

Location: 1230 37 th Avenue (see map on reverse)	
Assessors Parcel Numbers: 033 -2156-023 and 033-2158-008	
Proposal:	Construction of a new seven story, 47,700 square foot building containing a subacute care medical facility, associated medical offices, and ground floor commercial space.
Applicant:	Rick Dumas/Doug Davis, AE3 Partners (415)233-9991
Owner:	Jane Yoon
Planning Permits Required:	Design Review for new construction, Conditional Use Permit for a Health Care Civic Activity in the CN-1, S-15, or RM-1 zone, Conditional Use Permit for a parking reduction in the CN-3 zone, and Variance for height and setback in the RM-1 zone. The Conditional Use Permits are Major because they involve more than 25,000 square feet of floor area.
General Plan:	Neighborhood Center Mixed Use
Zoning:	S-15 Transit Oriented Development Zone, CN-3 Neighborhood Commercial Zone – 2, and RM-1 Mixed Housing Type Residential Zone – 1.
Environmental Determination:	Exempt, Section 15332 of the State CEQA Guidelines: In-Fill Development Projects and Section 15183 of the State CEQA Guidelines: Projects consistent with a Community Plan, General Plan or Zoning.
Historic Status:	Vacant lots; no historic properties
Service Delivery District:	4
City Council District:	5
For further information:	Contact case planner Neil Gray at 510-238-3878 or by email: ngray@oaklandnet.com

SUMMARY

This item was heard at the July 16, 2014 meeting but is being brought back because the Planning Commission never affirmatively adopted a motion regarding the project. The Commission did vote 3 ayes and 4 noes to approve for the reasons described in this report.

Staff continues to recommend approval because the project is consistent with General Plan policies regarding dense development near BART stations, transit supportive uses, high quality design, and compatibility with neighboring lower density zones. Also, the applicant has held community meeting on July 30, 2014 and dialogued with the residents and owners of neighboring properties as requested by members of the Planning Commission.

This report includes both findings for approval and denial, such that the Planning Commission has the option of either approving or denying the proposal.

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN14013

Applicant: Rick Dumas/Doug Davis, AE3 Partners

Address: 1230 37th Avenue

Zone: S-15, CN-3

BACKGROUND

At their July 16, 2014 meeting, the Planning Commission closed Item 3, the proposed construction of a seven-story medical building with ground floor retail space on a site between International Boulevard and the Fruitvale BART station, after voting three ayes and four noes on a motion to approve the project (see Attachment A, the July 16th staff report, for a full description and analysis of the project). However, no action was actually taken at the meeting because the Planning Commission never affirmatively approved a motion regarding the project. Even if an alternative motion to deny had been made that resulted in at least four aye votes, such a vote would have been considered a nonbinding “straw vote” because Findings for Denial were not available at the hearing.

Each of the four speakers at the hearing was in opposition to the project. In general, the speakers stated that the project would be out of scale in the neighborhood and have solar impacts on neighboring properties. The speakers also stated that the number of parking spaces provided in the project was insufficient due to a lack of on-street and fee parking lots in the neighborhood.

Commissioners Nagraj and Weinstein voted “no” because they felt that a medical facility would not bring the pedestrian vibrancy or activity that they envision for a transit oriented development. They stated that the proposed height of the building is consistent with the desired development intensity near transit and they would support the development if it had a large residential component. Commissioners Bonilla and Myres were generally in support of the project but voted “no” because they felt that there should more community outreach, particularly to the neighbors and property owners who spoke at the meeting.

Commissioners Patillo, Moore, and Coleman voted in favor of approval because they felt that the developer had met the requirements for community input by holding a public meeting across the street from the site at Las Bougainvilleas senior home on February 5, 2014 and presenting the proposal to the Design Review Committee on February 26, 2014. They also stated that the project would be an appropriate scale due to its location near International Boulevard and the Fruitvale BART station. Commissioner Patillo also stated that the street would be activated by visitors and employees of the facility, particularly those who use BART.

