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| Location: | 9400 International Blvd. (See map on reverse) |
| Assessors Parcel Number: | 046-5423-001-001; -002-02; -007; -018-02; -019; -020; -021 & -022 |
| Proposal: | Proposal would demolish all of the existing buildings on the site, three of which are PDHP's, and construct a new 59 unit affordable housing development with ground floor commercial space. |
| Applicant: | Michael Willis Architects & Related Company |
| Owner: | Acts Community Development Corporation |
| Planning Permits Required: | Regular Design Review for new construction, Minor Variance for reduced waiving the required parking for the proposed 3,500 square foot ground floor commercial activity (59 off-street parking stalls will be provided for the 59 proposed dwelling units). Tentative Parcel Map for lot merger. |
| General Plan: | Neighborhood Center Mixed Use |
| Zoning: | CN-3, Neighborhood Center 3 Height & Intensity Area - 60 |
| Environmental Determination: | Exempt, Section 15332 of the State CEQA Guidelines; in-fill development projects; and Section 15183 of the CEQA Guidelines, projects consistent with a community plan, general plan, or zoning. |
| Historic Status: | Potentially Designated Historic Property (PDHP); Ratings: 9400 International Blvd. - C2+; 9424 International Blvd. - Fc2; and 9428 International Blvd. - D2+, all ASI contributors to the Elmhurst Historic District |
| Service Delivery District: | 6 |
| City Council District: | 7 |
| 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 . |

SUMMARY

Michael Willis Architects has filed a development application with the Planning and Zoning Division on the behalf of the Related Company, the developer of the project, to construct a new mixed use building containing 59 affordable housing units and approximately 3,500 square feet of ground floor commercial space. The proposal includes the demolition of the five existing buildings on the project site, three of which are Potential Designated Historic Properties (PDHP's) and contributors to the Elmhurst Commercial Historic District, which is an Area of Secondary Importance (ASI). In addition to the project being subject to the Design Review Criteria set forth in Planning Code Section 17.136.050 for new construction, the demolition of the PDHP's on site are subject to the Category III Demolition Findings set forth in Planning Code Section 17.136.075D.

CITY OF OAKLAND PLANNING COMMISSION



Case File: DV11-008 & TPM-10018
Applicant: Michael Willis Architects & Related Company
Address: 9400 International Boulevard
Zone: CN-3 (formerly C-40/S-4)

In addition to the three properties with contributor ratings to the district, one of the properties, located at 9428 International Blvd, also has a State of California Department of Parks and Recreation (DPR) Form 523 on record with a status code of 5, which could qualify the building as a historic resource under CEQA. The definition of a Historic Resource under the City of Oakland's CEQA Thresholds of Significance includes the language: *A resource identified as significant (e.g., rated 1-5) in a historical resource survey recorded on Department of Parks and Recreation Form 523, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.* This form was generated as part of the citywide URM survey following the Loma Prieta earthquake.

The project appeared before the Landmarks Preservation Advisory Board (LPAB) on December 5, 2011, in which the board discussed the project as it relates to the required demolition findings as well as the recommended "de-listing" of the CEQA resource at 9428 International Blvd. The Board endorsed the staff recommendations with the condition that the applicant put together a deconstruction plan of the historically rated buildings that would be implemented if feasible.

PROPERTY DESCRIPTION

The site is located in the Elmhurst neighborhood in the southernmost part of Oakland. The site is comprised of eight contiguous parcels on the east side of International Blvd., on one block. The block is bounded by International Blvd. to the west, 94th Avenue to the north, Holly Street to the east and 96th Avenue to the south. Six of the parcels front along the east side of International Boulevard. One has a street address on 94th Avenue, one on Holly Street. The eight parcels total approximately 1.2 acres. Existing buildings on six of the parcels will be demolished before construction of the new four-story structure. Two of the parcels are vacant; one is used as a parking lot, the other provides access to the rear of the existing commercial buildings.

As previously mentioned three of the buildings on the project site have historic ratings by the Oakland Cultural Heritage Survey (OCHS), and are classified as contributors to the Elmhurst Historic District, which is an Area of Secondary Importance (ASI). The property located at 9400 International Blvd. has a rating of C2+, which means that the building is a Potential Designated Historic Property (PDHP) of secondary importance and a contributor to the ASI (2+). The property located at 9424 International Blvd. has a rating of Fc2* or *c2*. '*' or 'F' (F was the symbol used in field notes) means that the building is too recent to rate or extensively modernized. (Some *s or Fs are PDHPs because they have higher contingency ratings or are in districts. 9424 has a contingency rating of 'c'.) The property located at 9428 International Blvd. has a rating of D2+, which means that it is a PDHP of minor importance (D) and a contributor to the ASI (2+).

PROJECT DESCRIPTION

The proposed project involves the new construction of 59 affordable housing units with common areas and leasing offices and approximately 59 parking spaces on 8 parcels. The parcels are to be merged into one parcel as part of the entitlements, totaling approximately 1.2 acres located at 9400 - 9500 International Boulevard. The new building will be four stories in height, with residential units at the upper levels and rear of the ground floor, with the common areas, leasing office and commercial on the ground floor facing International Blvd, and the group open space in the rear of the building adjacent to the parking lot. The new housing will be affordable for those in the 30-60% AMI range. There are five commercial buildings and parking lots currently occupying the site; the buildings will be demolished prior to construction of the project. The unit mix will be 18 three-bedroom units of 1,144 square feet in size, 23 two-bedroom units that are 865 square feet in size, and 18 one bedroom units of 624 square feet in size for a total of 59 units.

GENERAL PLAN ANALYSIS

The subject property is located within the Neighborhood Center Mixed Use General Plan Land Use classification. The Neighborhood Center land use classification is intended to identify, create, maintain, and enhance mixed use neighborhood commercial centers. These centers are typically characterized by a smaller scale pedestrian oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. Future development within this classification should be commercial or mixed uses that are pedestrian oriented and serve nearby neighborhoods, or urban residential with ground floor commercial. The Neighborhood Center Mixed Use General Plan Area allows up to a maximum residential density of one dwelling per 261 square feet of lot area and a maximum FAR of 4.0.

The project site is approximately 1.2 acres and the proposed development of 59 dwelling units and 3,500 square feet of commercial floor area is well within the maximum allowed density and commercial FAR.

Relevant General Plan Policies

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

Policy N3.2 – Encourage In-fill Development – In order to facilitate the construction of needed housing units, in-fill development that is consistent with the General Plan should take place throughout the City of Oakland.

Policy N6.1 – Mixing Housing Types – The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes.

Policy T2.2 – Guiding Transit Oriented Development – Transit-oriented development should be pedestrian oriented, encourage night and day time use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of the surrounding neighborhoods.

Policy T2.3 – Promoting Neighborhood Services – Promote neighborhood serving commercial development within one-quarter to one-half mile of established transit routes and nodes.

Policy I/C 1.3 – Supporting Economic Development Expansion Through Public Investment – The public investment strategy of the City should support economic development expansion efforts through such means as identifying target “catalyst projects” for investment which will support the employment or revenue base of the city and providing infrastructure improvements to serve key development locations or projects which are consistent with the goals and objectives of the General Plan.

Policy I/C 3.3 – Clustering Activity in “Nodes” – Retail uses should be focused in “nodes” of activity, characterized by geographic clusters of concentrated commercial activity, along corridors that can be accessed through many modes of transportation.

ZONING ANALYSIS

The subject property is located within the CN-3, Neighborhood Commercial Zone - 3. The intent of the CN-3 zone is to create, improve, and enhance areas neighborhood commercial centers that have a compact, vibrant pedestrian environment. The property is also located in the Height and Intensity Area 60.

Height and Intensity Area 60**Density**

The Height and Intensity Area 60 allows up to one dwelling unit per 375 square feet of lot area. The subject property is 54,728 square feet in size which would allow for a maximum of 145 dwelling units. The proposed 59 dwelling units are well within the allowed density for the area.

Height

The Height and Intensity Area 60 allows a building height of up to 60 feet. The proposed building including the parapet would be 48'6", which is within the allowable building height for the area.

Open Space

The Height and Intensity Area 60 requires open space in the amount of 150 square feet per dwelling unit, with private open space counting at a ratio of 2:1. The proposed 59 dwelling units require a total open space of 8,850 square feet. The proposal provides group open space in the amount of 7,734 square feet, and private open space in the amount of 4,130 square feet in individual balconies (which counts as 8,260 square feet towards the overall requirement at 2:1). Therefore, the total open space provided for the project is 15,994 square feet.

Required Auto & Bike Parking

Planning Code Sections 17.116 & 17.117 set forth the amount of required auto and bike parking required for each the proposed residential and commercial uses. No specific commercial activity has been proposed, therefore staff has calculated the commercial area as General Food Sales since it would require the most spaces and allow the maximum flexibility for future commercial uses. The requirements are as follows:

| Activity | Auto stalls per Sq. ft./Unit | Sq. Ft. / Units | Total Req. Auto Stalls |
|---------------------|------------------------------|-----------------|------------------------|
| Residential | 1 required per unit | 59 | 59 |
| Food Sales | 1:300 sq. ft. | 3,500 | 12 |
| Project Requirement | | | 71 |
| Project Proposed | | | 59 |

| Activity | Square Feet/Units | Short Term Bike Stalls per sq. ft./unit | Short Term Required | Long Term Bike Stalls per sq. ft. | Long Term Required |
|---------------------|-------------------|---|---------------------|-----------------------------------|--------------------|
| Residential | 59 | 1: 20 units | 3 | 1: 4 units | 15 |
| Food Sales | 3,500 | 1:2,000 | 2 | 1:12,000 (2min.) | 2 |
| Project Requirement | | | 5 | | 17 |
| Project Proposed | | | 5 | | 17 |

In addition to the required auto and bike parking for the project, one loading berth is required for the project site. The loading berth has been provided as an open surface lot area at the rear of the building in the parking lot.

Parking Variance

As noted in the table above the proposed project requires 71 off-street parking stalls. The residential activities require 59 parking stalls for the 59 proposed dwelling units at a 1:1 ratio. The proposed commercial use, which was calculated at the highest requirement for General Food Sales so there would be flexibility for future commercial uses, requires 1 stall per 300 square feet for a total of 12 off-street parking spaces. The applicant has requested a variance to the required commercial parking. Staff feels that this is a supportable variance given that if the commercial space were less than 3,000 square feet no parking would be required at all, and Planning staff and the Redevelopment Agency, who has allocated NOFA funding for the project had requested an increase in the commercial frontage on the ground floor given the long term vision of this intersection as a commercial destination for the Elmhurst area. The amount of parking required shoots up dramatically when the 3,000 square foot threshold is passed for requiring parking for an activity. In addition, and most importantly from a practical sense, there is ample on street parking in the surrounding commercial and residential neighborhoods.

DESIGN REVIEW

The Elmhurst district contains a collection of commercial and mixed use buildings from the early 1900s. The district does not contain any one particular architectural style but is largely made up of commercial buildings from the same era, which created the form of what was “downtown” Elmhurst. The proposed building is a modern building that does not match architecturally any of the historic building in the area, but rather incorporates building forms and uses that are consistent. The proposed project would create a building that would be the largest in the area, and would be viewed as an anchor to the area, which would essentially replace the existing bank building at the corner as an anchor. It will stand at the south end of the district on the east side of the street, and thus act as a sort of bookend. The tall ground floor commercial is compatible with the district as it provides a prominence to the ground floor and makes it a dominant feature of the building and keeps with the character of the area as a “downtown” or neighborhood center commercial area.

Exterior Materials

Staff feels that the successful execution of constructing this building and how it turns out will be largely determined by the quality of the exterior materials on the building, especially along street fronting elevations. The proposal calls for the use of a ceramic tile or smooth coat stucco at the ground floor, staff recommends requiring the use of the ceramic tile and not allowing any use of stucco at the ground floor

along street elevations. The architect has stated that the proposed windows along street facing elevations will be clear anodized aluminum windows, and staff recommends that the windows be inset a minimum of two to three inches (inset window frame from the exterior building wall) to allow for a decent shadow line. The other major elements of the exterior building wall are stucco, which should at least have a semi-smooth to light sanded finish, wood or wood composite for accents and deck railings, and cement board for the stair tower. Staff recommends that the proposed wood or wood composite material be of a highly durable type such as ipe or redwood, and if a wood composite is used it should be of a quality similar to Parklex or Trespa brands.

