

Location:	2847 Peralta Street (See map on reverse)
Assessors Parcel Numbers:	007-0589-016-00; -017-00; -018-02; -018-03; & -023-00
Proposal:	New Construction of 76 Residential Units, 24 Live Work Units, and 3,200 square feet of ground floor commercial “workshop” spaces.
Applicant:	William Lightner/ Lightner Properties Group - (415) 267-2900
Owner:	Peralta Street, LLC
Planning Permits Required:	Major Interim Conditional Use Permit to allow new construction of residential units in the M-30 Zone, Regular Design Review for New Construction, Minor Variance request for parking (112 spaces required; 108 spaces proposed – 151 total parking spaces will be provided with tandem spaces included), and Tentative Parcel Map for Condominiums.
General Plan:	Housing and Business Mix / Business Mix
Zoning:	M-30/S-16/R-36, General Industrial Zone/ Industrial – Residential Combining Zone/ Small Lot Residential Zone.
Environmental Determination:	Exempt, Section 15332 of the State CEQA Guidelines; in fill development projects.
Historic Status:	2829 Helen Street is a Potentially Designated Historic Property(PDHP); rating: D2+
Service Delivery District:	I – West Oakland
City Council District:	3
Date Filed:	9/20/05
Action to be Taken:	Decision on Application
Staff Recommendation:	Approve with the attached conditions.
Finality of Decision:	Appealable to City Council
For Further Information:	Contact case planner Peterson Z. Vollmann at 510-238-6167 or by e-mail at pvollman@oaklandnet.com .

PROJECT DESCRIPTION

The proposal is to demolish the existing structures on the site and develop a new mixed use development that will contain 76 residential Dwelling Units in various building types, 24 Live Work units in two different building types along with ground floor commercial work shop spaces along Hannah Street within the podium of a large residential condo building. The proposal will include a large interior driveway for auto access to limit the number of curb cuts on the surrounding streets. The project will contain townhouse style units, which will face out onto Helen Street as well as some that will be located internally to the site. On the Hannah Street side of the development, there will be a large residential condominium building that will contain 58 dwelling units with 3,200 square feet of ground floor commercial workshop spaces along the street. The Peralta Street frontage will contain a series of 10 Live - Work units that will contain ground floor commercial spaces openly visible to public view that will help to activate Peralta Street. On the back side of the Peralta Street building there will be 14 Live Work Units that will face internally into the site, but will angle toward the street to provide visual interest from the Hannah Street entry driveway. Altogether the project will include 76 residential condominiums and 38,155 square feet of commercial space including the proposed 24 Live/Work units. The project site will contain a total of 108 independently accessible parking spaces where the Planning Code requires 112

stalls. While the project is short four parking stalls, the site will actually provide an additional 43 tandem parking spaces for a total of 151 off street parking stalls.

PROPERTY DESCRIPTION

The subject site is an 84,233 square foot site containing an industrial warehouse structure fronting on Hannah Street and one single family dwelling at the northeast side of the site on Helen Street. The property is located on the northwest side of Peralta Street with significant additional frontages on Helen and Hannah Streets.

GENERAL PLAN ANALYSIS

The subject property is located within both the Housing and Business Mix and Business Mix General Plan Land Use Classifications. The northern portion of the site is located within the Housing and Business Mix General Plan Designation while the portion of the property fronting on Peralta Street is within the Business Mix General Area.

The Housing and Business Mix classification recognizes the equal importance of both housing and business. This classification is intended to guide a transition from heavy industry to low impact light industrial and other businesses that can co-exist compatibly with residential development. Respect for environmental quality, coupled with opportunities for additional housing and neighborhood friendly business is desired, as well as the transition from industry that generates impacts detrimental to residences. This classification allows mixed housing type density housing, live-work, low impact light industrial, commercial and service businesses, and compatible community facilities. The proposed density is consistent with the General Plan density.

The Business Mix classification is intended to preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses including those that have hazardous materials on-site may be allowed provided they are adequately buffered from residential areas. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional transportation system.

The proposed development is consistent with the General Plan by providing a mix of residential and commercial uses at the site. The portion of the property to the northern side of the lot is compatible with residential uses up Helen Street while the portion of the property in the Business Mix General Plan Area along Peralta will provide Live/Work units that will activate the street with commercial street frontages while not containing any highly intensive industrial activities that would be inappropriate given the close proximity to nearby Residential properties both near and proposed on the site.

