor area on the lot. The amount of floor area contained on properties with one and two units on the block range from 792 square feet to 2,818 square feet with the average floor area being 1,584 square feet. The two multi-unit apartment buildings contain 3,635 square feet and 4,672 square feet.

The new house would be two stories in height with a total height of 27 feet and seven inches. The maximum building height allowed by the Zoning Regulations is 30 feet to the top of a pitched roof. The

block contains a mixture of existing buildings with one story over a garage/basement and two stories. The buildings on each side of the proposed house are both two stories in height.

***Building Design***

The proposed building employs a traditional house design that includes a roof design, materials, and architectural detailing consistent with the existing houses in the neighborhood. The building is designed with an appropriate level of façade articulation and detailing such that the overall mass and bulk of the building are reduced.

***Solar Access Impacts***

Potential solar access impacts to adjacent lots would be minimal due to the directional orientation of the lots in the neighborhood and the location and design of the proposed house. Midday sun to adjacent lots would not be affected by the proposal because the adjacent lots are located to the east and west of the new house. Potential impacts to morning sunlight to the adjacent lot to the west and potential impacts to afternoon sunlight to the adjacent lot to the east would be minimal due to the separation between the proposed house and the buildings on adjacent lots and due to the pitched roof of the proposed house which slopes away from the adjacent properties.

**CONCLUSION**

The proposal meets the intent of the Zoning Regulations and General Plan and is designed in a manner to “fit in” with the surrounding neighborhood thereby reducing potential impacts to surrounding residents. Staff recommends approval of the proposal subject to the recommended conditions of approval.

**RECOMMENDATIONS:**

1. Affirm staff’s environmental determination.
2. Approve the Major Conditional Use Permit and Regular Design Review subject to the attached findings and conditions.

Prepared by:

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DARIN RANELLETTI  
Planner III

Approved by:

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GARY PATTON  
Deputy Director of Planning and Zoning

Approved for forwarding to the  
City Planning Commission:

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CLAUDIA CAPPIO  
Director of Development

**LEGAL NOTICE: The decision of the City Planning Commission is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision is announced (Code of Civil Procedure Section 1094.6).**

**ATTACHMENTS:**

- A. Project Drawings
- B. Site Photographs

## FINDINGS FOR APPROVAL

This proposal meets the required findings under Sections 17.18.110 (Use Permit Criteria for Second Dwelling Unit in R-35 Zone), 17.134.050 (General Conditional Use Permit Criteria), and 17.136.070A (Residential Design Review Criteria) 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 17.18.110 (Use Permit Criteria for Second Dwelling Unit in R-35 Zone):**

- A. That the proposed development will not adversely affect adjoining property, nor the surrounding neighborhood, with consideration to be given to density; to the availability of neighborhood facilities and play space; to the generation of traffic and the capacity of surrounding streets; and to all other similar, relevant factors.**

The proposed development will not adversely affect adjoining property or the surrounding neighborhood. The proposed development is consistent with the existing density of the neighborhood. Neighborhood facilities and play space are available to serve the proposal. The capacity of surrounding streets is adequate to serve the traffic increase resulting from the project.

- B. That the site design and landscaping and the scale, height, length and width, bulk, coverage, and exterior treatment of structures are in harmony with neighborhood character and with facilities on nearby lots.**

The design of the proposed building is in harmony with the neighborhood. The design incorporates façade articulation and architectural detailing to reduce the visual scale, height, size and bulk of the building so that it is consistent with the character of the neighborhood. The proposed coverage and materials are similar to the surrounding neighborhood.

- C. That the shape and siting of the facilities, and especially of any portions thereof which exceed one story in height, are such as to minimize blocking of views and direct sunlight from nearby lots and from other Residential Facilities in the surrounding neighborhood.**

There are no existing significant views from nearby lots. Potential solar access impacts to adjacent lots would be minimal due to the directional orientation of the lots in the neighborhood and the location and design of the proposed house. Midday sun to adjacent lots would not be affected by the proposal because the adjacent lots are located to the east and west of the new house. Potential impacts to morning sunlight to the adjacent lot to the west and potential impacts to afternoon sunlight to the adjacent lot to the east would be minimal due to the separation between the proposed house and the buildings on adjacent lots and due to the proposed pitched roof which slopes away from the adjacent properties.