KEY ISSUES

9428 International Blvd. – Historic Status

As previously mentioned in the report, the property at 9428 International Blvd. has a State of California Department of Parks and Recreation (DPR) Form 523 on record with a status code of 5. The Department of Parks and Recreation Form 523 form was generated as a result of the URM survey after the 1989 Loma Prieta earthquake, and the code 5 meant that the property was considered of local interest but did not appear eligible for the National Register. However, historic preservation staff feels that the property does not rise to the level to warrant the property to be deemed a CEQA historic resource, as our local listing only puts it at the level of being a contributor to an ASI with a rating of D2+, and CEQA resources are generally of National or California Register status (see “Local Register,” below).

Under CEQA Guidelines, Section 15064.5.(a)(2), a resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code, or identified as significant in an historical resource survey meeting the requirements section 5024.1 (g) of the Public Resources Code¹, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

¹ (g) A resource identified as significant in an historical resource survey may be listed in the California Register if the survey meets all of the following criteria:

(1) The survey has been or will be included in the State Historic Resources Inventory.

(2) The survey and the survey documentation were prepared in accordance with office procedures and requirements.

(3) The resource is evaluated and determined by the office to have a significance rating of Category 1 to 5 on DPR Form 523.

(4) If the survey is five or more years old at the time of its nomination for inclusion in the California Register, the survey is updated to identify historical resources which have become eligible or ineligible due to changed circumstances or further documentation and those which have been demolished or altered in a manner that substantially diminishes the significance of the resource.

(h) Upon listing an historical resource or determining that a property is an historical resource that is eligible for listing, in the California Register, the commission shall notify any owner of the historical resource and also the county and city in which the historical resource is located in accordance with procedures adopted by the commission.

(i) The commission shall adopt procedures for the delisting of historical resources which become ineligible for listing in the California Register.

In Oakland, an historical resource under CEQA per the City's Thresholds of Significance is a resource that meets any of the following criteria:

- 1) A resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources:

The subject property has not been listed in nor determined to be eligible for listing in the California Register of Historical Resources (See below).

- 2) A resource included in Oakland's Local Register of Historical Resources, unless, the preponderance of evidence demonstrates that it is not historically or culturally significant;

The subject property is not included in Oakland's Register of Historic Resources.

- 3) A resource identified as significant (e.g., rated 1-5 in a historical resource survey recorded on Department of Parks and Recreation Form 523, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.;

The subject property does have a Form 523 with a rating of 5; however the preponderance of evidence demonstrates that it is not historically or culturally significant.

- 4) Meets the criteria for listing on the California Register of Historical Resources; or

The subject property does not appear to meet the criteria for listing in the California Register (see below).

- 5) A resource that is determined by the Oakland City Council to be historically or culturally significant even though it does not meet the other four criteria listed here.

The Oakland City Council has not determined the subject property to be historically or culturally significant.

Local Register of Historic Resources

Per Historic Preservation Element Policy 3.8, for purposes of environmental review under the California Environmental Quality Act, the following properties constitute the City of Oakland's Local Register of Historical Resources:

1. All Designated Historic Properties, and;
2. Those Potential Designated Historic Properties that have an existing rating of "A" or "B" or are located within an Area of Primary Importance.

The subject property is not a Designated Historic Property (DHP – e.g. Landmark or Heritage Property), but is only a Potential Designated Historic Property. The subject property does not have a rating of A or B, and is not located in an Area of Primary Importance, and hence does not meet criterion 2 above.

California Register of Historical Resources

The California Register is a listing of State of California resources that are significant within the context of California's history. An historical resource must be significant at the local, state, or national level

under one or more of the following criteria that are defined in the California Code of Regulations Title 14, Chapter 11.5, Section 4850.

1. It is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States.
2. It is associated with the lives of persons important to the nation or to California's past.
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values.
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the state or the nation.

The property at 9428 International Boulevard does not meet any of the criteria for listing on the California Register. Based on research, it is not associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States, nor is it associated with the lives of persons important to the nation or to California's past. It does not embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master, or possess high artistic values, and does not meet criterion four with respect to yielding information on prehistory or history of the state or nation. Furthermore, the proposed project has undergone a Section 106 review with the State Historic Preservation Officer (SHPO) as part of the requirements for Federal funding for the project, and the proposed demolition of the building at 9428 International Boulevard was not raised as an issue. Therefore, the subject property in question should not be considered a historic resource under CEQA given that the *preponderance of evidence demonstrates that it is not historically or culturally significant*.

Required Demolition Findings

As previously stated the subject property contains three PDHP's which are subject to the Category III Demolition Findings set forth in Planning Code Section 17.136.075D. In order for a Category III building to be demolished the project must meet **one** of the following three criteria:

Finding 1: The design quality of the proposed replacement project is at least equal to that of the original structure and the proposed replacement project is compatible with the character of the neighborhood.

Finding 2: The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure.

Finding 3: The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

The applicant has submitted a report (see Attachment D) prepared by an historic architect that makes the argument that the proposal meets the requirements under Finding 2, that the proposed replacement project outweighs the benefit of retaining the original structures. Staff does not agree with the report's statement that one of the three buildings, 9424 International, is not a Category III Historic Property. However, this does not affect the substance of the findings.

The report outlines the benefits that would come as a result of the project that include the following:

- Neighborhood identity by creating a new anchor building that will hopefully act as a catalyst for future redevelopment in the area which has not seen much private investment over a number of decades.
- Economic benefits through job creation through construction jobs (estimated at 300-375 jobs) and a limited number of on-site jobs created after construction in relation to the housing and social services component as well as other jobs connected to the future commercial spaces on the ground floor.
- Benefits in the form of services provided to the community which is a component that is included in the program for the housing development, which include health/nutrition educational services, ESL classes, homework assistance and tutoring, computer training, financial literacy and homebuyer education.
- Conformance to the General Plan through developing a mixed use project with a higher level of intensity than that of what presently exists at the project site on a major Oakland corridor (see attached report).
- Benefits in the form of affordable housing opportunities. The proposed project will create 59 new affordable housing units with 18 one bedroom units, 23 two bedroom units, and 18 three bedroom units, which will be available to individuals and families with income levels in the 30% to 50% range of the Area Median Income.
- Benefits to the image of the local neighborhood, by redeveloping a number of vacant and underutilized parcels. The proposed replacement building will contain a tall ground floor commercial space to fit in the commercial character of the neighborhood, and through the use of high quality materials and appropriate building massing along the International Boulevard frontage will create a new building that will hopefully be a catalyst for future investment in the area.

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 15315 of the CEQA Guidelines, Section 15183 of the CEQA Guidelines, and Section 15332 of the CEQA Guidelines. The subject property is vacant and does not contain any historic resources and is not a hazardous materials site listed on the Cortese List. 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 Neighborhood Center General Plan designation by creating a new mixed use development on a transit rich corridor providing affordable housing along with ground floor commercial opportunities, and by meeting the required findings for the variance would meet the zoning regulations.

- 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.**

Traffic studies indicated that the proposed project would only generate between 20 to 40 peak hour trips and would not contribute to the degradation of any nearby intersections to a Level of Service (LOS) of D, thus not resulting in an impact to traffic. 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 noise, air quality, or water quality.

- 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 mixed use building is a good re-use of the project site given that it is located on an important intersection along a major transportation corridor. The building while more massive and modern than other buildings in the area has been adequately designed so that the visual mass of the building is broken down by a pattern of recesses that better relates the building to the patterns of development in the area. The proposal adequately addresses the required Design Review Criteria and Minor Variance Criteria, and the proposed project adequately meets the required finding #2 of the demolition findings as outlined above, and that the preponderance of evidence demonstrates that the building located at 9428 International Boulevard does not meet the qualifications to be classified as a CEQA historic resource.

RECOMMENDATIONS:


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

Approved by:



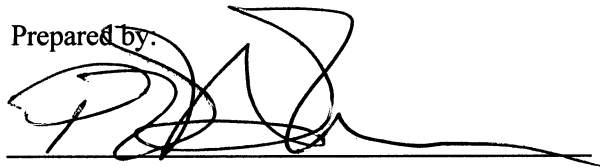
SCOTT MILLER
Zoning Manager
Planning & Zoning Division

Approved for forwarding to the
City Planning Commission:



ERIC ANGSTADT
Deputy Director
CEDA

Prepared by.



PETERSON Z. VOLLMANN
Planner III

ATTACHMENTS:

- A. Findings for Approval
- B. Conditions of Approval
- C. Project Plans
- D. Report by Preservation Architecture, November 17, 2011

ATTACHMENT A**FINDINGS FOR APPROVAL**

This proposal meets all the required Design Review Criteria (Section 17.136.050), and Variance Criteria (17.4148.050) and 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) and is consistent with the Lot Design Standards (Section 16.24.040) of the Oakland Subdivision Regulations. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

17.136.050(A) - RESIDENTIAL DESIGN REVIEW CRITERIA:

- 1. 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 Elmhurst district contains a collection of commercial and mixed use buildings from the early 1900's. The district does not contain one particular architectural style but is largely made up of commercial buildings from the same era, which created the form of what was "downtown" Elmhurst. The proposed building is a modern building that does not fit in architecturally with any of the historic building in the area, but rather incorporates building forms and uses that are consistent. The proposed project would create a building that would be the largest in the area, and would be viewed as an anchor to the area, which would essentially replace the existing bank building at the corner as an anchor. It will stand at the south end of the district on the east side of the street, and thus act as a sort of bookend. The tall ground floor commercial is compatible with the district as it provides a prominence to the ground floor and makes it a dominant feature of the building and keeps with the character of the area as a "downtown" or neighborhood center commercial area.

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

The proposed design will enhance the desirable neighborhood characteristics by filling in a largely underdeveloped site with a new mixed use building providing affordable housing and commercial space on a transit corridor.

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

The subject site is relatively flat.

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

The subject site is relatively flat.

- 5. The proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.**

The construction of a mixed use development containing 59 affordable housing units above ground floor commercial on a transit corridor is consistent with the Neighborhood Center Mixed Use General

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Plan Area designation. In addition, the proposal is consistent with the International Boulevard Transit Oriented Development plan. The proposed development is consistent with the following General Plan policies:

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

Policy N3.2 – Encourage In-fill Development – In order to facilitate the construction of needed housing units, in-fill development that is consistent with the General Plan should take place throughout the City of Oakland.

Policy N6.1 – Mixing Housing Types – The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes.

Policy T2.2 – Guiding Transit Oriented Development – Transit-oriented development should be pedestrian oriented, encourage night and day time use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of the surrounding neighborhoods.

Policy T2.3 – Promoting Neighborhood Services – Promote neighborhood serving commercial development within one-quarter to one-half mile of established transit routes and nodes.

Policy I/C 1.3 – Supporting Economic Development Expansion Through Public Investment – The public investment strategy of the City should support economic development expansion efforts through such means as identifying target “catalyst projects” for investment which will support the employment or revenue base of the city and providing infrastructure improvements to serve key development locations or projects which are consistent with the goals and objectives of the General Plan.

Policy I/C 3.3 – Clustering Activity in “Nodes” – Retail uses should be focused in “nodes” of activity, characterized by geographic clusters of concentrated commercial activity, along corridors that can be accessed through many modes of transportation.

SECTION 17.148.050 - VARIANCE FINDINGS:

- 1. 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 required parking would have the developer reduce the amount of ground floor commercial space to less than 3,000 square feet in which no parking would be required. In an effort by the developer to meet the Planning staff's request as well as the request by the Redevelopment Agency to include more ground floor commercial space along the street frontage, the applicant increased the space from 2,950 square feet to 3,500 square feet, which improves the visual quality and active space at the ground floor of the building. This physical improvement to the building is not possible since there is no parking podium to provide for additional off-street parking stalls, and thus the

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granting of the variance to allow for approximately 500 additional square feet of ground floor commercial is an effective design solution improving operational efficiency as well as appearance.

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

Strict compliance of the parking regulations would preclude an effective design solution fulfilling the basic intent of the regulation in that if the commercial space were reduced by 500 square feet, no parking would be required at all, and given that this project is intended to act as a catalyst for future development in the area it was important to provide as much ground floor commercial space as possible, while there is plenty of on-street parking capacity for a fairly low parking demand in the surrounding commercial district at the current time.

3. **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 parking will not adversely affect the character of the area since the proposed commercial square footage is only barely above the size of which requires any parking at all and allows for an important catalyst project to contain a maximized ground floor commercial presence in a transit rich neighborhood that is currently served by the AC Transit line 1 and 1R trunk lines.

4. **That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

The granting of the variance would not constitute a grant of special privilege, as often affordable housing developments do not include ground floor commercial facilities, but in this instance it was specifically asked by the Redevelopment Agency whom has provided NOFA funding for the project. The granting of the minor variance for reduced parking allows for a better design as seen from the ground floor without compromising the affordability of the project by having to introduce a parking podium to make up for the few additional spaces required.

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 proposal is consistent with the Neighborhood Center Mixed Use General Plan designation by creating a new mixed use development along an important transit corridor.