ZONING ANALYSIS

The subject property is largely located within the M-30, General Industrial Zone and The S-16 Industrial Residential Combining Zone with a small portion of the northeast end of the site is located within the R-36, Small Lot Residential Zone. The M-30 zone is intended to create, preserve, and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. The intent of the S-16 zone is to provide a compatible transition between residential and industrial zones by limiting the impacts of new nonresidential development, particularly trucking facilities and industrial development, on adjacent residential zones. It is also intended to promote compatible economic development and provide

opportunities for new joint living and working quarters. The R-36 zone is intended to foster the development of small lots that are less than four thousand (4,000) square feet in size and/or less than forty-five (45) feet in width in desirable settings for urban living, and is typically appropriate to areas of existing lower density residential development.

Interim Conditional Use Permit

Given that the M-30 Zone does not permit residential uses, the applicant has requested an Interim Conditional Use permit to invoke the General Plan for Housing and Business Mix, which specifically allows residential uses.

The subject property is located at the end of a residential neighborhood and the conversion of the property from an industrial/commercial use to a residential development is appropriate and fully supported by Planning Staff.

The proposed project is consistent with the proposed setbacks that were adopted by the Planning Commission for the proposed HBX-2 Zone. The Setback requirements are as follows.

S-16 Live Work Units

The portion of the property that fronts Peralta Street is located within the S-16 Zone, which specifically permits new Live-Work developments, and the proposed 24 Live-Work units are consistent with the Regulations in the S-16 Zone.

Parking Variance

The applicant has requested a variance from the required parking for the site. The Code requires that each dwelling unit contain one parking space per dwelling, one parking space per 1,000 square feet of Live Work floor area, and one parking space per 1,500 square feet of floor area for the work shop spaces, which are classified as manufacturing uses. The total parking required for the site is 112 parking stalls. The proposal includes 108 independently accessible parking stalls, which is four short of the required total. The applicant had a parking demand study prepared which stated that the higher demand for parking would be for the condominium units rather than for the live/work units and workshop spaces, so as part of the proposal they have provided an additional 43 tandem parking spaces for use by the residential dwelling units that will be provided within a deep garage for the townhouse units and parking lifts within the podium level of the Hannah Street building. A major concern among neighbors in the area was potential lack of parking for the site, so the proposal will actually provide a total of 151 off street parking spaces to serve the site. Staff is supportive of the variance due to the additional spaces being provided to meet the majority of the demand, staff does not feel that it is necessary to provide the additional four independently accessible off street spaces which would reduce the open space provided in the center of the site.

KEY ISSUES

Design

The proposal consists of four different building types for the site. The main façade of the site, located along Peralta Street, will contain a large three story Live Work building containing 24 Live Work Units. These units will face out onto Peralta Street and contain units that will face internally into the interior driveway. The Peralta Façade will contain Live Work units with publicly accessible ground floor commercial space in a store front setting. The mass of the building façade will contain multiple recesses

and vertical elements to break down the broad horizontal nature of the building façade and provide for visual interest. The exterior of the building will contain a large amount of glazing, especially at the ground floor, and will have an exterior finish of a smooth coat steel trowel cement plaster finish to relate to older industrial and commercial buildings, as well as providing increased durability. The ground floor commercial element along with the public improvements to the side walk right of way will help to activate Peralta Street as a pedestrian oriented street, which is currently blighted with broken sidewalks and overgrowth of weeds and a complete lack of any structural façade. The back side of the building, which will face internal to the site, will also contain a similar design style with the live work with ground floor accessible space. These units while not located directly on the public right of way, will have a series of facades that will be angles toward the driveway entrance on Hannah Street so that it will be of visual interest from the public domain.

The project will contain two building types on Helen Street, which is a smaller scale residential street. Directly adjacent to the existing homes on Helen Street there will be two new townhouse units, which will contain a modern design but incorporate elements into the façade to relate to the older housing stock on the street by providing a raised entry porch, vertically oriented windows, and a roof pitch similar to others on the street. These new homes will join the project site with the neighborhood by being located on the north end of the internal driveway. To the south of the internal driveway the proposed townhouses will contain a much more modern façade that will relate more to the building on Peralta Street, but will still contain a scale appropriate to the homes on Helen Street. The façade will contain a mix of stucco and cedar siding and will contain a built in awning over the ground floor entrance to help identify the pedestrian entrance. This building type will also be present within the project site facing onto the internal driveway.

