

Project Name: 1919 Market	
Location: 1919 Market Street (See map on reverse)	
Assessors Parcel Number:	005-0410-013-01 & 005-0410-014 & 005-0410-025
Proposal:	To construct 58 new, fee simple townhouse structures as a mini-lot development with one parking space per dwelling unit and eleven additional off-street spaces (69 total).
Owner:	Market Holdings, LLC.
Applicant:	Simon Chen, Madison Park Financial
Planning Permits Required:	Regular Design Review to allow construction of a new residential facility; Major Variance to exceed the maximum density permitted by the zoning; Minor Variance to exceed the maximum lot area permitted by Mini-Lot Development regulations; Conditional Use Permit to allow a Mini-Lot Development; Tentative Tract Map for subdivision.
General Plan:	Mixed Housing Type Residential
Zoning:	C-10 Local Retail Commercial Zone; R-50 Medium Density Residential Zone
Environmental Determination:	Exempt, Section 15332 of the State CEQA Guidelines; in-fill development projects
Historic Status:	The building is a Potentially Designated Historic Properties (PDHP); Survey rating: C3.
Service Delivery District:	1
City Council District:	3
Date Filed:	October 6, 2005
Status:	Pending
Action to be Taken:	Decision on application based on staff report and public testimony
Staff Recommendation:	Approval subject to conditions
Finality of Decision:	Appealable to City Council
For Further Information:	Contact the case planner, Peterson Z. Vollmann , at (510) 238-6167 or by e-mail at pvollman@oaklandnet.com .

SUMMARY

The applicant proposes to construct 58 new, fee-simple, townhouse-style residential units in eight separate structures on a 63,755 square-foot site located mid block between market Street, Myrtle Avenue 18th Street, and 20th Street in West Oakland. Each building would be 3 stories tall with a maximum height of 33'1" at the top of the roof pitch, except for the buildings containing parking lifts, which would be a maximum height of 36'0". The project requires Regular Design Review, a Conditional Use Permit to allow a Mini-Lot Development, a Minor Variance to exceed the maximum lot size permitted by the Mini-Lot Development standards, and a Major Variance to exceed the maximum allowable density within the R-50 and C-10 Zones to allow the density allowed within the Mixed Housing Type General Plan Area. Due to a conflict in the way the zoning and general plan operate as well as the prevailing lot pattern of the neighborhood, staff recommends the Planning Commission grant the Conditional Use Permit and Major Variance subject to the attached finding and conditions.

PROJECT DESCRIPTION

The proposal involves the construction of eight new buildings containing 58 fee-simple, townhouse units. The buildings would be three stories tall with a maximum height of 33'1" at the top of the roof pitch, except for the two buildings containing parking lifts, which would be a maximum height of 36'0". Each unit would have a primary pedestrian entrance at ground level, located either on Market Street, Myrtle Avenue, and adjacent to the shared driveway/mews configuration for interior units. The proposed plans for the project are attached to this report (see Attachment A).

The project would include sixty-nine off-street parking spaces, plus fourteen additional spaces that would be provided as tandem spaces on parking lifts within two of the proposed buildings. Each unit would contain one enclosed parking space located in an individual garage in the ground floor of the unit. Eleven unenclosed guest parking spaces would be dispersed throughout the internal parking and access configuration. Two driveways through the middle of the site would provide access to many of the units, reducing the need for a large number of curb cuts – particularly on Market Street. As a result, nineteen on-street parking spaces are preserved. As a through lot, driveway ingress and egress would occur on both Market Street and Myrtle Avenue.

Private open space would be provided mostly through private rear yard gardens. Units fronting Market Street and Myrtle Avenue would have walkways leading from the sidewalk to individual entries and landscaped front yards. Common open space would be accommodated in a lawn and a courtyard located in the middle of the site. In addition, the proposed internal driveway would be designed to be used as a "mews", using physical measures such as walkways, landscaping, and decorative pavement to induce drivers to travel at a very slow speed and encourage safe pedestrian activity in this area.

PROPERTY DESCRIPTION

The project site is comprised of several parcels and occupies approximately 63,775 square feet on a mid-block location between Market Street and Myrtle Street in West Oakland. Currently the site contains a two story warehouse structure that is leased out to multiple tenants.

Market Street is an arterial street that includes a mixture of residential and commercial uses. Myrtle Street is a local street on which one- and two-story homes are prevalent.

Historic Status

The Oakland Cultural Heritage Survey assigned individual properties a rating using letters A to E to indicate their relative historical significance. The City considers any property that has at least a contingency rating of C or contributes to a district to "warrant consideration for possible preservation." All properties meeting these minimum significance thresholds are referred to as Potential Designated Historic Properties (PDHPs). The property is not listed in or been determined to be eligible for listing in the California Register of Historical Resources.