COMMUNITY INPUT SINCE THE JULY 16 MEETING

The applicant held a second community meeting at Las Bougainvilleas on July 30, 2014 that had Spanish and Vietnamese translation services. Approximately 25 people attended the meeting, which was noticed to all property owners and residents within 300 feet of the proposal. The following issues were raised regarding the project:

- Visitors and employees parking in residential areas due to insufficient parking at the site;
- Construction noise, dust, and debris;
- Construction damaging surrounding buildings;

- Community benefits;
- Trash removal;
- Solar impacts on 1240 37th Avenue;
- Employing local residents at the facility; and
- The possibility of trucks blocking the street due to the configuration of the loading area.

The applicant responded to these concerns by committing to:

- Discuss the possibility of hiring an independent engineer to survey the existing and post-construction condition of surrounding buildings;
- Time employee shift changes during BART operating hours;
- Designate off-street parking that must be used by employees;
- Provide transit incentives to employees;
- Allow residents of 1240 37th Avenue to use the roof deck of the facility; and
- Provide a direct phone line to the hospital for neighbors to report parking, loading, or traffic issues.

In response to the meeting, staff has included conditions of approval that limit the size of trucks servicing the facility; require a direct phone line to the facility for neighbors to report parking or traffic issues; and require shift changes during BART operating hours. These conditions are contained in Attachment B. A requirement that the developer provide a transportation demand management plan, including incentives for employees to use transit, is contained in the July 16, 2014 staff report.

KEY ISSUES AND IMPACTS

Staff continues to support the project for the reasons stated in the July 16, 2014 staff report (see Attachment A). In addition, the applicant held a community meeting that included a dialogue between the neighbors and property owners who spoke at the meeting.

Staff also believes that employees of the facility will boost transit use. The proposal is within a block from the Fruitvale BART Station, major AC Transit lines, and the future Bus Rapid Transit line. According to the applicant, the facility will employ 230 people on a .53 acre parcel, which is a very high employment density for a site outside of a downtown area. Employees tend to use transit that is near their work more frequently than residents because walking to a transit facility is usually the only available option at the work end of a commute, whereas, commuters can drive between a transit station and their home. Further, parking is less available at the work end of a trip in an urban environment, making transit a more attractive option.

Staff agrees with Commissioners Nagraj and Weinstein's opinion that the pedestrian vibrancy, transit use, and activity created by high density residential buildings is an important element of transit oriented development and urban "place-making". However, staff also believes that

activities that support transit use such as the proposed health facility can also be an important element of transit oriented development.

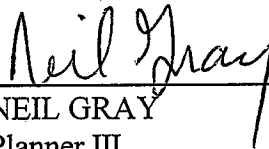
OPTIONS

The Planning Commission can make a final decision regarding the proposal at this meeting. If the Planning Commission votes to approve the project, the Findings and Conditions of Approval in the July 16, 2014 staff report, which is contained in Attachment A, would apply. Attachment C contains alternative findings if the Commission votes to deny the project.

RECOMMENDATIONS:


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

Prepared by:



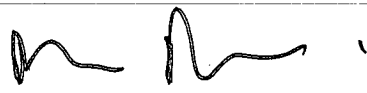
NEIL GRAY
Planner III

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission:



DARIN RANELLETTI, Deputy Director
Planning and Building

ATTACHMENTS:

- A. July 16, 2014 Staff Report, including Findings for Approval
- B. Additional Conditions of Approval
- C. Findings for Denial

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For further information:	Contact case planner Neil Gray at 510-238-3878 or by email: ngray@oaklandnet.com

SUMMARY

The proposed project includes the new construction of a seven-story medical building containing an approximately 47,700 square-foot subacute medical care facility, 13,334 square feet of related medical offices, and 3,316 square feet of ground floor commercial space. A subacute medical facility is a hospital that serves patients who have been discharged from a traditional hospital but require care and rehabilitation services prior to returning home.