The fourth building type will be on the Hannah Street façade and will represent the largest of all the buildings. The proposal is a five story fifty foot tall residential condominium building. This building is the largest because it intends on relating to another approved development directly adjacent to the site that will be of a similar mass and scale. The proposed building contains two masses anchored to a recess in the middle of the building to call out the lobby entrance. The masses will be visually broken down by containing prominent vertical window elements that will stand out due to the minimalist approach to the overall building. The building will be topped with a metal cornice that will contain design elements that will also light the cornice at night. The ground floor of the building will contain a series of storefront glazing systems and glass rollup doors for the proposed ground floor “workshop” spaces, which are intended to house light manufacturing and artisan businesses. The ground floor portion of this building will contain a smooth coat steel trowel cement plaster finish and will extend to the top of the second floor balconies. The remaining top of the building will contain a sanded stucco finish.

Site Cleanup

Section 15300.2(e) of the CEQA guidelines requires that the site not be included on any list “compiled pursuant to Section 65962.5,” commonly known as the “Cortese List.” The proposed site is not listed on the Cortese List. The applicant has, however, voluntarily entered the California Department of Toxic Substance Control’s Voluntary Cleanup Program. DTSC will therefore provide oversight of remediation actions at the site, which will involve removal of some soil and capping. The site has been the subject of several environmental contamination investigations, including two reports prepared by Treadwell and Rollo for the applicant in July and August, 2005, and which include the results of soil samples, soils gas samples, and groundwater samples. Since sometime between 1912 and 1940, the site has been used as a paint factory, as a paint contracting company, and/or an automobile repair and dismantling facility. At one time the site included a “varnish kitchen” in the southern part of the site. Site soil contaminants include petroleum compounds such as gasoline, mineral spirits (paint thinner), diesel, and motor oil; volatile organic compounds (VOCs) associated with petroleum hydrocarbons, and benzene in shallow soil. Polynuclear aromatic hydrocarbon (PAH) concentrations, lead, and arsenic concentrations have also

been detected in the soil. Asbestos may be present in the older structures. Some of these concentrations exceed the Environmental Screening Level for residential indoor air exposure.

DTSC's Voluntary Cleanup Program was established to ensure cleanup of contaminated sites that are not considered a high priority, and participation is funded by the applicant. This program ensures that remediation efforts are completed. As required by DTSC, an Environmental Site Characterization report has been prepared by Treadwell and Rollo to delineate the extent and magnitude of contamination at the site, and to recommend a site cleanup strategy. Treadwell recommended that a Removal Action Workplan (RAW) be prepared in accordance with California Health and Safety Code sections 25323.1 and 25356.1. No remediation or mitigation would be implemented at the site unless the strategies are evaluated in the RAW (which is a public document), and approved by DTSC.

A DTSC-approved RAW requires that the applicant conduct public participation activities to ensure that the affected and interested public and community are involved in DTSC's decision-making process, as required by Health and Safety Code Section 25358.7, the DTSC Public Participation Policy and Procedures Manual, and with DTSC's review and approval. The applicant is required to publish the RAW in major local newspapers, and to distribute a public notice announcing its availability for review. The public comment period is open for 30 days. Within two (2) weeks following the close of the public comment period, the applicant must submit a draft response to the public comments. If appropriate, the applicant must revise the RAW on the basis of comments from the public and submit the revised RAW to DTSC for review and approval. In addition, the applicant must enter into an Operation and Maintenance Agreement, which includes financial assurances, with DTSC before the site is certified. Other requirements include submission and approval by DTSC of a Health and Safety Plan, which covers all measures, including contingency plans that will be taken during field activities to protect the health and safety of the workers at the site and will protect the general public from exposure to hazardous waste, and hazardous substances or materials.

The RAW will be approved by DTSC prior to the issuance of a grading permit by the Building Services Division.

Fire Access

The project will contain a twenty foot wide internal driveway, which will be able to accommodate fire truck access. Any proposed gates to the driveway will contain "knox boxes" to ensure availability for Fire Department access at all times.