The subject property contains a C3 rating within the Oakland Cultural Heritage Survey and is required to meet the findings for demolition under Policy 3.5 of the Historic Preservation Element of the General Plan. Policy 3.5 states that:

For any project involving complete demolition of Heritage Properties or Potentially Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or (2) the public benefits of the proposed project outweigh the benefit of retaining

the original structure; or (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

Staff feels that the proposed project will replace a building that is undistinguished and largely out of scale with surrounding homes and will insert a new development that contains a more appropriate scale and mass as it relates to the neighborhood character.

GENERAL PLAN ANALYSIS

The site is located in West Oakland within the area classified as Mixed Housing Type by the Oakland General Plan. The Mixed Housing Type Residential classification is intended to create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate. Future development within this classification should be primarily residential in character, with live-work types of development, small commercial enterprises, schools, and other small scale, compatible civic uses possible in appropriate locations.

The project is consistent with the policies of the General Plan. The proposed townhouse-style residential development would relate to the scale and character of the surrounding residential context more sensitively than the current warehouse structure that occupies the entire lot area. The maximum number of residential units allowed on the site by the General Plan is 58 units (the proposal includes 58 units). The project would provide additional housing on an arterial street in a manner that achieves the targeted density while also being sensitive to the surrounding residential context and providing for a pedestrian-oriented streetscape.

ZONING ANALYSIS

The site has a split-zoning designation, with parcels fronting on Market Street zoned C-10 Local Retail Commercial Zone, and parcels fronting on Myrtle Avenue zoned R-50 Medium Density Residential Zone. The intent of the C-10 Zone is intended to create, preserve, and enhance areas of small-scale retail establishments serving frequently recurring needs in convenient locations, and is typically appropriate to small shopping clusters located within residential communities. The R-50 Zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development.

The project has been proposed as a Mini-Lot Development, which is basically a Planned Unit Development (PUD), only smaller. A Mini-Lot Development is defined by Section 17.09 of the Oakland Planning Code as "a comprehensively designed development containing lots which do not meet the minimum size or other requirements applying to individual lots in the zone where it is located." Essentially, it allows for the creation of small/substandard lots, so long as the entire property being developed complies with the zoning regulations as if it were one large lot.

Section 17.102.320 (A) allows for the waiver of the maximum height, and the minimum setback, lot area, lot width, lot frontage, parking and usable open space requirements that would normally apply to individual lots, so long as the project as a whole complies with the zoning regulations as if it were one large lot.

Using the Mini-Lot Development provision, the project is consistent with the requirements of the C-10 and R-50 Zones except that the project exceeds the residential density limitation of both zones. Under the C-10 Zone, the residential density is calculated using R-50 standards. Thus, the maximum total number of residential units allowed on the site with R-50 density limits (1 unit for each 1,500 sq. ft. of lot area) would be forty-three (43). The project includes 58 residential units. As stated above, the maximum number of residential units allowed on the site by the General Plan is 58 units. The applicant is applying

for a Major Variance to exceed the maximum residential density allowed by zoning. A Major Conditional Use Permit is also required for all Mini-Lot Developments.

Setbacks

The following table lists the required and proposed setbacks for the project.

	Required	Proposed
Front (Myrtle Street)	15'-0"	15'-0"
Front (Market Street)	0'-0"	10'-0"
Side	10'-0"	10'-0"

Open Space

The Planning Code would require 11,600 square feet of open space. The proposed site design would accommodate a total of 5,803 square feet of private open space, which can be calculated at a 1:2 ratio thus meeting the code requirement by providing 11,606 square feet. When the open space requirement is met by providing private open space a group open space must be provided at a rate of 75 square feet per dwelling, which in this case would be 4,350 square feet of group open space. The project provides for seven group open space areas for a total of 5,836 square feet of group open space.

ENVIRONMENTAL DETERMINATION

The project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Section 15332 of the CEQA Guidelines (Class 32, "In-fill Development Projects") because the project consists of in-fill development within an urbanized area where there is no potential for the project to cause any significant environmental impacts. Below are the findings required for projects seeking this exemption and the reasons the proposed project meets these findings:

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

Finding: The project is consistent with the general plan designation, all applicable general plan policies, and the applicable zoning designation and regulations as described above under the "General Plan Analysis" and "Zoning Analysis" sections of this report.

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

Finding: The project is located within the city limits of the city of Oakland in an urbanized area along an arterial. The site is 63,755 square feet in size.