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

The proposal is consistent with the Neighborhood Center Mixed Use General Plan designation by creating a

FINDINGS

new mixed use development along an important transit corridor. The proposal is also consistent with the International Boulevard Transit Oriented Development Plan.

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

The site is physically suitable for the proposed development as the project provides for 59 new affordable dwelling units over ground floor commercial which both activities envisioned for the International Boulevard corridor.

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

The site is physically suitable for the proposed development as the project provides for 59 new affordable dwelling units which is actually well below the allowable density for the site.

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.

This site has been previously developed and does not contain any wildlife habitat or waterways.

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

There would be no adverse health effects. This is in a residential development with ground floor commercial located in an existing neighborhood and it will introduce no new use classifications that are incompatible with the surrounding neighborhood.

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.)

There are no easements on this property at present to allow public access.

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 subdivision has ample southern exposures that will enhance natural solar access and heating and cooling opportunities.

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 proposal is to merge all of the existing lots to allow for the proposed development. The parcel will have frontage on both International Boulevard and 94th Avenue.

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

The side lot lines (of the project site) will run at right angles from International Boulevard.

FINDINGS

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

Zoning requirements have been met by meeting the required Variance criteria.

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

This proposed lot would far exceed the square footage of parcels in the immediate area as it would create a new parcel (merged by other existing lots) in excess of 1.2 acres.

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.

ATTACHMENT C

CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Approved Use

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **staff report**, and the plans dated **September 12, 2011**, 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 the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.
- b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes: **Regular Design Review for New Construction, and a Minor Variance to waive the parking for the ground floor commercial space, and Tentative Parcel Map to merge the subject parcels into one parcel.**

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

3. Scope of This Approval; Major and Minor Changes

Ongoing

The project is approved pursuant to the **Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance with other Requirements

Prior to issuance of a demolition, grading, P-job, or other construction related permit

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems,

water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

5. Conformance to Approved Plans; Modification of Conditions or Revocation

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions** if it is found that there is violation of any of the **Conditions** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions

With submittal of a demolition, grading, and building permit

A copy of the approval letter and **Conditions** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

7. Indemnification

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. Compliance with Conditions of Approval***Ongoing***

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability***Ongoing***

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans***Ongoing throughout demolition, grading, and/or construction***

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management***Prior to issuance of a demolition, grading, and/or construction permit***

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

12. Required Landscape Plan for New Construction and Certain Additions to Residential Facilities***Prior to issuance of a building permit***

Submittal and approval of a landscape plan for the entire site is required for the establishment of a new residential unit (excluding secondary units of five hundred (500) square feet or less), and for additions to Residential Facilities of over five hundred (500) square feet. The landscape plan and the plant materials installed pursuant to the approved plan shall conform with all provisions of Chapter 17.124 of the Oakland Planning Code, including the following:

- a) Landscape plan shall include a detailed planting schedule showing the proposed location, sizes, quantities, and specific common botanical names of plant species.
- b) Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 zone, shall show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions.
- c) Landscape plan shall incorporate pest-resistant and drought-tolerant landscaping practices. Within the portions of Oakland northeast of the line formed by State Highway 13 and continued southerly by Interstate 580, south of its intersection with State Highway 13, all plant materials on submitted landscape plans shall be fire-resistant. The City Planning and Zoning Division shall maintain lists of plant materials and landscaping practices considered pest-resistant, fire-resistant, and drought-tolerant.
- d) All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

13. Landscape Requirements for Street Frontages.***Prior to issuance of a final inspection of the building permit***

- a) All areas between a primary Residential Facility and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.
- b) In addition to the general landscaping requirements set forth in Chapter 17.124, a minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Director of Parks and Recreation.

14. Assurance of Landscaping Completion.***Prior to issuance of a final inspection of the building permit***

The trees, shrubs and landscape materials required by the conditions of approval attached to this project shall be planted before the certificate of occupancy will be issued; **or a bond, cash, deposit, or letter of credit, acceptable to the City**, shall be provided for the planting of the required landscaping. The amount of such **or a bond, cash, deposit, or letter of credit** shall equal the greater of two thousand five hundred dollars (\$2,500.00) or the estimated cost of the required landscaping, based on a licensed contractor's bid.

15. Landscape Maintenance.***Ongoing***

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences, walls and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

16. Underground Utilities***Prior to issuance of a building permit***

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

17. Improvements in the Public Right-of-Way (General)***Approved prior to the issuance of a P-job or building permit***

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions 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 and 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- located within the public ROW.

- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition.
- c) 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 the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

18. Payment for Public Improvements***Prior to issuance of a final inspection of the building permit.***

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

19. Compliance Matrix***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a **Conditions** compliance matrix that lists each condition of approval, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

20. Construction Management Plan***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division for review and approval a construction management plan that identifies the conditions of approval related to construction impacts of the project and explains how the project applicant will comply with these construction-related conditions of approval.

21. Parking and Transportation Demand Management***Prior to issuance of a final inspection of the building permit.***

The applicant shall submit for review and approval by the Planning and Zoning Division a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The applicant shall implement the approved TDM plan. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel shall be considered. Strategies to consider include the following:

- a) Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement
- b) Construction of bike lanes per the Bicycle Master Plan; Priority Bikeway Projects
- c) Signage and striping onsite to encourage bike safety
- d) Installation of safety elements per the Pedestrian Master Plan (such as cross walk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient crossing at arterials
- e) Installation of amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.
- f) Direct transit sales or subsidized transit passes
- g) Guaranteed ride home program

- h) Pre-tax commuter benefits (checks)
- i) On-site car-sharing program (such as City Car Share, Zip Car, etc.)
- j) On-site carpooling program
- k) Distribution of information concerning alternative transportation options
- l) Parking spaces sold/leased separately
- m) Parking management strategies; including attendant/valet parking and shared parking spaces

22. Dust Control***Prior to issuance of a demolition, grading or building permit***

During construction, the project applicant shall require the construction contractor to implement the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures required for construction sites. These include:

- a) Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.
- e) Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- f) Limit the amount of the disturbed area at any one time, where feasible.
- g) Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
- h) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- i) Replant vegetation in disturbed areas as quickly as feasible.
- j) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- k) Limit traffic speeds on unpaved roads to 15 miles per hour.
- l) Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.

23. Construction Emissions***Prior to issuance of a demolition, grading or building permit***

To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:

- a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
- b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.

24. Days/Hours of Construction Operation***Ongoing throughout demolition, grading, and/or construction***

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.
- g) Applicant shall use temporary power poles instead of generators where feasible.

25. Noise Control***Ongoing throughout demolition, grading, and/or construction***

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- a) 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).
- b) Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered 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, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

26. Noise Complaint Procedures***Ongoing throughout demolition, grading, and/or construction***

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and
- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

27. Interior Noise***Prior to issuance of a building permit and Certificate of Occupancy***

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls), and/or other appropriate features/measures, shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval prior to issuance of building permit. Final recommendations for sound-rated assemblies, and/or other appropriate features/measures, will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phases. Written confirmation by the acoustical consultant, HVAC or HERS specialist, shall be submitted for City review and approval, prior to Certificate of Occupancy (or equivalent) that:

- (a) Quality control was exercised during construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed; and
- (b) Demonstrates compliance with interior noise standards based upon performance testing of a sample unit.
- (c) Inclusion of a Statement of Disclosure Notice in the CC&R's on the lease or title to all new tenants or owners of the units acknowledging the noise generating activity and the single event noise occurrences. Potential features/measures to reduce interior noise could include, but are not limited to, the following:
 - a) Installation of an alternative form of ventilation in all units identified in the acoustical analysis as not being able to meet the interior noise requirements due to adjacency to a noise generating activity, filtration of ambient make-up air in each unit and analysis of ventilation noise if ventilation is included in the recommendations by the acoustical analysis.
 - b) Prohibition of Z-duct construction.

28. Operational Noise-General***Ongoing.***

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

29. Construction Traffic and Parking***Prior to the issuance of a demolition, grading or building permit***

The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

- a) 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.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.
- d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
- e) Provision for accommodation of pedestrian flow.

Major Project Cases:

- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- g) Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.
- h) Any heavy equipment brought to the construction site shall be transported by truck, where feasible.
- i) No materials or equipment shall be stored on the traveled roadway at any time.
- j) Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.
- k) All equipment shall be equipped with mufflers.
- l) Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.

30. Erosion and Sedimentation Control***Ongoing throughout demolition grading, and/or construction activities***

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

31. Hazards Best Management Practices***Prior to commencement of demolition, grading, or construction***

The project applicant and construction contractor shall ensure that construction of Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

- a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
- b) Avoid overtopping construction equipment fuel gas tanks;
- c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d) Properly dispose of discarded containers of fuels and other chemicals.
- e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
- f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

32. Waste Reduction and Recycling

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency.

Prior to issuance of demolition, grading, or building permit

Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at www.oaklandpw.com/Page39.aspx or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

Ongoing

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the

development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

33. Pile Driving and Other Extreme Noise Generators

Ongoing throughout demolition, grading, and/or construction

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

- a) Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- b) 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;
- c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- d) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- e) Monitor the effectiveness of noise attenuation measures by taking noise measurements.

34. Lighting Plan

Prior to the issuance of an electrical or building permit

The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

35. Asbestos Removal in Structures

Prior to issuance of a demolition permit

If asbestos-containing materials (ACM) are found to be present in building materials to be removed, demolition and disposal, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all

applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health & Safety Code 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.

36. Tree Removal During Breeding Season

Prior to issuance of a tree removal permit

To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 31, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

37. Tree Removal Permit

Prior to issuance of a demolition, grading, or building permit

Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right-of-way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.

38. Tree Replacement Plantings

Prior to issuance of a final inspection of the building permit

Replacement plantings shall be required for erosion control, groundwater replenishment, visual screening and wildlife habitat, and in order to prevent excessive loss of shade, in accordance with the following criteria:

- a) No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- b) Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye) or *Umbellularia californica* (California Bay Laurel) or other tree species acceptable to the Tree Services Division.
- c) Replacement trees shall be at least of twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- d) Minimum planting areas must be available on site as follows:
 - i. For *Sequoia sempervirens*, three hundred fifteen square feet per tree;
 - ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.
- e) In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.

- f) Plantings shall be installed prior to the issuance of a final inspection of the building permit, subject to seasonal constraints, and shall be maintained by the project applicant until established. The Tree Reviewer of the Tree Division of the Public Works Agency may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the project applicant's expense.

39. Tree Protection During Construction

Prior to issuance of a demolition, grading, or building permit

Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- a) Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- c) No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- d) Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- e) If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Agency of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- f) All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

40. Compliance with Policy 3.7 of the Historic Preservation Element (Property Relocation Rather than Demolition)

Prior to issuance of a demolition permit

The project applicant shall make a good faith effort to relocate the buildings located at **9400, 9424 and 9428 International Blvd** to a site acceptable to the Planning and Zoning Division and the Oakland Cultural Heritage Survey. Good faith efforts include, at a minimum, the following:

- a) Advertising the availability of the building by: (1) posting of large visible signs (such as banners, at a minimum of 3'x 6' size or larger) at the site; (2) placement of advertisements in Bay Area news media acceptable to the City ;and (3) contacting neighborhood associations and for-profit and not-for-profit housing and preservation organizations;
- b) Maintaining a log of all the good faith efforts and submitting that along with photos of the subject building showing the large signs (banners) to the Planning and Zoning Division;
- c) Maintaining the signs and advertising in place for a minimum of 90 days; and
- d) Making the building available at no or nominal cost (the amount to be reviewed by the Oakland Cultural Heritage Survey) until removal is necessary for construction of a replacement project, but in no case for less than a period of 90 days after such advertisement.

41. Stormwater Pollution Prevention Plan (SWPPP)***Prior to and ongoing throughout demolition, grading, and/or construction activities***

The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.

42. Post-Construction Stormwater Management Plan***Prior to issuance of building permit (or other construction-related permit)***

The applicant shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The applicant shall submit with the application for a building permit (or other construction-related permit) a completed Construction-Permit-Phase Stormwater Supplemental Form to the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater management plan, for review and approval by the City, to manage stormwater run-off and to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.

- a) The post-construction stormwater management plan shall include and identify the following:
 - All proposed impervious surface on the site;
 - Anticipated directional flows of on-site stormwater runoff; and
 - Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - Source control measures to limit the potential for stormwater pollution;
 - Stormwater treatment measures to remove pollutants from stormwater runoff; and
 - Hydromodification management measures so that post-project stormwater runoff does not exceed the flow and duration of pre-project runoff, if required under the NPDES permit.

- b) The following additional information shall be submitted with the post-construction stormwater management plan:
- i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
 - ii. Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e. non-landscape-based) stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures and/or the range of pollutants expected to be generated by the project.