ENVIRONMENTAL DETERMINATION

For purposes of environmental review under the California Environmental Quality Act (CEQA), the project meets the criteria for a Categorical Exemption under Section 15332 of the CEQA Guidelines. The criteria for a Categorical Exemption under Section 15332 of the CEQA guidelines are as follows:

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

The proposed project is consistent with the Housing and Business Mix and Business Mix General Plan designations. Any by meeting the required findings and criteria for the use permit, variance, and design review, the proposal will conform to the Zoning Code.

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

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

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

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

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

The traffic analysis prepared for the project determined that the project would not result in any significant impacts to the existing level of service (LOS) of local intersections. With implementation of standard conditions of approval related to construction management and noise reduction measures, the project would not result in any significant impacts on traffic, noise, air quality, or water quality. Section 15300.2(e) of the CEQA guidelines requires that the site not be included on any list "compiled pursuant to Section 65962.5," commonly known as the "Cortese List." The proposed site is not listed on the "Cortese List" and the applicant has voluntarily entered the California Department of Toxic Substance Control's Voluntary Cleanup Program. DTSC will therefore provide oversight of remediation actions at the site, which will involve removal of some soil and capping.

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

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

CONCLUSION

Staff feels that the proposed project is a good reuse of the site by cleaning and redeveloping an existing brownfield into a new development that incorporates Commercial Live Work units and housing units into a well designed site plan that will revive a portion of Peralta Street that has long been underutilized. The proposed design, which will use high quality exterior materials, along with the public improvements to all of the adjacent public right of ways will activate the street and revive Peralta Street as a commercial corridor and provide a transition between the industrial neighborhood to the south the residential neighborhood to the north. The proposal will carry out the vision of the Oakland General Plan by creating new business and housing opportunities in the community.

RECOMMENDATIONS:

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

Prepared by:

PETERSON Z. VOLLMANN
Planner III

Approved by:

GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
City Planning Commission:

CLAUDIA CAPPIO
Director of Development

ATTACHMENTS:

- A. Plans and Elevations
- B. Findings for Approval
- C. Conditions of Approval

ATTACHMENT B

FINDINGS FOR APPROVAL

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

SECTION 17.134.050 –CONDITIONAL USE PERMIT FINDINGS:

- 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 incorporates various design styles to address issues of compatibility with the surrounding neighborhood. The portion of the site that fronts on Helen Street contains a series of lower scale residential structures from the late 19th century and early 20th century. The proposal includes townhouses that will be developed along this portion of the site to address compatibility to the existing scale of that street. For the Hannah Street frontage the proposal will include a large condominium residential building that will be of a similar scale to a building that has been approved to the north side of the site that is of a similar size, bulk, and scale. The portion of the site that fronts onto Peralta Street a new character will be established for this street as there currently is no strong existing context. The proposed building will contain live work units with active ground floor spaces to activate the street, which is seen as a desirable neighborhood character for the area. The traffic study prepared indicates that the proposed project will not reduce any of the existing levels of service of nearby intersections, and the site is located within an urban area that will have access to 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 proposed project will provide for a functional living and working environment. The proposed live work and work shop spaces will contain active ground floor elevations with open store fronts for public view and pedestrian interest. The residential units will contain ample parking and open space with close links to local and regional transit.

- 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 development will facilitate the change of the area from industrial to a mixed use community by providing residential units mixed with live work and work shop spaces that will provide commercial activity on Peralta and Hannah Streets.

- 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.**

See Design Review findings below.

- 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 proposal to add residential uses is consistent with the Housing and Business Mix General Plan area and the proposed Live Work element is consistent with the Business Mix General Plan Area and S-16 overlay zone.

SECTION 17.01.100B – MINOR CONDITIONAL USE PERMIT FINDINGS FOR PROPOSALS CLEARLY IN CONFORMANCE WITH GENERAL PLAN BUT NOT PERMITTED BY ZONING REGULATIONS:

- A. That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area.**

The Housing and Business Mix general Plan areas are intended to act as buffers between industrial and business areas and residential neighborhoods. The proposed project will enhance the operation of the neighborhood as a buffer zone between the residential neighborhood the north and the industrial area to the south.