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

Finding: The project is located within a substantially urbanized area on a site currently utilized as a warehouse and storage facility. The site has no value as habitat for endangered, rare, or threatened species.

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

Finding: The project would not result in any significant effects relating to traffic, noise, air quality, or water quality. Regarding traffic, the streets surrounding the project site have sufficient capacity to handle the additional traffic to be generated by the project's 58 units such that the project would not result in a significant traffic impact. A recent traffic impact study evaluated the potential traffic impacts a proposed multi-unit (55 unit) residential project near the subject property would have on the surrounding street system, and the conclusion of that traffic study was that no intersection would have a Level of Service (LOS) depleted to an unacceptable level below D. Most of the intersections were found to have a continued LOS of A, which is the highest operating level. The proposed project would not generate enough trips to create a significant impact that would reduce any intersection to a LOS below D. Regarding noise, the project would involve both construction noise and post-construction noise consistent with the typical noise associated with a building of this type in an urban mixed-use location. Regarding air quality, considering the projected less-than-significant traffic impacts associated with the building and the availability of nearby transit which would further reduce potential traffic associated with the project, the impacts to air quality from the pollution generated by vehicles would be less than significant. Regarding water quality, currently the entire site is occupied and paved with impervious surfaces creating a situation where stormwater runoff delivers pollution from vehicles on the parking lot directly to the city storm drain system which leads to the San Francisco Bay. The project would reduce the impacts to water quality by replacing the site's current imperviousness with yards, landscaping, and pervious paving materials thereby reducing the amount of stormwater runoff.

(e) The site can be adequately served by all required utilities and public services.

Finding: Due to its location on an arterial street, the project site is conveniently accessible to all required utilities (e.g., water, power, sanitary sewer facilities, and storm drain facilities) and all required public services (e.g., police and fire services).

Section 15300.2(f) of the CEQA Guidelines, states that a Categorical Exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Due to the status of the property as a Potentially Designated Historic Property (PDHP) staff requested a historical study of the property be provided to help determine whether or not it may have historical significance under CEQA. The main issues related to the historical significance of the building were the prior use of the building as the first location of the Pacific Greyhound Lines bus company and its relation to migration of people to Oakland, and the fact that the building was designed by the San Francisco firm Miller & Pflueger Architects, who were responsible for a number of Bay Area landmarks.

Transit History

The building at 1919 Market Street was originally constructed in 1923-24 for Mr. Wesley Travis, who organized the California Transit Company (CTC) which grew to be a dominant inner city bus transport company and was later sold and in 1929 merged into what was to become the Greyhound Corporation and the Pacific Greyhound Line (PCL). In 1926 shortly after the construction of 1919 Market a nearby building at 2046 San Pablo Avenue was constructed to operate as the depot and ticket office for the CTC, which is still standing today as the Oakland Greyhound Depot. The 1923 Oakland City Directory lists the CTC with an address at 366 14th Street, and therefore the building at 1919 Market Street was not the birthplace of the California Transit Company nor would it have been a location that played a significant role in California

history because peoples migrating into Oakland by way of bus would have for the most part arrived at the 2046 San Pablo Avenue location rather than 1919 Market Street. Essentially the building at 1919 Market Street was no more than a bus garage and repair shop and did not play a significant role in California history.

Architectural History

The building at 1919 Market Street was designed by the San Francisco firm of Miller & Pflueger, who are significant in the historical context of Bay Area Architecture, and designed many other Bay Area landmarks such as the Telephone and Telegraph building in San Francisco, which was the tallest building in San Francisco at the time. However, 1919 Market Street is not an important project in careers of Miller & Pflueger, evidenced by the lack of its mention in any sourced documentation about their practice and projects.

Thus, the subject building is not a historic resource under CEQA.

KEY ISSUES AND IMPACTS

Density

Under the R-50 Zone standards (the C-10 Zone uses R-50 residential density standards), the maximum number of residential units allowed at the site is 43. The proposed project contains 58 units. The Mixed Housing Type designation in the General Plan allows a maximum of 58 units. The applicant is applying for a Major Variance to exceed the maximum density allowed by the zoning. Staff has found that the density variance would be appropriate for the following reasons:

- The site is located on a major arterial street and is readily accessible to a freeway, recreational opportunities, and public transportation.
- The higher density can be accommodated within the R-50 in terms of parking, open space, or setbacks.
- The request would be consistent with Neighborhood Policy N3.5 of the General Plan to encourage development of housing in designated mixed housing type areas