All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The applicant is not required to include on-site stormwater treatment measures in the post-construction stormwater management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.

Prior to final permit inspection

The applicant shall implement the approved stormwater management plan.

43. Maintenance Agreement for Stormwater Treatment Measures

Prior to final zoning inspection

For projects incorporating stormwater treatment measures, the applicant shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:

- i. The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for 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 implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense.

44. Stormwater and Sewer

Prior to completing the final design for the project's sewer service

Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the Sewer and Stormwater Division. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.

PROJECT SPECIFIC CONDITIONS

45. Window Treatments

Prior to issuance of a building permit

The final building permit plan set shall contain a window schedule and cross section showing the type of windows proposed, subject to final approval by Planning and Zoning Staff, and show the window frame for any street facing elevation recessed at least two inches from the exterior stucco of the building wall.

46. Exterior Materials

Prior to issuance of a building permit

The final building permit plan set shall include all proposed exterior materials details, including samples of the proposed exterior materials, subject to review and approval by Planning and Zoning staff.

47. Deconstruction and Salvage Plan

Prior to issuance of a building permit

Per the Request of the Landmarks Preservation Advisory Board, the applicant will prepare a Deconstruction and Salvage Plan for all 3 buildings with historic ratings; the Plan will identify elements of historic interest or potential financial value, and may include a financial feasibility analysis. The Plan will be prepared by Applicant's historic consultant and confirmed by City Staff, and the outcome of the Plan will be reported back to the Landmarks Board as an informational item.

48. Bike Parking

Prior to issuance of a building permit

The final building permit plan set shall show the required long term parking to be located within the project site near the parking lot in the rear or near the lobby entrance to the building.

APPROVED BY:

City Planning Commission: _____ (date) _____ (vote)

City Council: _____ (date) _____ (vote)

PRESERVATION ARCHITECTURE

November 17, 2011

94TH AND INTERNATIONAL, OAKLAND

Project Evaluation/Demolition Findings

This document addresses three existing buildings located on the east side of International Blvd. between 94th and 96th Avenues in the City of Oakland, in relation to a currently proposed housing project. The three buildings are identified by their addresses, 9400 International, 9424 International, and 9428 International. The project is referred to as "94th and International".

As defined under the Historic Preservation Element of the City of Oakland's General Plan:

- 9400 International (fig.4) is a "C2+" rated building ("secondary importance"). The C rating accords the property the City's quasi-designation of "potentially designated historic property" (PDHP). 9400 International is also rated a "2+", indicating that it is included in ("2") and a contributor to ("+") an historic Area of Secondary Importance ("ASI"), the Elmhurst Commercial District (District). By definition, 9400 International is, therefore, a Category III Historic Property.
- 9424 International (figs.4,7) is a "Fc2*" rated building ("less than 45 years old or modernized"). The "2" again refers to inclusion in an ASI, yet the "*" identifies it as a "potential contributor" to the ASI. An "F" rated building, 9424 International is not a Category III Historic Property.
- 9428 International (figs.4,8) is a "D" rated building, is therefore of "minor importance," yet is also rated "2+" again recording it as a contributor to the District and a Category III Historic Property.

ASIs are defined as districts of local, historical interest that do not appear to be National Register eligible. And ASIs are required to have 2/3 of the properties within their boundaries identified as contributing and potentially contributing to the ASI.

As required under the City of Oakland's Demolition Findings for Historic Properties, the purpose of this correspondence is to address the proposed demolition of these two Category III historic properties relative to a proposed replacement project. A proposal to demolish a Category III resource must meet one of three findings. This correspondence specifically addresses Finding 2, which reads: "The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure." There are seven submittal requirements under Finding 2. In the following, the seven requirements are listed and addressed.

1. Civic, community and neighborhood identity.

The project location is on International Blvd. between 94th and 96th Avenues. The subject neighborhood is known as Elmhurst. International Blvd., which in this vicinity is six lanes wide (two dedicated to parking) with a central, landscaped median, is an established and principal commercial corridor extending through the center of Elmhurst from Downtown Oakland (14th Street) to the northwest of the subject area and, to the southwest, the nearby, neighboring town of San Leandro (fig.1).

The commercial center of Elmhurst was established in the early-20th century. Historically, commercial development of 1 and 2 story buildings lining the International Blvd. frontage appears to have been more continuous. Today, there are several sections within the identified ASI that house contiguous groups of buildings identified as contributors and

potential-contributors to the ASI. Both of these sections are along the west side of International, one from 87th to 89th , and another from 96th to 97th Avenues. Within the remainder of the ASI, the blocks – including each of those on the east side of International – are less continuous rows of buildings interrupted by open parcels and non-contributing buildings. Whereas the boundaries of the ASI on the western side of International are continuous from 87th to 97th Aves., on its east side, the boundaries include only one continuous stretch – from mid-block between 90th and 92nd to several parcels beyond 94th Ave. – with two other small areas gathering individual buildings into the ASI. The overall character of the ASI is of small scale, discontinuous commercial development (fig.2), yet with more contiguous groups of structures that contribute to the ASI at each end on the west side of International.

The area was surveyed in the mid-1990s by the Oakland Cultural Heritage Survey (OCHS), and an ASI was then identified. The ASI, referred to as the Elmhurst Commercial District, spans along the block fronts on International Blvd. from 87th to 97th Avenues.

While building vacancy and underutilization are not qualities by which historic properties are judged, with respect to neighborhood identity, since the 1990s, and likely since well before then, there have been no visible urban improvements in the area. The survey that resulted in the ASI reported that most properties were in good condition. As reflects the current moment, the overall character of the buildings, the street frontages and the street is deteriorating (fig.3). Commercial building vacancy appears to be high, including the majority of the buildings adjacent to and across from 94th and International. There is a limited mix of commercial uses. There appear to be few residential uses at second floors. In fact, where second floors exist, most appear to be vacant or underutilized.

The subject site presently has six buildings. The best of them, 9400 International, is a former bank building. Its street corner location and original use make it a marker in the neighborhood, yet it is vacant, as is 9424 International. Others, including 9428 International, have mixed commercial and service uses with some residential or office uses where second floors exist. The subject site corresponds to the character of the neighborhood, with a mixture of small scale buildings, some underutilized and unimproved, and an open site (fig.4).

The proposed Project will have two components. The retail/commercial component will have approximately 3,500 square feet of retail/commercial space located on the ground floor of International Blvd. In addition to the retail space, the Project will have an adequate amount of social service space, which will address the needs of the community. The residential component will provide affordable rental housing for families. Amenities will include community space that may accommodate social service/management offices, flex room, kitchen, and computer room.

The existing site and the existing buildings thereon do not positively contribute to the neighborhood's identity. They are vacant or underutilized properties with deteriorating structures.

Providing residential and commercial development along with anticipated neighborhood services, the proposed project is intended to be a catalyst for economic as well as neighborhood and community development.

2. The economy, including the City's tourism industry and the local commercial district.

The subject neighborhood is locally serving. The project will infill a substantial portion of a large block therein. The project intends to be an economic catalyst by adding new neighborhood-serving, ground floor commercial space and multiple, permanent residences along with residential services.

In terms of job creation, an estimated 300-375 jobs will be created during construction. Post construction, job creation will include 1 full-time property manager's position, 1 full-time maintenance person, a number of landscaping and facilities staff, 2-3 social service providers, as well as a range of jobs created by the commercial component.

3. The services provided to the community, including social services.

As proposed, the project will offer on-site service programs to the residents. There will be an on-site Resident Services Coordinator who will be responsible for community based organization coordination of activities, crisis intervention, and skill building. The Coordinator will be responsible for developing coordinated outreach strategies, which will ensure the integration of all information and resources in the Project's services plan. Some of the social services that may be offered include, health/nutrition education services, ESL classes, homework assistance and tutoring, computer training, financial literacy, and homebuyer education.

4. Aspects of conformance to the General Plan.

Under the Land Use and Transportation Element of the 1998 Oakland General Plan, the International Blvd. corridor through East Oakland and, specifically, the Elmhurst neighborhood is identified as a "target area for community and economic development" (Ch.4, Fig.7, Improvement Strategies), as well as an area "in need of commercial revitalization" (Ch.4, p201).

In the 15 years or so since adoption of the General Plan, no community or economic development has occurred in the vicinity of the proposed project corresponding to the identified commercial district. The General Plan also identified the need for "growth and change" in this vicinity, further identifying the need for zoning of the International Blvd. corridor in order to promote commercial and housing improvement.

New zoning was adopted in the Spring of 2011, and which rezoned the segment of the International Blvd. corridor from 89th to 97th Avenues as "CN-3: Neighborhood Commercial Zone," the intent of which is "to **create**, improve and enhance neighborhood commercial centers" (emphasis added, as the use of the term "create" is unique to the CN-3 district). In the CN-3 zone, primary, permitted uses include:

- Permanent, multi-family residential;
- Neighborhood commercial.

Specific standards for the CN-3 zone include:

- Minimum ground floor façade transparency;
- Street and site landscaping standards.

The proposed project includes high ground floor commercial and common spaces with extensive window areas. Street and site landscaping are also to be included.

In addition to its central purpose – to promote historic preservation in Oakland – under the General Plan's Preservation Element, other objectives include:

- Recognition of "significant" and "special" historic properties and preservation districts.

- Identification of “incentives...for specially designated significant older properties” in order to “enhance economic feasibility for preservation...”. (from Objective 2, pp.2-13)
- Recognition that “after balancing preservation with other concerns... preservation of many properties may not be warranted.” (from Objective 1)

With respect to development proposals, such “other concerns” typically include:

- Economic vitality;
- Underutilized and vacant properties on commercial corridors;
- Relative historic significance of identified properties.

The proposed project will directly fulfill General Plan priorities for neighborhood and commercial improvement via new housing and commercial development to replace underutilized properties, including potentially historic properties that are of secondary importance.

5. Housing opportunities.

The proposed project will provide residential rentals units, including approximately 18 one bedroom/one bath units at 624 gross square feet, 23 two bedroom/one bath units at 865 gross square feet, and 18 three-bedroom/two baths units at 1,144 gross square feet. Units will be available for families with income levels between 30% and 50% AMI. Amenities include community space that may accommodate social service/management offices, flex room, kitchen, and computer room.

The existing properties on the project site support or have supported less than 5 housing units without housing amenities or services, whereas the project will provide 59 new and permanent, affordable, family housing units with a range of amenities and services.

6. Cultural heritage and the image of the City and local neighborhood.

The identified ASI is lengthy, extending from 87th to 96th Avenues, the extent of which was downtown Elmhurst in its day. Buildings identified as ASI contributors and potential-contributors are loosely aggregated, yet with several contiguous areas of contributing and potentially-contributing buildings on the west side at each end of the ASI. On blocks in-between, there are many non-contributors mixed in along with open lots, especially so on the east side where the ASI boundaries are discontinuous. There is no specific sense of a center to this ASI – as noted, several small concentrations of resources are present (figs.5-6) – and there is limited cohesion. Buildings are varied in their size, age and type. Most if not all original property uses have substantially changed. While the survey that identified the ASI stated properties were in generally good condition, a range of properties and buildings are not presently in good condition.

As introduced, there are three rated buildings on the subject site (9400 and 9428 International), and two that are identified as Category III historic resources. These three buildings stand in the southeastern corner of the ASI. They also stand apart from any of the several, small concentrations of buildings. Moreover, the three existing buildings do not cohere into a commercial grouping, as do other distinctive groupings within the ASI.

The loss of the three buildings would not diminish the image or character of the neighborhood or, consequently, the City. The ASI consists of approximately seventy-nine buildings, some sixty-one (77%) of which are identified as contributors or potential-contributors. The removal of three structures would reduce the percentage of contributors and potential contributors to 73%, exceeding the required 2/3 by five buildings, and ensuring

that the ASI, while necessarily affected, is intact. One building proposed to be removed is the original bank building at the corner of 94th and International, which is a neighborhood marker. However, in addition to the several contiguous sections of buildings, other unique, individual buildings – including an original theater and the Victorian Elmhurst Pharmacy building – will remain.

The project will infill open lots along International Blvd., thus providing essential urban infill. The project recognizes the importance of the street-and-commercial corner by placing commercial, street-level use at the street corner, and by expressing the corner via design features, including stacking corner windows, a distinctive roof overhang, and the a building volume that projects above the roof in the form of a lantern. The proposal also includes generous windows and openings, rendering the project far more transparent and open to the public ways than the existing properties. In addition to design expression at its corner, the design provides a unique mid-block entry way that adds spatial quality and architectural interest to the project as well as to the block. Streetscape improvements are also a benefit. It adds site landscaping, including street trees, that are absent and that have little if any incentive under the status quo. Measured against freestanding, underutilized and vacant properties, the project will improve the visual quality of associated blocks and, concomitantly, the neighborhood and City.