- B. That the proposal is clearly consistent with the intent and desired character of the relevant land use classification or classifications of the General Plan and any associated policies.**

The Housing and Business Mix general Plan areas are intended to act as buffers between industrial and business areas and residential neighborhoods. The proposed project will enhance the operation of the neighborhood as a buffer zone between the residential neighborhood the north and the warehousing area to the south.

- C. That the proposal will clearly promote implementation of the General Plan.**

The proposed project is consistent with the Housing and Business Mix General Plan Area, by providing a mix of residential uses and live-work units to the area.

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 project incorporates various design styles to address issues of compatibility with the surrounding neighborhood. The portion of the site that fronts on Helen Street contains a series of lower scale residential structures from the late 19th century and early 20th century. The proposal includes townhouses that will be developed along this portion of the site to address compatibility to the existing scale of that street. The proposed cedar shiplap siding will be compatible with older homes in the area that contain horizontal siding, but will also contain other modern materials to relate

the buildings to the overall project. For the Hannah Street frontage the proposal will include a large condominium residential building that will be of a similar scale to a building that has been approved to the north side of the site that is of a similar size, bulk, and scale. The portion of the site that fronts onto Peralta Street a new character will be established for this street as there currently is no strong existing context. The proposed building will contain live work units with active ground floor spaces to activate the street, which is seen as a desirable neighborhood character for the area.

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

The development will enhance the area by filling in a large vacant parcel with well designed buildings that relate to the community as well as create a new character for Peralta Street as envisioned by the General Plan.

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

The subject area is flat containing no natural landscape.

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

Not situated 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 proposal to add residential uses is consistent with the Housing and Business Mix General Plan area and the proposed Live Work element is consistent with the Business Mix General Plan Area and S-16 overlay zone.

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 zoning regulations to provide 112 parking stalls (four more than proposed) would preclude an effective design solution given that the project will incorporate an additional 43 off street parking spaces in tandem fashion to address the portion of the project that has the higher parking demand. By providing tandem parking in lifts and double deep garages in the townhouses less actual site area is required to accommodate parking thus allowing for more open space and pedestrian friendly facades on the street.

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 basic intent of the Planning Code regulation for parking is to provide enough parking for the projected demand of the proposed use. The proposed project will incorporate an additional 43 off street parking spaces in tandem fashion to address the portion of the project that has the higher parking demand. By providing tandem parking in lifts and double deep garages in the townhouses less actual site area is required to accommodate parking thus allowing for more open space and pedestrian friendly facades on the street.

- 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 granting of the variance for reduced independently accessible spaces from 112 to 108 would not significantly impact the area as an additional 43 off street parking spaces will be provided in tandem fashion for the residential element of the project that carries the highest parking demand.

- 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.**

Granting the Variance will not constitute a grant of special privilege given that the applicant has proposed a design that still meets the intent of the code by providing tandem spaces to accommodate the portion of the site with the highest demand to allow for more of the site to be dedicated to open space and pedestrian friendly street fronting facades.

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.**

Not Applicable

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

Not Applicable

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

Not Applicable

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

Not Applicable

- 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.**

Not Applicable

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

Not Applicable

- 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.)**

Not Applicable

- 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**

Not Applicable

16.24.040 – LOT DESIGN STANDARDS

These findings are not applicable as this is an application for a one lot subdivision of an existing parcel for the purposes of creating condominiums and no physical land subdivision will be taking place.

ATTACHMENT C

CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Approved Use.

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans dated January 3, 2006 and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval. All proposals for future commercial uses shall require separate zoning clearances.

2. Effective Date, Expiration, and Extensions

a. Ongoing.

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on January 18, 2008, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the 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 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 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.

STANDARD CONDITIONS FOR NEW CONSTRUCTION:

7. Waste Reduction and Recycling

a. Prior to issuance of a building 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 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.