Building Height and Massing

The proposed buildings would be three stories tall with a maximum height of 33'-1" at the top of the pitch of the shed roof/modified gable design. The surrounding area along Myrtle Street is characterized by one-and half- to two-and half story residential buildings generally between 18 and 30 feet in height. The townhouse units fronting on Myrtle Street would be grouped into three separate structures and further separated from one another at the street by the internal mews configuration. This separation of the structures helps the proposed project respond better to the scale and rhythm of the individual houses on Myrtle Street. The Myrtle Street elevations take architectural cues from the established residential context to create a scale and character compatibility without resorting to false historicism. This is accomplished by establishing a vertical proportion for each structure that relates to proportions of the surrounding homes. Each structure would be further articulated by: the vertical modulation of the rooflines combined with a regular cadence of projecting bays; vertically-arranged windows; and deep openings that create shadow lines would break down the scale and massing of the structures into building volumes compatible in scale with their surroundings.

The Market Street structures are designed to relate to their location on an arterial street. The building volumes are larger than the Myrtle Street buildings, and the larger scale of the building modulation and details is appropriate, given the width and function of Market Street as a corridor.

Ground-Floor Uses

Each of the townhouse units fronting on Market and Myrtle Streets would contain primary pedestrian entrances from the sidewalk. The remainder of the units has individual entrances from the internal collection of mews. The streetscape character of Market and Myrtle Streets would be further enhanced with new street tree plantings, multiple entryways with decorative pavement, and appropriately-dimensioned front yards to match the prevailing setback pattern in the area. These site planning and design features should encourage pedestrian activity along the street. One concern remains regarding how the entries on Market Street transition from the public to the private realm. Many existing homes along Market Street have front porches, stairs and stoops. The proposed design locates front doors at grade, creating a challenge in creating an effective transition from residence to street. Staff recommends that a condition be placed on the approval of the project so that the Planning Director can approve final landscape plan and elevation drawings that address these concerns (see Condition #9 and #10).

As mentioned above, the internal shared driveway is designed to be used as a “mews”, using physical measures such as walkways, landscaping, and decorative pavement to induce drivers to travel at a very slow speed and encourage safe pedestrian activity in this area. The main entrance to the majority of the project’s units fronts on this surface. This interface must create a safe and predictable environment to minimize conflicts between pedestrians and vehicles. The project proposes an imprinted concrete – brick pattern to help achieve this desired outcome. The final plans should add additional landscaping and pavement treatment to ensure that this is achieved. Staff recommends that a condition be placed on the approval of the project so that the Planning Director can approve final landscape plan and elevation drawings that address these concerns (see Condition #21).

Parking

The proposal includes individual, one-car garages for each unit (58), eleven surface guest parking spaces, and fourteen tandem spaces provided with parking lifts in the garages of fourteen of the townhouse units, for a total of 83 parking spaces. Fifty-eight parking spaces are required by the zoning regulations (one space per unit). Parking is accessed from two internal driveways off of Market and Myrtle Streets. This site design distributes vehicle trips to the surrounding street system in a more efficient manner than would otherwise occur with single point of access.

CONCLUSION

The proposal is a well-designed multifamily project that would be sensitive to the surrounding residential context, enhance the character of the streetscape, and meet several goals of the General Plan. Staff recommends approval of the proposal subject to the attached findings and conditions.

RECOMMENDATIONS:

1. Affirm staff’s environmental determination.
2. Approve the Regular Design Review, Major Conditional Use Permit, Major and Minor Variances, and Tentative Tract Map 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.** Project Drawings
- B.** Historic Architectural Evaluation
- C.** Director's Report of February 2, 2005

FINDINGS FOR APPROVAL

This proposal meets the required findings under Sections 17.134.050 (General Conditional Use Permit Criteria), 17.136.070A (Residential Design Review Criteria) and 17.148.050 (Variance Criteria) of the Oakland Planning Code. This proposal does not contain characteristics that require denial pursuant to the Tentative Map Findings (Section 16.08.030) and meets the Lot Design Standards (Section 16.24.040) of the Oakland Subdivision Regulations. The proposal also meets the required findings under Section 3.5 of the Historic Preservation Element of the General Plan. Required findings are shown below 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 development fronts on two very distinct streets. Myrtle Street is residential street that is intimate in scale at this location. Market Street is an arterial, and contains a mix of commercial and residential activities. This proposal addresses these distinct contexts through the site planning and design features mentioned above, and each street front will be compatible with the abutting properties and the surrounding neighborhood. The density of the project is appropriate given its location on an arterial street. The massing and intensity of the project is oriented toward Market Street, and the Myrtle Street area contains fewer units that are designed at a smaller scale. The proposed townhouse structures are compatible in height with the established context, and maintain the predominant development pattern along both Myrtle and Market Streets by setting back from the sidewalk with multiple entrances, walkways and front yards. The vertical modulation of the rooflines combined with projecting bays and deep openings that create shadow lines would break down the scale and massing of the structures into building volumes compatible in scale with their surroundings.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The proposed development will provide a convenient living environment. The site is located on both a residential street, and a primarily residential portion of an arterial which could benefit from the addition of quality, medium density housing and related streetscape improvements. The architectural detailing, massing, site planning and materials of the proposed buildings would result in such a project.