Staff recommends approval because the project is consistent with General Plan policies regarding constructing dense development near BART stations, high quality design, and compatibility with neighboring lower density zones.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: PLN14013

Applicant: Rick Dumas/Doug Davis, AE3 Partners

Address: 1230 37th Avenue

Zone: S-15, CN-3

PROPERTY AND NEIGHBORHOOD DESCRIPTION

The proposed project site is 23,217 square feet and consists of two vacant interior lots. One is a through lot that fronts both 37th and 38th Avenues and the other only faces 38th Avenue.

The site is between the Fruitvale Commercial District on International Boulevard and the Fruitvale BART station. Single family homes facing 37th and 38th Avenues are located to the south of the site, toward the BART station. The 38th Avenue side of the site is adjacent to the rear of a parcel containing a three-story commercial building facing International Boulevard. A narrow parcel that contains a two-story apartment building with a "C" rating from Oakland's Office of Cultural Survey is between the 37th Avenue side of the site and parcels facing International Boulevard. Las Bougainvilleas, a four-story senior affordable housing development, is across 37th Avenue to the west of the site. The site is not within a historic district.

PROJECT DESCRIPTION

The proposed project includes the new construction of a building containing an approximately 47,700 square-foot, 136-bed subacute care hospital. The medical facility would serve patients who have been discharged from a traditional hospital but require care and rehabilitation services prior to returning home. The proposal differs from a traditional skilled nursing facility because it will not provide permanent care. The project also includes 13,334 square feet of related medical offices in the upper-stories of the building, 3,316 square feet of ground floor commercial space, and 29 parking spaces.

The proposed plans and renderings are contained in Attachment A.

Site Plan

37th Avenue Side of Site

A pedestrian entrance to the facility and two commercial spaces will face 37th Avenue. This ground floor would have no setback from the street to maximize the visibility and viability of the commercial spaces.

A 5'-6" ground floor interior lot line setback is provided on the southern side of the 37th Avenue side of the site. The upper-stories of this side elevation are stepped back an additional seven feet to reduce impacts on the neighboring single family homes to the south.

A 6'-6" setback is provided at the northern interior property line that is shared with the lot containing a two-story, multi-family residential building. Solar access to this adjacent lot during the winter would be significantly blocked due to the height of the proposed building and the southerly path of the sun. This topic is discussed in the "Key Issues and Impacts" section, below.

38th Avenue Side of Site

Two one-way curb cuts and driveways are proposed to be adjacent to 38th Avenue. The southerly driveway is an entrance that expands into an outdoor, angled parking area that is adjacent to a lot containing a single family home. A 30-foot setback created by the driveway and parking area, coupled with the relatively short, 55-foot tall southern building elevation provides significant solar access and visual relief to the neighboring home. The driveway provides access to parking and loading areas within the building and the vehicle exit back onto 38th Avenue. A 25-foot separation is proposed between curb cuts on 38th Avenue to preserve on-street parking. No setback is proposed for the northern property line; the applicant will acquire an easement from the adjacent property to the north to allow windows on this side of the building. A roof deck for employees and patients would be located at the northeast portion of the site.

Elevations and Building Design

Overall, the building has a contemporary design with flat roofs, modern materials, and interlocking volumes. The volumes are created through a combination of articulations in the façade, color changes, and different window patterns and materials.

A prominent ground floor is established on the 37th Avenue elevation through a 14'-6" height, limited setbacks, and materials that are differentiated from other stories. This prominence, along with the piers, tile base, recessed entrance doors, and significant window area of the ground floor, provide the elements of a successful storefront.

The 37th Avenue elevation establishes a four-story, approximately 55-foot base that wraps around to the elevations on the 38th Avenue side of the site. Its rhythm of articulations and color and material changes reduces the scale of the building and relates to the pattern of commercial buildings on International Boulevard.

The building steps back 10 feet above the four-story, 55-foot base and reaches 90 feet in height on the 37th Avenue side of the site. A step back at this level relates to the height of the four story senior residential facility across the street and reduces the scale of the proposal. This upper facade is predominantly windows with prominent metal frames and sash, a style consistent with the office uses in this part of the building. The southern part of this façade contains a 23-foot wide stair tower with a window and metal panel exterior that reaches a height of 97'-6".