STANDARD CONDITIONS FOR MAJOR PROJECTS:

9. Air Quality

a. Prior to commencement of construction activity

The contractor shall implement a construction dust abatement program including the following measures:

- i. Twice-daily watering of the project site during construction to reduce dust emissions.
- ii. Following best management practices such as (i) watering all active construction areas at least twice daily; (ii) covering all trucks hauling soil and other loose materials or requiring trucks to maintain at least two feet of freeboard; (iii) paving, applying water three times daily, or applying non-toxic stabilizers on all unpaved access roads, parking areas, and staging areas at the construction site; (iv) sweeping daily with water sweepers all unpaved access roads, parking areas, and staging areas at the construction site; and (v) sweeping streets daily with water sweepers if visible soil material is carried onto adjacent public streets.
- iii. Routing temporary haul roads to the soil stockpile away from existing neighboring land uses, surfacing these temporary roads with gravel, and implementing a program to regularly water or apply an appropriate dust suppressant to control for dust.
- iv. Utilizing water sprays to control dust when material is being added or removed from the soil stockpile or when the stockpile remains undisturbed for more than a week treating the stockpile with a dust suppressant or crusting agent to eliminate windblown dust generation.
- v. Providing neighboring properties located within 300 feet of the subject property lines with name and phone number of a designated dust control coordinator who shall respond to complaints within 24 hours by suspending dust producing activities or providing additional

CONDITIONS OF APPROVAL

personnel or equipment for dust control as deemed necessary. The phone number of the BAAQMD pollution complaints contact shall be provided. The dust control coordinator shall be on-call during construction hours and shall maintain a log of complaints received and remedial actions taken in response. The log shall be submitted to City staff upon request.

10. Hydrology and Water Quality

a. *Prior to commencement of construction activity*

If required the project sponsor shall prepare, for City review and approval, and implement a Storm Water Pollution Prevention Plan (SWPPP) to reduce potential impacts to surface water quality during project construction.

11. Construction Hours for Major Projects

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.

12. 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:

- 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.
- Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours and lane closures will occur.
- Provision for accommodation of pedestrian flow.
- Location of construction staging areas.
- 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.
- A temporary construction fence to contain debris and material and to secure the site.
- Provisions for removal of trash generated by project construction activity.

- Dust control measures as set forth in Condition #9.
- A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager.

13. 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.

14. 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 for portions of the property that front onto Peralta and Helen Streets. The plans shall show all electric and telephone facilities installed in accordance with standard specifications of the serving utilities.

15. 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 including colors. 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. In particular, the exterior stucco shall contain a smooth trowel finish. All material at ground level shall be made of durable material that can be maintained in an urban environment. Windows shall be articulated to provide a two inch minimum recess from the exterior building façade in order to create a sufficient shadow line. The final window details shall be submitted for review and approval.

16. Landscape and Irrigation Plan

a. *Prior to issuance of building permit.*

The applicant shall submit for review and approval by the Planning and Zoning Division, a detailed landscape and irrigation plan prepared by a licensed landscape architect or other qualified person. Such plan shall show all landscaping on the site maintained by an automatic irrigation system or other comparable system. The landscaping plan shall include a detailed planting schedule showing sizes, quantities, and specific common and botanical names of plant species. Fire and drought-resistant species are encouraged.

17. Landscaping Maintenance

a. Ongoing.

All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or other impervious surfaces shall occur only on approved areas.

18. Street Trees

a. Prior to issuance of building permit.

The applicant shall provide one street tree (24 inch box) per 25 feet of linear frontage of the project site for review and approval of species, size at time of planting, and placement in the right-of-way, subject to review and approval by the Office of Parks and Recreation and Building Services.

19. Meter Shielding

a. Prior to issuance of building permits.

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like 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.

20. Tentative Parcel Map

a. Prior to certificate of occupancy

A Parcel Map shall be filed with the City Engineer within two (2) years from the date of approval of the Tentative Parcel Map, or within such additional time as may be granted by the Advisory Agency. Failure to file a Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

21. Variance Required For Front and Side Setbacks on Building 3

a. Prior to issuance of a building permit

Lots 16 & 17 of the subject site which contain the proposed "Building 3" are solely located within the R-36 Zone and presently qualify as small lots which can take advantage of reduced front and side yard setbacks. Once the lots are merged into the overall development site the setback requirements will increase from a 10'0" front setback to a 20'0" front setback, and a 3'0" side yard setback to a 5'0" setback, and the proposed "Building 3" will no longer meet the required setbacks. The applicant shall obtain a variance for reduced front and side yard setbacks for the proposed "Building 3".

APPROVED BY: City Planning Commission: _____ (date) _____ (vote)
City Council: _____ (date) _____ (vote)