- 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 development would improve an underutilized site, and will enhance the neighborhood vitality of this district by increasing the resident population and providing streetscape improvements.

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

FINDINGS

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

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 as Mixed Housing Type Residential by the Oakland General Plan (formerly the Oakland Comprehensive Plan). The Mixed Housing Type classification is intended to create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate. This classification is intended to be primarily residential in character, with live-work types of development, small commercial enterprises, schools, and other small scale, compatible civic uses possible in appropriate locations. The project is consistent with the policies of the General Plan. The project consists of townhouse-style residential development on an existing underutilized site. The project would facilitate quality, multifamily housing along an arterial which would contribute to the vision contained in the General Plan and the West Oakland Redevelopment Plan. The proposed development is designed to relate well to its surroundings and it provides for a pedestrian-oriented streetscape.

- Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the City of Oakland.

Finding: The project provides for 58 new housing units, the maximum number of units permitted under the General Plan.

- Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should be take place throughout the City of Oakland.

Finding: The project involves the reuse of an existing site, which is largely out of scale with the neighborhood, located within the existing urbanized area of the city.

- Policy N3.9: Orienting Residential Development. Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure.

Finding: All the proposed buildings located along the street frontage of the site face the street. The site layout, including the unit orientations and courtyard location, has been designed to provide for adequate solar access to the new units.

Section 17.148.070 Variance Criteria:

Major Variance to exceed the maximum density permitted by the zoning: in most cases, when the density permitted by the General Plan classification for a particular project is higher than that allowed by the underlying zoning designation, the procedure for allowing the higher density includes the approval of a Conditional Use Permit (CUP). However, in the Mixed Housing Type Residential classification, no project can have a higher density than allowed by its current zoning without a major variance. This is due in part to the fact that the Mixed Housing Type classification has been applied to a range of residentially-zoned areas,

which includes low- to high-density zoning classifications, and therefore the responsibility on the part of the applicant to demonstrate that the density permitted by the General Plan is suitable for a specific site should be greater.

- A. 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 maximum density of 30-units per acre permitted by Zoning imposes unnecessary hardship upon Project due to its atypically large lot size and the prevailing character of the surrounding neighborhood. These hardship conditions are partially addressed under General Plan's "mixed housing type residential" which allows additional density (40-units per acre) for lots that face unique challenges such as such as this site.

At approximately 63,750 square feet, Subject lot is considerably larger than the majority of lots that populate West Oakland. Because of its footprint, Project requires significantly more infrastructure than other projects that are zoned similarly but have a fraction of its lot area. Site improvements such as joint-trenching/under-grounding of utilities and integrating access streets throughout the site produce considerable financial burdens unique to a project of this size.

Another unique challenge Project faces due to its lot size is the design of the units themselves. Given the deliberate scale of the environs and the prevailing character of the neighborhood, significant efforts were made to design a project that would be consistent with the surrounding area. These efforts have considerable cost implications. Rather than an efficient and economical single mass of stacked condos with shared exterior walls and surface parking lot, Project consists of detached single-family homes with private garages, rear yards and access streets; purposefully consistent with the predominant 2-and 3-story single-family homes in the surrounding area. Designing a project appropriate to the existing conditions of the neighborhood on a site like this has heavy cost implications.

Consistent with the needs of the surrounding neighborhood and at City's urging, it is Project's aim to provide much-needed home-ownership opportunities for first-time buyers. Because of the nature of this product, special attention needs to be placed upon economic feasibility. Density as designed is vital to the economic feasibility of Project and its ability to balance the unique hardships imposed by this site, location and housing needs of the community.

- B. 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 project would be consistent with the surrounding mixture of dwelling types and with the corresponding density within the neighborhood, particularly along Market Street, a major arterial street. Other similarly zoned properties in the City have been granted similar requests by the Planning Commission due to their location on a City Corridor.