Thus, from a community and economic development perspective, the project will improve the neighborhood and, consequently, the City, by providing substantive infill development exactly where such development is called for by the City's policies.

7. Educational opportunities and cultural resources regarding architectural and local history.

At present, there is no evidence that the project vicinity offers educational opportunities with respect to cultural or architectural resources. If opportunities arise for local architectural and historical education, a large and representative number of properties associated with of the Elmhurst commercial neighborhood will remain for interpretation. Therefore, the proposed project will not affect educational opportunities relative to cultural resources, architectural or local history.

The above information was compiled and prepared by a preservation architect with assistance from the project sponsor and consultation with CEDA. Based thereon, my conclusion is that the public benefits of the proposed replacement project clearly outweigh the benefit of retaining the existing structures.

Signed:



Mark Hulbert
Preservation Architect

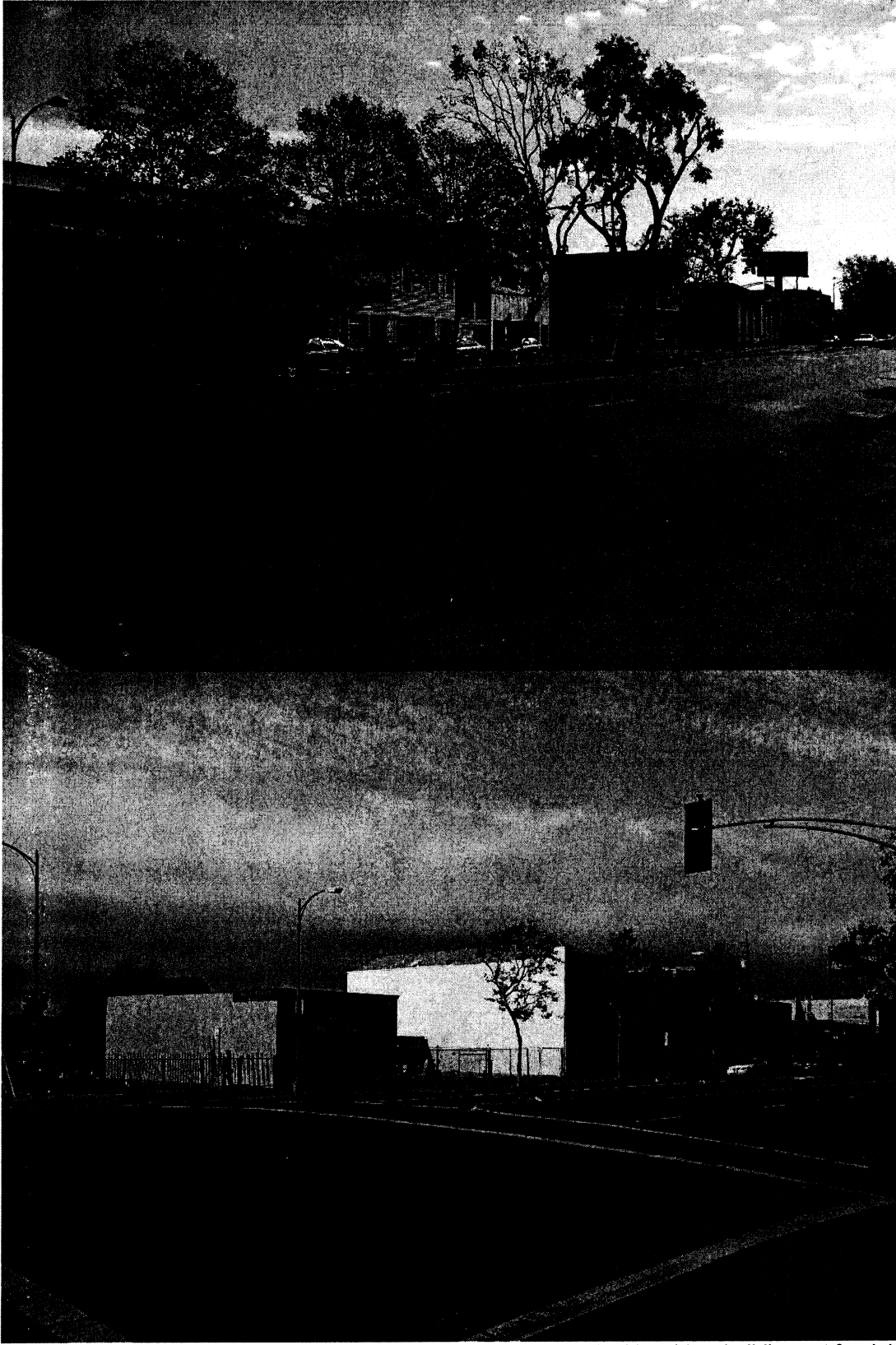


Fig.1 (above) – East side of International Blvd. (looking southeast) with subject buildings at far right
Fig.2 (below) – West side of International Blvd. (looking west) directly cattycorner to project site

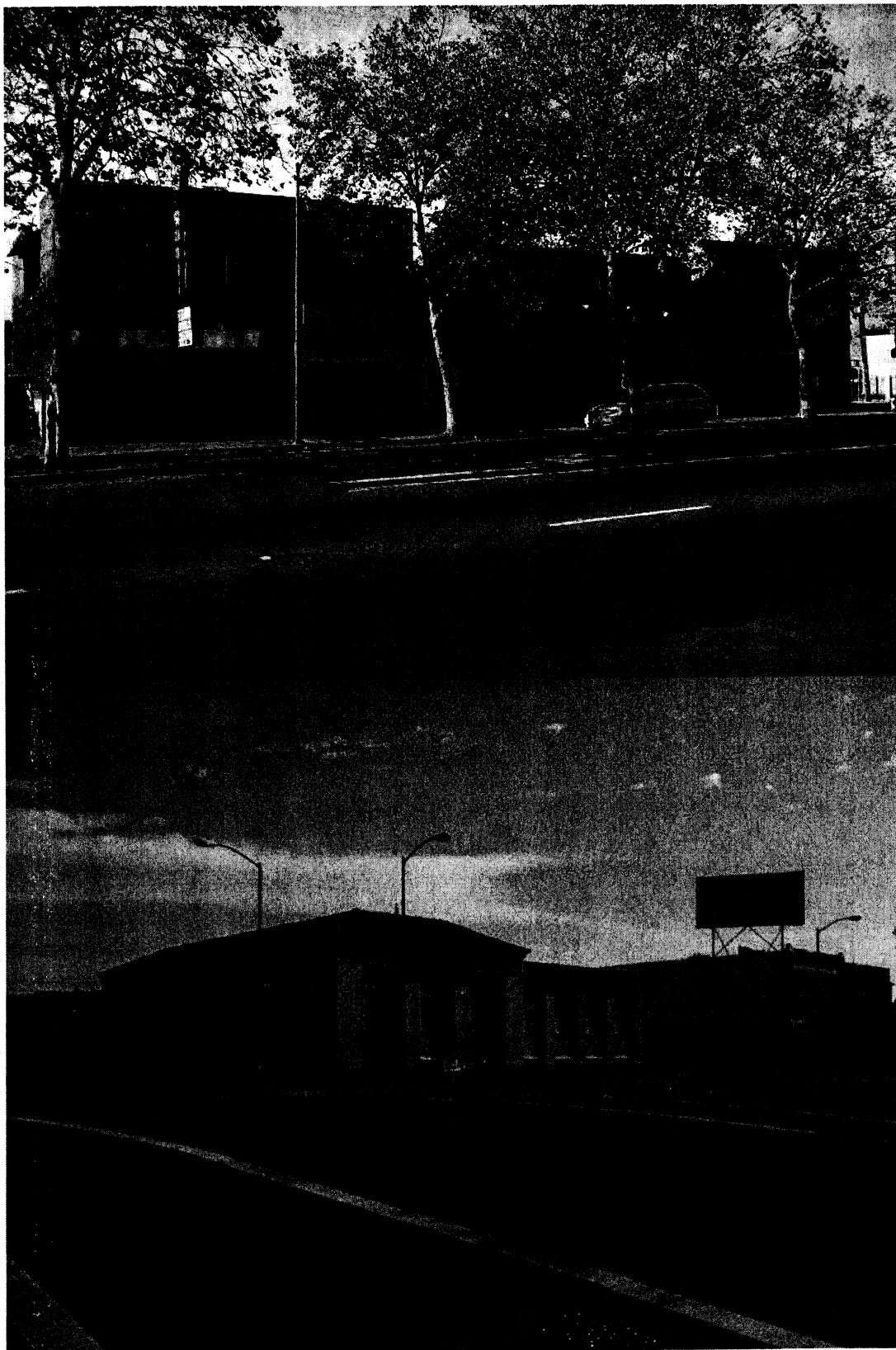


Fig.3 (above) – West side of International Blvd. directly across from project site

Fig.4 (below) – Project site, east side International Blvd., #9400 (center), 9424 (right) & 9428 (far right)



Fig.5 (above) – West side of International Blvd., between 89th (to left) & 88th (to right) Aves.

Fig.6 (below) – West side of International Blvd. at corner of 96th Ave.

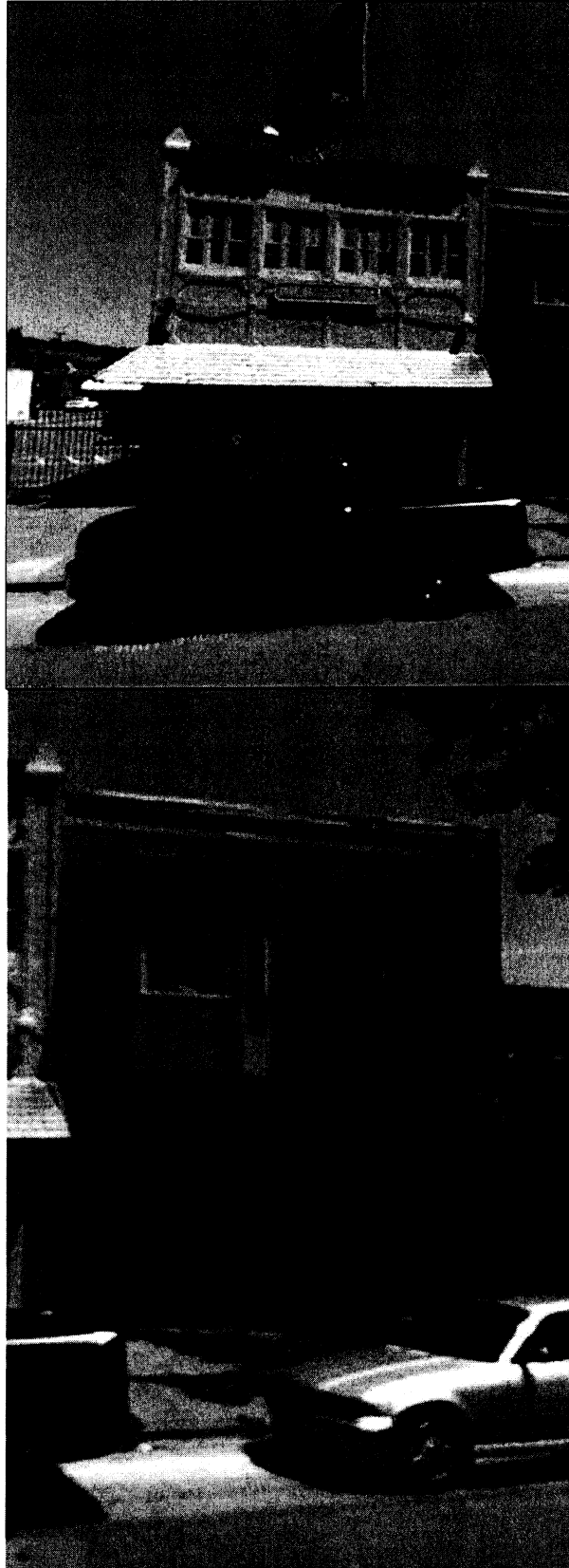
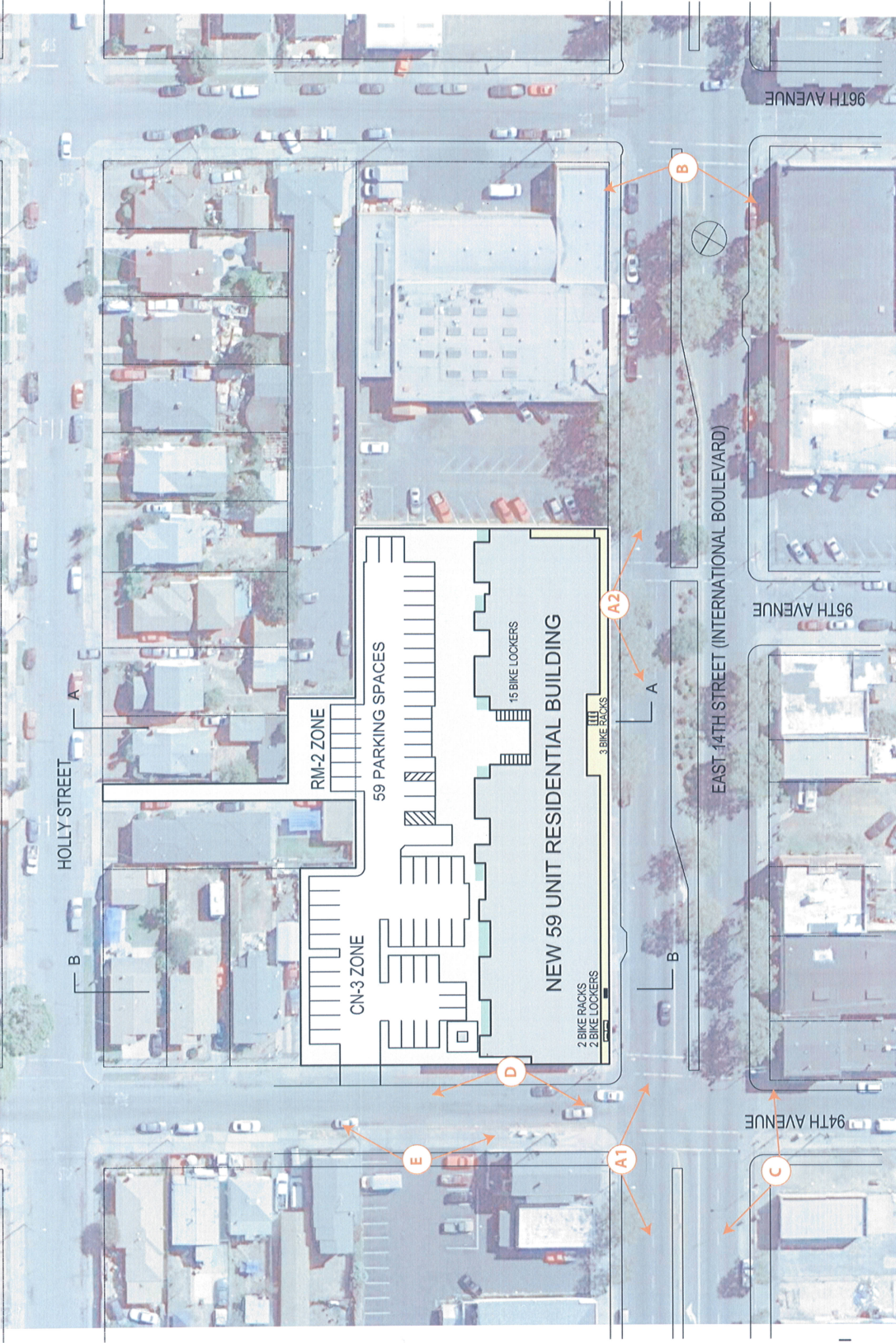