There is no construction proposed above the 55-foot tall base on the 38th Avenue side of the site to respect the lower density zones that are adjacent and across the street (see Key Issues and Impacts section, below). This side of the site has a more functional appearance with driveways, landscaping, and a stair tower. Like the 37th Avenue side, the tower has windows that allow views of internal stairs.

DESIGN REVIEW COMMITTEE REVIEW

The project was presented to the Design Review Committee (DRC) on February 26, 2014. The members of the DRC were supportive of the project, stating that the proposed building design is well related to the area, parking is sufficient, and orientation away from neighboring properties in lower density zones was appropriate. Each of the commissioners stated that the entrance shared by the hospital and retail space on the 37th Avenue side of the site created an awkward floor plan and that the side of the storefront needed more transparency. The DRC recommended a lobby on that side of the site to simplify the retail configuration and an additional tree on 37th Street. Commissioner Patillo stated that the fencing on the site should have horizontal planks to emphasize the horizontality of the building design.

COMMUNITY OUTREACH

On February 5, 2014, the applicant held a community meeting at Las Bougainvilleas regarding the proposal. Property owners and residents within 300 feet of the development site were notified of the meeting and approximately 30 people attended, mostly residents of the senior facility. The attendees were generally supportive of the project and pleased that the property is planned for improvement. Concerns were raised regarding ambulance noise, parking, and reflection from the windows on the upper-stories of the building. The applicant responded by stating that the medical facility will have minimal ambulance noise because it does not have an emergency room, the windows would be tinted, and the site is in a transit center and near ample affordable parking lots. Staff concurs with the responses provided by the developer.

GENERAL PLAN ANALYSIS

The proposed project is consistent with the General Plan for the following reasons.

The entire site is mapped with a "Neighborhood Center Mixed Use" land use classification in the Land Use and Transportation Element of the General Plan ("General Plan"). This classification is intended to create, preserve, and enhance mixed use neighborhood commercial centers that are typically characterized by pedestrian oriented storefronts. The commercial activities proposed for the 37th Street frontage provide the active ground floor storefronts envisioned by the classification.

The proposal also meets the overall objective of the General Plan to promote dense development near transit service, especially near BART stations, to increase transit use and the viability of commercial districts. The "Improvement Strategies" for the San Antonio/Fruitvale/Lower Hills area described on page 53 of the General Plan specifically states that the City should "bring key underutilized properties back into productive use, such as...properties near BART". The proposal is also located in a "Grow and Change" area of the General Plan Strategy Diagram.

Areas designated “Grow and Change” are areas in Oakland where the General Plan intends growth to be focused and development intensity to increase.

Floor Area Ratio (FAR)

The proposed FAR (floor area divided by lot area) for the site is 2.8, which is within the 5.0 maximum under Neighborhood Center Mixed Use General Plan classification.

General Plan Policies

The proposal is consistent with several General Plan policies, including:

Policy T2.1 Encouraging Transit Oriented Development

Policy T2.2 Guiding Transit Oriented Development

Policy T2.3 Promoting neighborhood Services

Policy T2.4 Linking Transportation and Economic Development

Policy T2.5 Linking Transportation and Activities

Policy N1.1 Concentrating Commercial Development

Policy N1.5 Designing Commercial Development

Policy N1.8 Making Compatible Development

Policy N2.2 Providing Distributed Services

Policy N2.5 Balancing City and Local Benefits of Institutions

ZONING ANALYSIS

Applicable Zoning Designations

The site spans three zoning districts. The through lot is zoned S-15 (Transit Oriented Development Zone) on the 37th Avenue side of the site and RM-1 (Mixed Housing Type Residential - 1) on the 38th Avenue side. The parcel that only faces 38th Avenue is in the CN-3 (Neighborhood Center Mixed Use – 3) zone (see map, page 2).

The following are the descriptions of these zones from the Planning Code:

17.33.010 Title, intent, and description. The intent of the CN zones is to create, preserve, and enhance mixed use neighborhood commercial centers. The centers are typically characterized by smaller scale pedestrian oriented, continuous and active store fronts with opportunities for comparison shopping.