- C. 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 proposed residential buildings would enhance the livability and character of the neighborhood. There is an established residential context in the surrounding area, and the setbacks, height and building materials of the project take cues from this development pattern. The project would adhere to the R-50 setbacks, minimize curb cuts on Market Street and would maintain on-street parking spaces. This would contribute to a safe and appealing pedestrian streetscape. One key issue to address is the appropriateness of locating townhouses on Myrtle Street, which is primarily single family residential in this area. As discussed above, the project is sensitive to this condition, and responds by locating only a small number of units (5) directly on Myrtle Street. The townhouse structures are designed to be compatible in scale with the adjacent houses.

D. 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 proposed density would be appropriate given the density pattern found along the Market Street Corridor. Overall, the project would result in the construction of a residential development compatible in scale with the surrounding neighborhood and consistent with the General Plan policies and regulations. Other similarly zoned properties in the City have been granted similar requests by the Planning Commission due to their location on a City Corridor.

Section 17.148.070 Variance Criteria:

Minor Variance to exceed the maximum lot area

A. 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 Mini-lot regulations requires a maximum 60,000 square foot lot size. The proposed development's parcel is 63,750 square feet. In order to meet these requirements and to take advantage of the Mini-lot as a flexible tool to create townhouse units on an infill, urban lot, the proposal would have to divide the project into two separate projects. Dividing the parcel into two would require a Parcel Map Waiver, which would not be possible under the current circumstances because Parcel Map Waiver regulations do not allow for the alteration of parcel lines within the boundary of existing buildings. Therefore, the existing building would have to be demolished in order to proceed with a Parcel Map Waiver. However, a Demolition Permit could not be obtained without first obtaining approval of a replacement project. In addition, strict compliance with the Mini-Lot maximum lot size regulation would require significant alterations and modifications to the proposed project, and would limit the proposal's ability to achieve an effective design solution in keeping with the intent of the Mini-Lot development regulations. The Mini-Lot Regulations have allowed the proposed development to create a comprehensive townhouse site plan that integrates open space, parking and access and circulation. This townhouse-style development would relate well with the surrounding mixture of dwelling types.

B. Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

Strict compliance with the Mini-Lot maximum lot size regulation would require significant alterations and modifications to the proposed project, and would limit the proposal's ability to achieve an effective design solution in keeping with the intent of the Mini-Lot development regulations. The Mini-Lot Regulations have allowed the proposed development to create a comprehensive townhouse site plan that integrates open space, parking and access and circulation. This townhouse-style development would relate well with the surrounding mixture of dwelling types.

- C. 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 variance, if granted, will not adversely affect the character or livability of the surrounding area, due in large part to contextually-sensitive site planning and design of the project, and the level of neighborhood involvement in this design development process. Community outreach helped to refine the design and scale of the project to address the concerns of height, bulk and scale compatibility, traffic impacts, and the preservation of community character. As discussed in the design review section of the report, the project relates well to the character of Market and Myrtle Streets. The proposed streetscape amenities and street-fronting building facades will improve and enhance the pedestrian friendliness and overall appearance of the public realm. The townhouse concept would provide a housing type that is consistent with the goals and policies of the General Plan, while relating well with the surrounding neighborhood.

- D. 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.**

If a variance is granted, the project as a Mini-Lot development would better meet the zoning regulations and General Plan policies than the most likely alternative of a PUD. The intent of the Mini-Lot regulations is one of infill in an established neighborhood, which suits this specific proposal and its relationship to the existing neighborhood. While the project as proposed slightly exceeds the maximum 60,000 square foot lot size allowed by Mini-Lot regulations, typical PUD projects are intended to be used for comprehensive, large scale development proposals rather than for a mid-block development proposal intended to continue the existing fabric of the neighborhood. Therefore, the project appears to better meet the intent of the Mini-Lot Development provision.

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 proposed design relates well to the surrounding neighborhood. As discussed above, the project is context-sensitive to the distinct scale and function of Market and Myrtle Streets. The vertical modulation of the rooflines combined with projecting bays and deep openings that create shadow lines would break down the scale and massing of the structures into building volumes compatible in scale with their surroundings. Setbacks, open space and landscaping help relate the project to the surrounding area by helping to mitigate potential scale incompatibility. For example, deep landscaped areas along the north and south edges of Myrtle Street complement the existing, intimate, residential character of the street.

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

The proposed design will enhance the neighborhood. The development is designed to enhance and support a pedestrian-oriented environment on an arterial street, and respect and enhance the local residential character of Myrtle Street.

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.

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.

See the response to Finding E under Section 17.134.050 above.

Policy 3.5 of the Historic Preservation Element of the General Plan

For any project involving complete demolition of Heritage Properties or Potentially Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure; or (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

The proposed project will replace a building that is undistinguished and largely out of scale with surrounding homes and will insert a new development that contains a more appropriate scale and mass as it relates to the neighborhood character.