Fig.7 (above) – 9424 International Blvd.; Fig.8 (below) – 9428 International Blvd.



Site plan
with local
context

- SITE AREA**
 51,228 sf in CN-3
 3,500 sf in RM-2
 54,728 sf total (1.266 acres)
- Building Footprint: 20,675 sf
- 59 units in CN-3
 no units in RM-2
 59 units total
- DENSITY**
 1 unit per 375 sf in CN-3
 1 unit per lot on lots less than 4000 sf in RM-2
- 137 units permitted (109 units/acre)
 47 units/acre provided
- HEIGHT LIMITS**
 25' limit in RM-2
- CN-3 is in 60' Height Area. New buildings must be between 35' and 60' tall.
 Buildings above 30' must step back from inner line of yard at 1:1 when adjoining RM zones
- OPEN SPACE**
 150 sf common space per unit in CN-3
 300 sf common space per unit in RM-2
- 8,850 sf common open space required
 7,734 sf common open space provided
 4,130 sf private open space provided
 (Private open space counted at 5x actual sf)
 28,384 sf open space provided
- PARKING**
 1 space per unit in CN-3
 1.5 spaces per unit in RM-2
 89 spaces required
 59 spaces provided
- BIKE PARKING**
 Residential: 3 Short Term, 16 Long Term
 Commercial: 2 Short Term, 2 Long Term
- | Unit Mix | |
|-------------------------|------------|
| 1,144 sq ft 3 BR Flats: | 18 (30.5%) |
| 865 sq ft 2 BR Flats: | 22 (36.0%) |
| 624 sq ft 1 BR Flats: | 18 (30.5%) |
| Total units: | 59 |
- 30.6% 3BR Units

January 20, 2012

**Michael
Willis
Architects**



301 Howard Street
 Suite 500
 San Francisco, CA
 94105

tel: (415) 957 2750
 fax: (415) 957 2780

94th and International
 Related California
 9400 International Boulevard
 Oakland, California



View A1

94th and International (West)

95th and International (West)



View A2

Entitlements Package September 12th 2011

94th and International
Related California
9400 International Boulevard
Oakland, California

Existing buildings along International Boulevard

301 Howard Street
Suite 500
San Francisco, CA
94105
Tel (415) 957.2750

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View B

International Blvd. looking towards (North)

| Entitlements Package | | September 12 th 2011 |
|---|---|---------------------------------|
| 94 th and International Related California 9400 International Boulevard Oakland, California | Existing buildings along International Boulevard | |
| | 301 Howard Street Suite 500 San Francisco, CA 94105 Tel (415) 957.2750 | Michael Willis Architects |
| |  | |



View C

94th and International looking towards (East)

Entitlements Package September 12th 2011

94th and International
Related California
9400 International Boulevard
Oakland, California

Existing buildings along International Boulevard

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Suite 500
San Francisco, CA
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View D

94th Street looking towards (North)



View E

94th Street looking towards (South)

Entitlements Package September 12th 2011

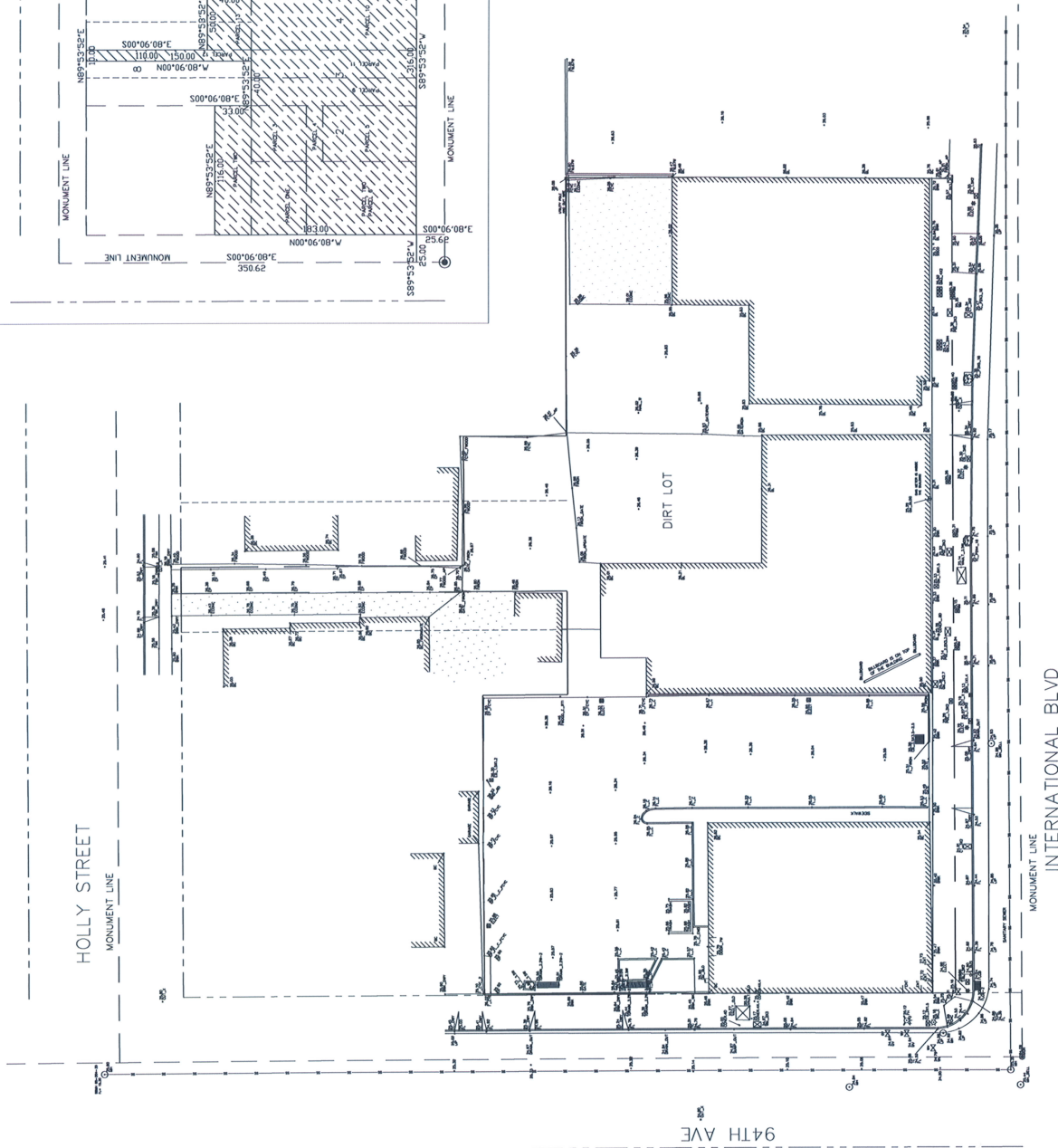
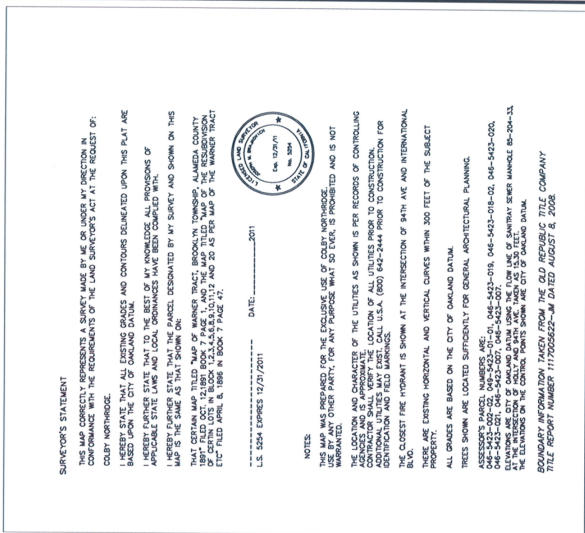
94th and International
Related California
9400 International Boulevard
Oakland, California

Existing buildings along 94th street

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Suite 500
San Francisco, CA
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**Michael
Willis
Architects**





STORMWATER

| | |
|---------------------------------------|--------------|
| TOTAL SITE AREA | 54,630.81 SF |
| TOTAL LAND AREA DISTURBED | 100% |
| EXISTING IMPERVIOUS SURFACE | 100% |
| NEW/REPLACED IMPERVIOUS SURFACE | 40,912 SF |
| POST-PROJECT TOTAL IMPERVIOUS SURFACE | 40,912 SF |

SW TREATMENT AREA

PARKING

| | |
|----------------|------|
| ADA STALLS | 3 |
| COMPACT STALLS | 28 |
| REGULAR STALLS | 27 |
| TOTAL | = 59 |

LIGHTING

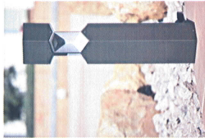
- NEW POLE LIGHTING FIXTURE
- EXISTING POLE LIGHTING FIXTURE
- NEW BOLLARD

PLANT LIST

- LARGE DECIDUOUS SHADE TREE TO MATCH EXISTING SPECIES ON SAN PABLO AVENUE
- MEDIUM SIZE DECIDUOUS STREET TREE WITH FALL COLOR AND UPRIGHT FORM
- EXISTING LONDON PLANE TREE
- MEDIUM SIZED FLOWERING TREE
- SMALL COLUMNAR FLOWERING TREE FOR SCREENING
- SMALL FLOWERING TREE WITH ATTRACTIVE BARK
- EVERGREEN SCREENING TREE
- SMALL DECIDUOUS FLOWERING COLOR
- SMALL EVERGREEN MULTI-TRUNKED TREE
- EVERGREEN SHRUB WITH SEASONAL FLOWERS
- TALL EVERGREEN SCREENING SHRUBS
- LOW TO MEDIUM HEIGHT GROUND COVER