17.97.010 Title, purpose, and applicability. The S-15 Zone is intended to create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-

density residential, commercial, and mixed-use developments to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of residential, civic, commercial, and light industrial activities, allowing for amenities such as benches, kiosks, lighting, and outdoor cafes; and by limiting conflicts between vehicles and pedestrians, and is typically appropriate around transit centers such as Bay Area Rapid Transit (BART) stations, AC Transit centers, and other transportation nodes.

17.17.010 Title, intent, and description. The intent of the RM regulations is to create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.

The 37th Street side of the site is in the S-15 Transit Oriented Development zone that is designated for the Fruitvale BART Station area. The parcel with a CN-3 designation on 38th Avenue is a continuation of the zone designated to the shopping district on International Boulevard. The RM-1 zone starts at the side of the through lot facing 38th Avenue.

Development Standards

The following table contains the development standards for each zone and a determination of conformity to these requirements. Note that the 37th Street side of the site is in the 90-foot height maximum area and the parcel on 38th Street that is zoned CN-3 is in a 75-foot height area.

Zoning requirements for proposal			
	Requirement	Proposed	Compliant?
S-15 area of site			
Maximum Height	90 feet	90 feet ¹	Yes
Minimum Setbacks	None required	None	Yes
Maximum Floor Area Ratio	5.0	2.8	Yes
CN-3 portion of site			
Maximum Height	75 feet	55 feet	Yes
Minimum Setbacks	None required	None	Yes
Ground Floor Façade Transparency	Not applicable on a secondary frontage		Yes
Minimum Height of Ground Floor Nonresidential Facilities	12 feet	15'-6"	Yes
Driveway Access	Required to be on secondary frontage	On secondary frontage	Yes
Maximum Floor Area Ratio	5.0	2.8	Yes
RM-1 portion of site			
Maximum Height	25 feet	55 feet	No
Minimum Front Yard Setback	20 feet	10 feet	No
Minimum Rear Yard Setback	NA	NA	NA
Minimum Side Yard Setback	5 feet	6 feet southern side; no setback on northern side	Yes
Minimum Parking			
	42 spaces w/o a Conditional Use Permit; 25 w/ a Conditional Use Permit ²	29 spaces	Yes (w/ Conditional Use Permit)

¹The proposed stair tower has a maximum height of approximately 98 feet and is an allowed projection into the maximum height under Section 17.108.030 of the Planning Code.

²This conditional use permit allows for a fifty percent reduction in the CN-1 zone per Section 17.290(C). In the S-15 zone, Section 17.116.060 states that required parking for hospitals is prescribed the Director of City Planning. Staff determined the appropriate number of parking spaces by applying the requirements of the CN-1 zone to the side of the site on 37th Avenue.

The above table shows that a variance is required for the proposed maximum height and minimum front yard in the RM-1 portion of the site and a conditional use permit is required to reduce the required number of parking space. These items are further discussed in the "Key Issues and Impacts" section of this report.

Land Use Regulation

The subacute care facility and its associated offices are considered a "Health Care Civic Activity" under Chapter 17.10 of the Planning Code and is conditionally permitted in each applicable zone. The retail activities are permitted in the S-15 zone (there are no medical offices or retail proposed in the RM-1 or CN-3 zones).

ENVIRONMENTAL REVIEW

Staff finds that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15332 (In-Fill Development Projects) and 15183 (Projects consistent with a Community Plan, General Plan or Zoning). Attachment B contains a more detailed environmental analysis.

KEY ISSUES AND IMPACTS

Impacts on neighborhood properties

Staff believes the project strikes the appropriate balance between implementing the transit oriented development goals of the General Plan and respecting neighboring lower-density development. As mentioned in the project description, the building is significantly shifted away from the property containing the single family home to the south of the 38th Avenue side of the site. This massing and site plan is appropriate because the parcel is in the RM-1 Zone, which is designated for a medium- to low-density residential development.