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 project is consistent with the Oakland General Plan.

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

The proposed project is consistent with the Oakland General Plan.

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

The site is physically suitable for residential development.

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

The site is physically suitable for the proposed density of development due to its location on a corridor and access to public utilities and services.

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 design of the subdivision would not cause environmental damage as it is located on a previously developed site that is completely covered by a structure and surface parking.

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

The design of the subdivision and proposed improvements would not cause public health problems, due to required standard conditions of approval related to Construction.

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 proposed subdivision would not conflict with any existing public 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 would not restrict future passive or natural heating or cooling opportunities in the subdivision.

SECTION 16.24.040 – LOT DESIGN STANDARDS

A. No lot shall be created without frontage on a public street, except lots created in conjunction with approved private access easements.

The Mini Lot Development procedure allows for the required street frontage of parcels to be waived.

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 Mini Lot procedure allows for the development site to be seen as a whole and the boundary of the site will run at right angles from Market Street.

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

Zoning requirements have been met by meeting the Variance Findings and Conditional Use permit criteria above for a mini lot development.

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

This criteria is superceded by the project complying with the Conditional Use Permit criteria for a Mini-lot development.

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

No such characteristics exist at the subject site.

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 revised plans submitted on **March 6, 2006** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval

2. Effective Date, Expiration, and Extensions

a. Ongoing

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

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 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.

STANDARD CONDITIONS FOR MAJOR PROJECTS:

9. Electrical Facilities

a. *Prior to installation*

All new electric and telephone facilities, fire alarm conduits, streetlight wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Division.

10. Improvements in the Public Right-of-Way

a. *Prior to issuance of a building permit for work in the public right-of-way*

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, locations of facilities required by the East Bay Municipal Utility District (EBMUD), 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. Review and confirmation of the street trees by the City's Tree Division is required as part of this condition. The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of a certificate of occupancy.

STANDARD CONSTRUCTION CONDITIONS:

11. Construction Hours

a. During all construction activities

The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Services Division. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, and then only within the interior of the building with the doors and windows closed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays. 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 resident's 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 Management

a. Prior to issuance of a demolition or building permit

The project sponsor shall submit a construction management and staging plan to the Building Services Division with the application for the 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. In addition, the information shall include a construction-staging plan for any right-of-way.
- 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 (about 48 hours) 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 to the street paving 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. The applicant shall ensure that debris and garbage is collected and removed from the site daily.
- At least one copy of the approved plans that include the Approval Letter and the Conditions of approval for this project shall be available for review at the job at all times.
- All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion, and sedimentation abatement per Chapter 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.
- Dust control measures as set forth in Condition #13, below.
- Noise control measures as set forth in Conditions #15 and #16, below.
- A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. The Planning and Zoning Division shall be informed who the Manager is prior to the issuance of a building permit.

13. Dust Control Measures

a. During all construction activities

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

- Watering all active construction areas at least twice daily, or as required to control dust;
- Water or cover stockpiles of debris, soils, sand, or other material that can be blown by the wind;
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved roads, parking areas, and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites,
- Sweeping adjacent public rights of way (preferably with water sweepers) and streets daily if visible soil material or debris is carried onto these areas.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

14. Grading, Erosion and Drainage Plan.

a. Prior to issuance of grading permit and during construction.

The applicant shall submit for review and approval by the Building Services Division a Site Grading, Drainage, and Erosion Control plan in conformance with City standards and “Best Management Practices” (BMP) for use during construction.

- The plan shall indicate the methods, means, and design to conduct site stormwater run-off, attenuate storm drainage flow, and minimize sedimentation and erosion during and after construction activity (utilizing a combination of permeable surfaces, subsurface-drainage, silt debris barriers, drainage retention systems, and/or filtration swale landscaping). All graded slopes or disturbed areas shall be temporarily protected from erosion by implementing seeding, mulching and/or erosion control blankets/mats until permanent erosion control measures are in place. No grading shall occur without a valid grading permit issued by the Building Services Division or within the period of October 15 through April 15 unless specifically authorized in writing by the Building Services Division. The plan will be in effect for a period of time sufficient to stabilize the construction site throughout all phases of project development. Furthermore, storm drainage facilities shall be designed to meet applicable regulations.
- In order to minimize potential water quality impacts to surface runoff during construction, the proposed project will require standard erosion control measures as part of the project prior to issuance of grading or building permits. The applicant will be required to prepare a construction period erosion control plan and submit the plan to the Building Services Division for approval prior to issuance of a grading or building permit. The plan will be in effect for a period of time sufficient to stabilize the construction site for all phases of the project. These standard measures will address construction period erosion on the site by wind or water.
- Construction operations, especially grading operations, shall be confined as much as possible to the dry season in order to avoid erosion of disturbed soils.