SITE MATERIALS

- DECORATIVE PAVING
- POROUS PAVING
- ASPHALT
- RESILIENT PLAY SURFACE
- SEATING + BENCHES
- TOT LOT PLINTH



LIGHT BOLLARD



POLE LIGHTING FIXTURE



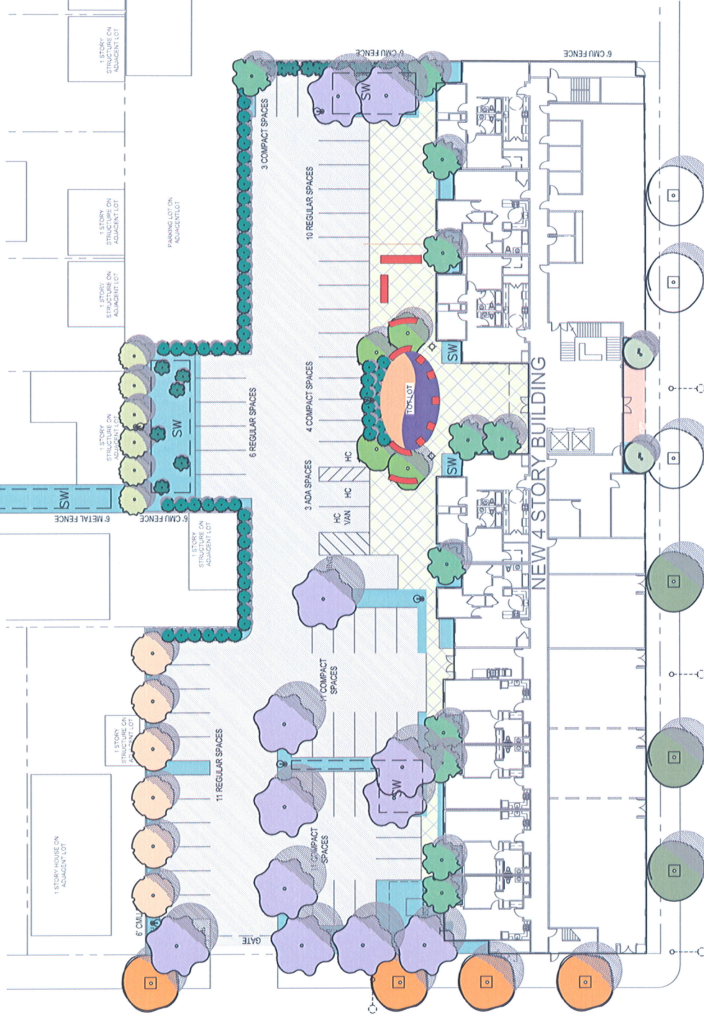
TOT LOT PLINTH



BENCH



POROUS PAVING



EAST 14TH STREET (INTERNATIONAL BOULEVARD)



94TH AVENUE



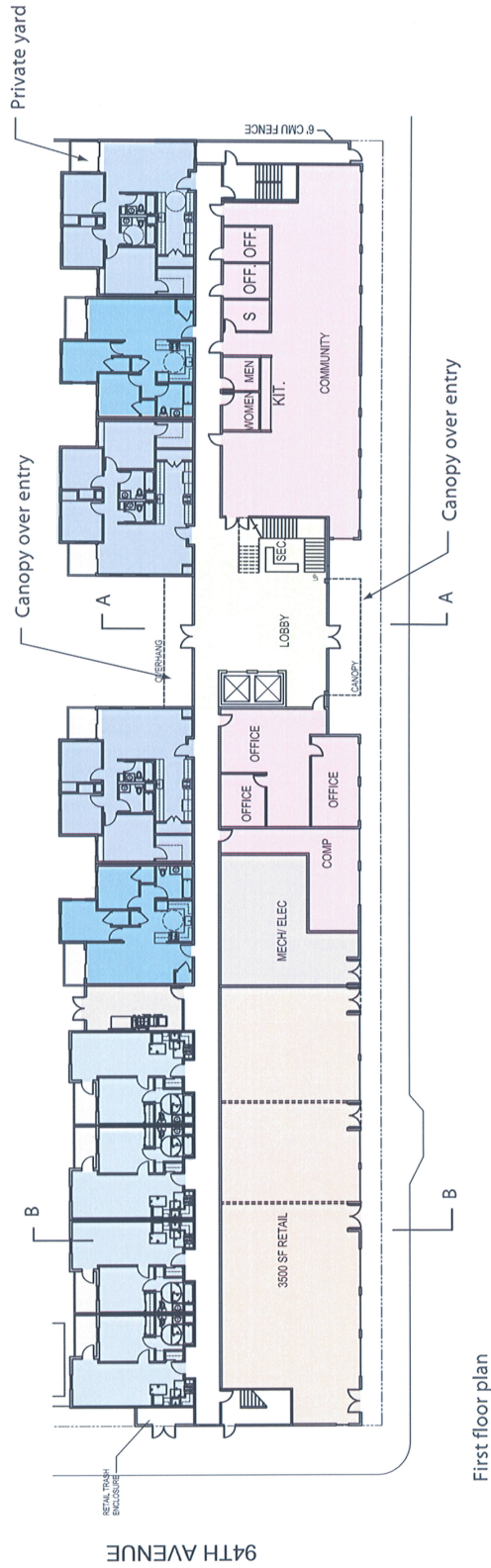
**Michael
Willis
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94th and International
Related California
9400 International Boulevard
Oakland, California



First floor plan



94th and International
 Related California
 9400 International Boulevard
 Oakland, California

Entitlements Package

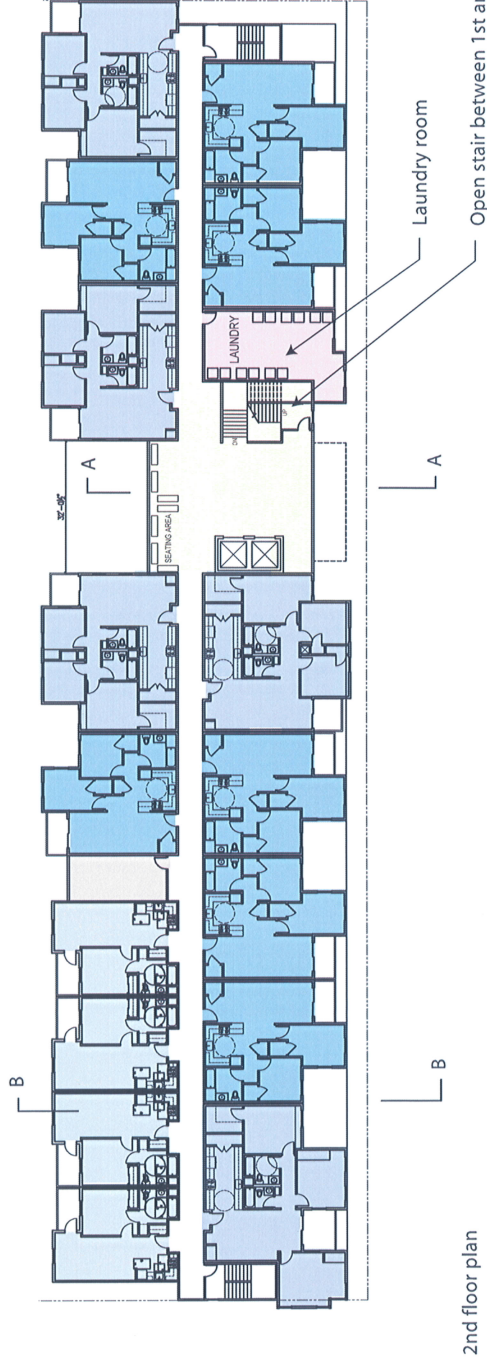
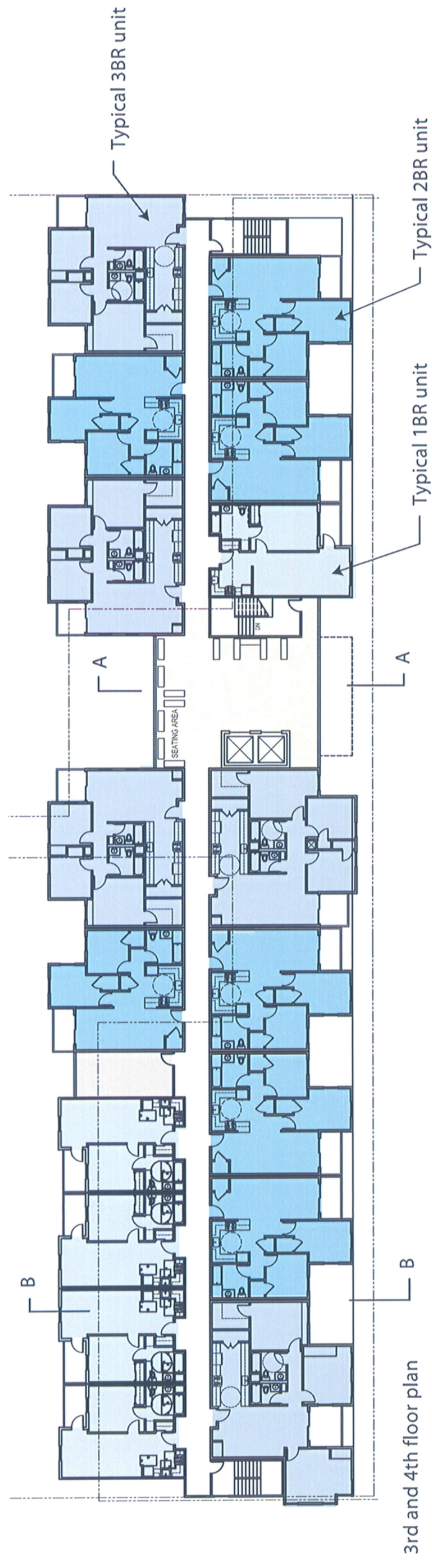
September 12, 2011

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MWA
 Architects





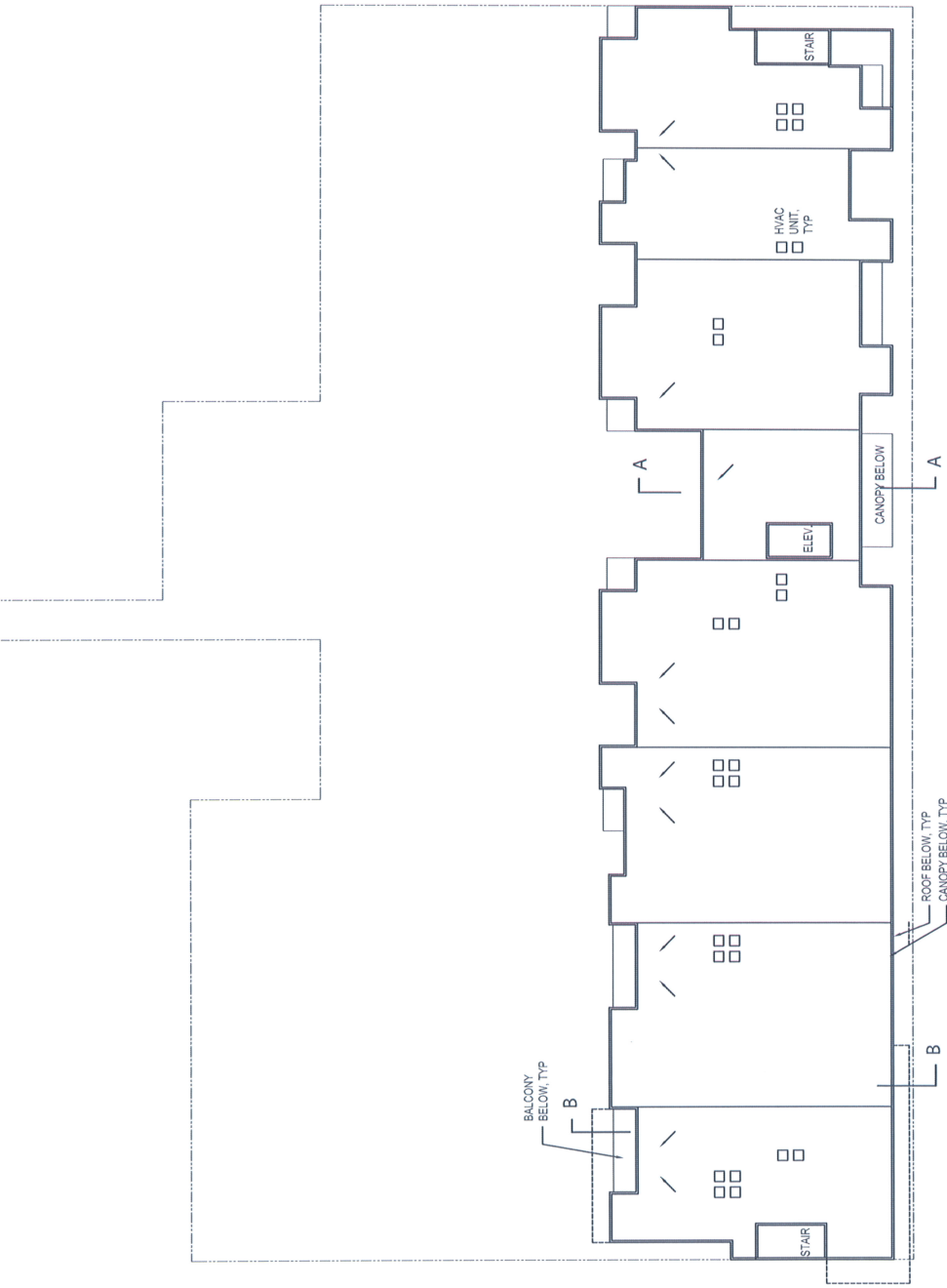
| | 1 BR | 2 BR | 3 BR |
|-----------|------|------|------|
| 1st Floor | 4 | 2 | 3 |
| 2nd Floor | 4 | 7 | 5 |
| 3rd Floor | 5 | 7 | 5 |
| 4th Floor | 5 | 7 | 5 |
| Totals | 18 | 23 | 18 |