- D. That the design and site planning of the buildings, open areas, parking and service areas, and other facilities provide a convenient, attractive, and functional living environment; and that paths, stairways, accessways, and corridors are so designed as to ensure privacy.**

The design of the project provides a convenient, attractive and functional living environment. Adequate open space is provided on the lot between the two buildings. Off-street parking is designed such that it is not a dominant feature of the property. Pedestrian paths are located at ground level; there are no upper-story paths or stairways which could result in privacy impacts to adjacent properties.

- E. That lot shape, size, and dimensions allow a development which will provide satisfactory internal living conditions without adversely affecting the privacy, safety, or residential amenity of adjacent residences.**

The lot is sufficient in shape, size and dimensions to allow for a living environment comparable to other properties in the neighborhood without adversely affecting adjacent residences.

**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 proposal meets this finding (see responses to Findings A and B above under the findings for Section 17.18.110).

- 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 proposal meets this finding (see responses to Findings D and E above under the findings for Section 17.18.110).

- 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 proposal will provide an essential service to the community, city, and region by providing needed housing.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposal meets this finding (see responses below to criteria for Section 17.136.070).

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

The site is designated Mixed Housing Type Residential (MHTR) by the Oakland General Plan (formerly the Oakland Comprehensive Plan). The intent of the MHTR designation is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhomes, small multi-unit buildings and neighborhood businesses where appropriate. The proposal provides for a second single-family residence on a lot with an existing single-family home in a neighborhood with a mixture of single-family homes, duplexes, and small multi-unit apartment buildings.

**Section 17.136.070A (Residential Design Review Criteria):**

- 1. That 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 proposal complies with this criterion (see response to Finding A above under the findings for Section 17.18.110).

- 2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The proposal incorporates high-quality design which will enhance the neighborhood.

- 3. That the proposed design will be sensitive to the topography and landscape.**

There are no significant natural topographic or landscape features on the lot. The proposal is sensitive to the existing built environment of the lot; the new building is located in a manner that provides for conveniently located usable open space located between the new building and the existing residence on the lot.

- 4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

The site is not located on a hill.

- 5. That 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 site is designated Mixed Housing Type Residential (MHTR) by the Oakland General Plan (formerly the Oakland Comprehensive Plan). The intent of the MHTR designation is to create, maintain and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhomes, small multi-unit buildings and neighborhood businesses where appropriate. The proposed building is designed as a single-family home in appearance to maintain the medium- to low-density residential character of the neighborhood.

## CONDITIONS OF APPROVAL

This proposal is subject to the following conditions:

### **STANDARD CONDITIONS:**

#### **1. Approved Use**

##### ***a. Ongoing***

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans submitted on **March 14, 2005** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval

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

##### ***a. Ongoing***

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

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

##### ***a. Ongoing***

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

#### **4. Modification of Conditions or Revocation**

##### ***a. Ongoing***

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

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

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

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

#### **6. Indemnification**

##### ***a. Ongoing***

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

***CONDITIONS OF APPROVAL***

of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**7. 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. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7073 for information.

**8. Recycling Space Allocation Requirements**

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

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

**SPECIFIC CONDITIONS (CASE NO. CMD05-044):**

**9. Driveway Modifications**

**a. Information to be included on the plans submitted for a building permit**

The project drawings submitted for a building permit shall contain the following modifications to the design of the proposed driveway: 1) The width of the driveway shall not exceed 18 feet; and 2) The surface of the driveway shall be comprised of a decorative and permeable material such as interlocking pavers, paved tire strips separated by landscaping, or other surface as approved by the Planning and Zoning Division.

**10. Landscaping**

**a. Information to be included on the plans submitted for a building permit**

The project drawings submitted for a building permit shall include a detailed landscaping plan for review and approval by the Planning and Zoning Division. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and names of plant species as well as the proposed method(s) of irrigation. Pursuant to Section 17.124.030 of the Oakland Planning Code, one fifteen-gallon street tree, as approved by the Public Works Agency, Tree Division, shall be provided for every twenty-five (25) feet of street frontage or for every twenty (20) feet of street frontage if a curbside planting strip exists. Fire and drought-resistant species are encouraged.

**b. Prior to issuance of a certificate of occupancy**

The applicant shall install all proposed landscaping indicated on the approved landscaping plan prior to the issuance of a certificate of occupancy, unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code. The amount of such bond or cash deposit shall equal the greater of \$2500 or the estimated cost of the required landscaping, based on a licensed contractor's bid.

**c. Ongoing**

All installed landscaping shall be permanently maintained in a healthy condition.

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