15. Construction Related Noise Control

a. During all construction activities

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

- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
- Designate an on-site complaint and enforcement manager shall be posted to respond to and track complaints.
- A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

16. Pile Driving and other Extreme Noise Generators

a. During all construction activities

- To further mitigate other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation is achieved. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:
- Erect temporary plywood noise barriers around the construction site, to shield adjacent uses;
- Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and

- Monitor the effectiveness of noise attenuation measures by taking noise measurements.
- A process with the following components shall be established for responding to and tracking complaints pertaining to pile-driving construction noise:
 - A procedure for notifying City Building Services Division staff and Oakland Police Department;
 - A list of telephone numbers (during regular construction hours and off-hours);
 - A plan for posting signs on-site pertaining to complaint procedures and who to notify in the event of a problem;
 - Designation of a construction complaint manager for the project; and
 - Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities.

17. Site Maintenance

a. During all construction activities

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

18. Cultural Resources found during Site Work and Construction

a. Prior to issuance of any grading permits and throughout construction

In accordance with the California Environmental Quality Act (CEQA) Section 15064.5, if the applicant discovers any previously unidentified cultural resources during any onsite or offsite construction phase of the proposed project, the project applicant is required to cease work in the immediate area until such time as a qualified archaeologist and the City of Oakland can assess the significance of the find and make mitigation recommendations, if warranted. To achieve this goal, the contractor shall instruct the construction personnel on the project as to the potential for discovery of archeological, pre-historic, historic, cultural, or human remains. The contractor shall ensure that all construction personnel understands the need for proper and timely reporting of such finds, and the consequences of any failure to report them. Any recommendations of the qualified archeologist shall be implemented prior to resumption of work in the affected area.

19. Special Inspector

a. Throughout construction

The project sponsor may be required to pay for on-call special inspector(s) as needed during the times of most intense construction or as directed by the Building Official.

PROJECT SPECIFIC CONDITIONS

20. Final Elevations

a. Information to be included on the plans prior to issuance of a building permit

The final proposed building elevations shall be reviewed and approved by the Planning and Zoning Division. A window and door schedule, including cross-sections and elevations, and final architectural details of the primary pedestrian entries shall be submitted to the Zoning Administrator for review and approval. Windows shall show a minimum recess of two inches from the exterior building wall. The elevations shall be designed to show the proposed ground-level planters at the base of the structures in greater detail, showing how they are integrated into the design of the buildings, and help to frame entrances.

21. Fencing and Auto Gates

a. Prior to issuance of a building permit

The final proposed site plan shall indicate a fence of no higher than 42” for street fronting portions of the site and all proposed auto gates shall be recessed at least eighteen feet from the back of the sidewalk.

22. Stormwater Management

a. Concurrent with the submittal for the site improvement plans

The drawings submitted with the site improvement plans shall contain a stormwater management plan to be reviewed and approved by the Building Services Division and Planning and Zoning Division that contains the following information:

- 1) Post-construction on-site stormwater treatment measures, site design measures, and stormwater pollution source control measures to reduce the discharge of stormwater pollutants to the maximum extent practicable in accordance with Provision C.3 of the Alameda Countywide Clean Water Program’s National Pollutant Discharge Elimination System (NPDES) permit.
- 2) Post-construction stormwater controls to reduce the volume and velocity of stormwater runoff to the maximum extent practicable. Stormwater shall be retained on-site in compliance with the City’s stormwater regulations.

b. Prior to the approval of site improvement plans

The applicant shall file a Notice of Intent with the Regional Water Quality Control Board, San Francisco Region, to obtain coverage under the General Construction Activity Stormwater Permit. The applicant will be required to prepare a Stormwater Pollution Prevention Plan (SWPPP) that identifies appropriate construction-related best management practices (BMPs) to reduce stormwater pollution during construction.

c. Prior to occupancy

The applicant shall enter into an agreement with the City, in accordance with Provision C.3 of the Alameda Countywide Clean Water Program’s NPDES permit, which provides, in part, for the project sponsor (i) accepting responsibility for the adequate operation and maintenance of any post-construction on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and (ii) permitting access to the post-construction on-site stormwater treatment measures by representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the operation and maintenance of the post-construction on-site stormwater treatment measures. The agreement shall be recorded at the County Recorder’s Office at the project sponsor’s expense.

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