59 units total



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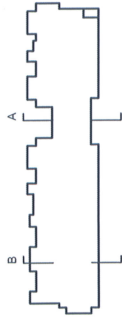
Roof plan



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Related California
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Oakland, California

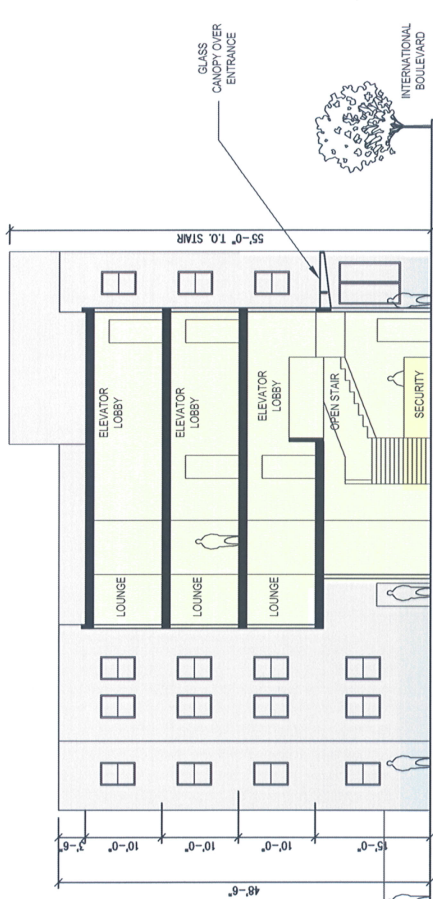
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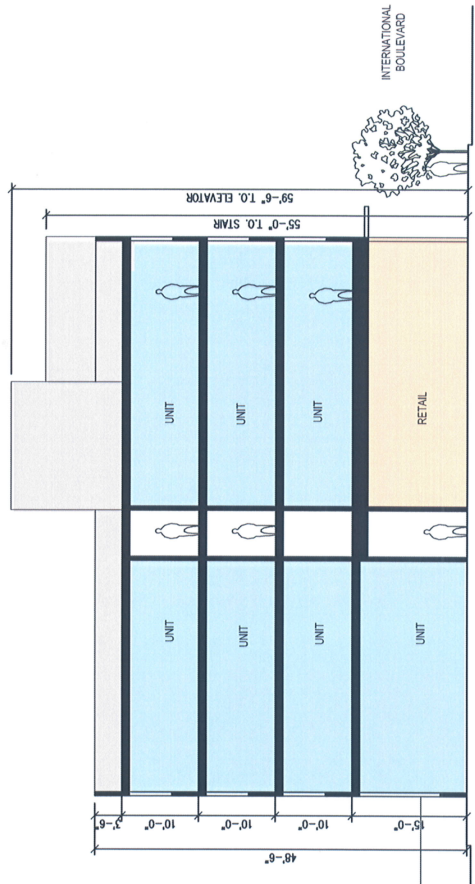
R-40 ZONE: 25' HEIGHT LIMIT

C-40 ZONE: NO HEIGHT LIMIT
1:1 SETBACK REQUIRED FROM
BOUNDARY WITH R-40 ZONE
STARTING AT 30' AT PROPERTY LINE



C-40 ZONE: NO HEIGHT LIMIT
1:1 SETBACK REQUIRED FROM
BOUNDARY WITH R-40 ZONE
STARTING AT 30' AT PROPERTY LINE

R-40 ZONE: 25' HEIGHT LIMIT



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Oakland, California

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January 20, 2012
Michael Willis Architects





NOT FOR
CONSTRUCTION

| | |
|-----------|-----------|
| REVISIONS | DATE |
| 1 | 2011.1.14 |
| 2 | 2011.2.28 |
| 3 | |
| 4 | |
| 5 | |

9400 INTERNATIONAL BOULEVARD
OAKLAND, CA

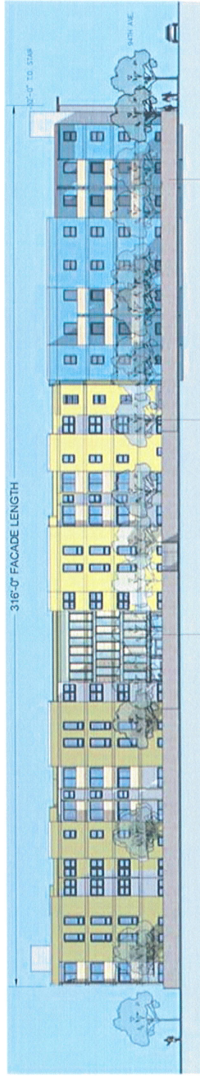
| | |
|----------------|--|
| DATE | 9/12/2011 |
| SCALE | 1/8" = 1'-0" |
| NOTES | If this drawing is not scaled, it is not to be used for construction. Scale based on overall dimensions. Scale is approximate. |
| DRAWN | DCAT |
| CHECKED | SM |
| DATE | 201081 |
| PROJECT NUMBER | 201081 |
| DRAWING | ELEVATIONS |
| SHEET NUMBER | |

A4

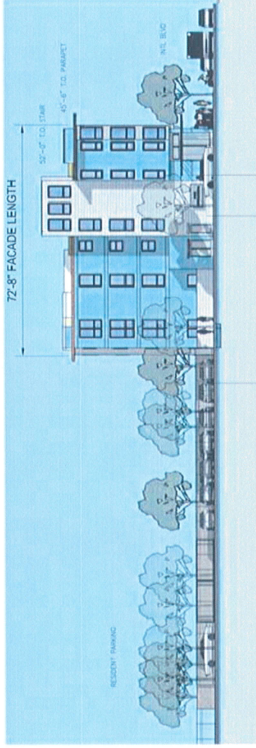
of sheets



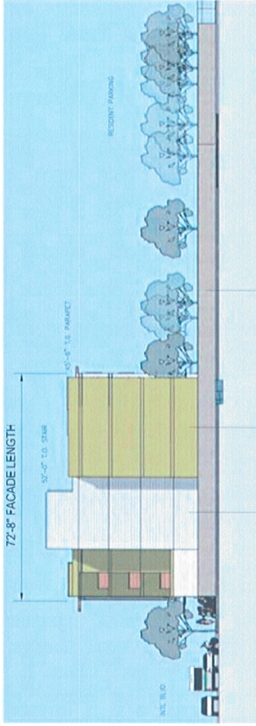
SOUTHWEST ELEVATION ALONG INTERNATIONAL BOULEVARD



NORTHWEST REAR ELEVATION



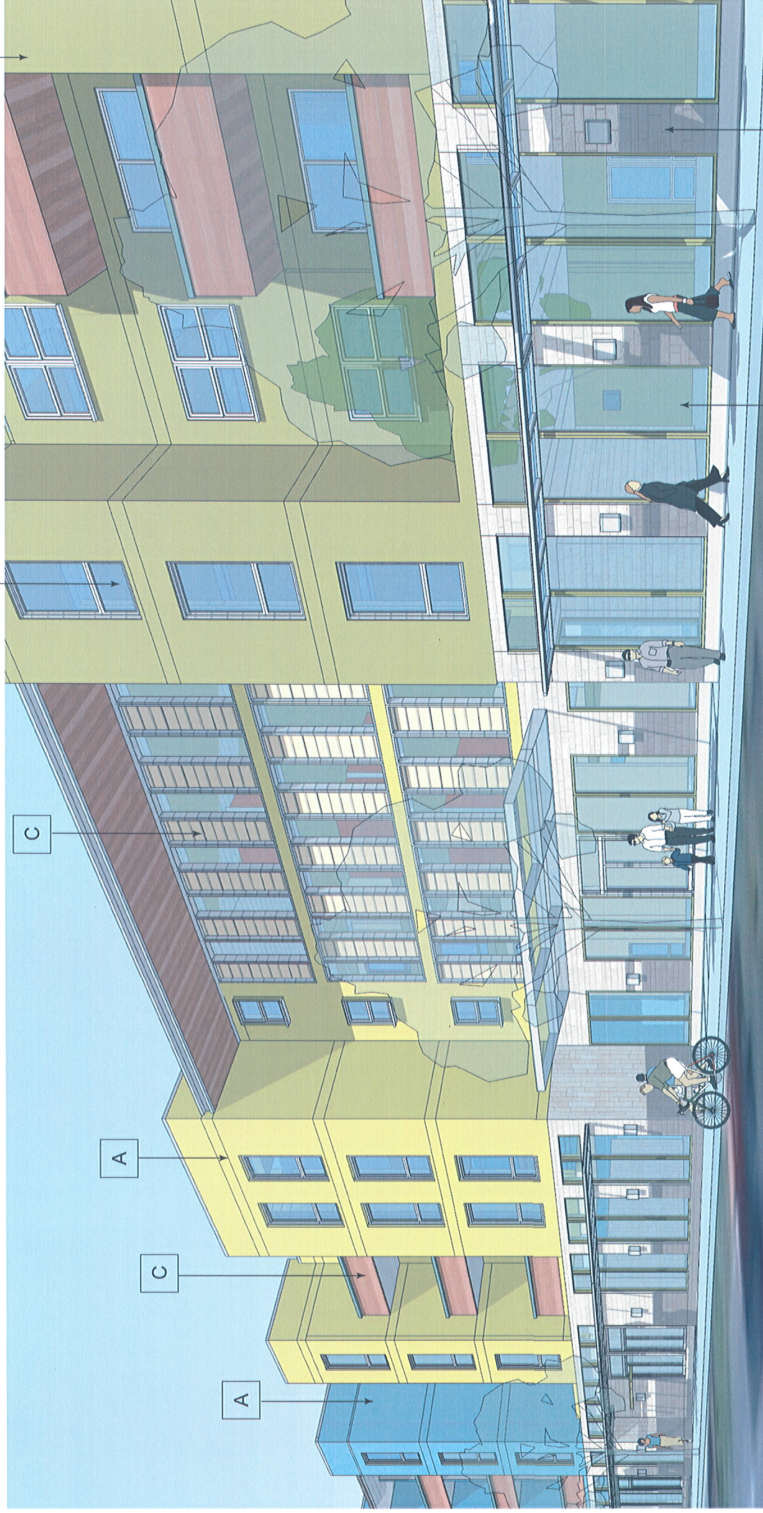
NORTHEAST ELEVATION ALONG 34TH AVENUE



SOUTHEAST ELEVATION

FOR DESIGN REVIEW

- A STUCCO
- B 4" TILE WAINSCOT
- C HARDY PLANKS OR PANELS
- D LOW-E GLASS



Materials

94th and International
 Related California
 9400 International Boulevard
 Oakland, California

Entitlements Package September 12, 2011

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View from corner of 94th and International

94th and International
 Related California
 9400 International Boulevard
 Oakland, California

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View from corner of 95th and International

94th and International
Related California
9400 International Boulevard
Oakland, California

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94105

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Rear view from 94th Avenue

94th and International
Related California
9400 International Boulevard
Oakland, California

Entitlements Package

September 12, 2011

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94105

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Rear view from south

94th and International
Related California
9400 International Boulevard
Oakland, California

Entitlements Package

September 12, 2011

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