There is less of a setback from the lot to the south of the 37th Avenue side of the site because that parcel is in the S-15 Transit Oriented zone, which is a zone that encourages lower density parcels to be eventually redeveloped more intensely. Further, shadow studies show minimal solar impacts on the parcel because it will retain its southern exposure to the sun.

The proposal will have the greatest solar impact on the two-story apartment building at 1240 37th Avenue that is between the project and buildings facing International Boulevard. A shadow study of the site (see Attachment A) shows that the parcel would be fully shadowed by the proposed structure at 10:00 am, 12:00 pm, and 2:00 pm during the winter solstice and by 2:00 pm during the summer solstice.

Staff believes this is acceptable because the site will eventually be redeveloped due to the intention of the General Plan, zoning, and location of the parcel. Eliminating the solar impact would require a significant reduction in the height of the project, which would be inconsistent with General Plan policies. The subject site and 1240 37th Avenue are in the S-15 Transit Oriented Development zone, where the General Plan and Zoning intend intense development.

1240 37th Avenue is also between the hospital site and commercial parcels fronting International Boulevard, a major corridor near a BART station where the General Plan and zoning also intend major development.

Height and Setback Variance

The site straddles the border between the RM-1 and CN-3 zones. In order to make the development feasible for a large medical facility, the applicant designed the 38th Avenue side of the building as if it were entirely within the CN-3 zone, which resulted in variances for front yard setback (20 feet required, 10 feet provided) and height (30 feet required, 55 feet provided).

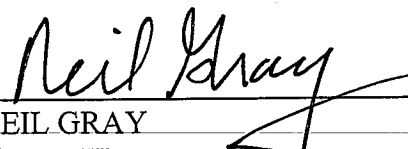
Staff supports these variances and this approach for the following reasons. The RM-1 zoning is in conflict with the site's Neighborhood Center Mixed Use (NCMU) General Plan map classification because NCMU is intended to allow a greater variety of uses and building intensity than the RM-1 zone allows. On the other hand, the CN (Neighborhood Commercial) zones, including the CN-3 zone, are mapped to implement the intent of the NCMU General Plan Classification. Notably, the project would not require a variance if the entire 38th Avenue side of the site were zoned CN-3.

Further, the proposed 30-foot setback and upper story step-backs will reduce the impact of the project on the neighboring homes in the RM-1 zone. Finally, supporting the variances is consistent with General Plan policies regarding more intense development near BART Stations.

RECOMMENDATIONS:

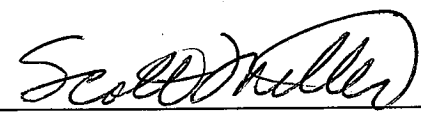
1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit, Design Review, and Variances subject to the attached findings and conditions.

Prepared by:



NEIL GRAY
Planner III

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission:



DARIN RANELLETTI, Deputy Director
Planning and Building

ATTACHMENTS:

- A. Project Plans, renderings, and shadow studies
- B. CEQA Analysis

FINDINGS FOR APPROVAL:

This proposal meets the required findings under Sections 17.136.050, General Design Review Criteria as set forth below, 17.134.050, General Use Permit Criteria, and 17.148, General Variance Criteria. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

Section 17.136.050 (General Design Review Criteria):

- A. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060**

Overall, the building has a contemporary design with flat roofs, modern materials, and interlocking volumes. The volumes are created through a combination of articulations in the façade, color changes, and different window patterns and materials.

A prominent ground floor is established on the 37th Avenue elevation through a 14'-6" height, limited setbacks, and materials that are differentiated from other stories. This prominence, along with the piers, tile base, recessed entrance doors, and significant window area of the ground floor, provide the elements of a successful storefront that relate to other storefronts in the neighborhood.

The rhythm and pattern of articulations, color, windows, and materials reduces the scale of the building, creates a successful composition, and relates to the pattern of commercial buildings on International Boulevard. The proposal also steps back to relate to and reduce shadow and privacy impacts on the four-story senior residential facility across 37th Street and neighboring lower density homes.

Also, there is no construction proposed above the 55-foot tall base on the 38th Avenue side of the site to respect the lower density zones that are adjacent and across the street (see Key Issues and Impacts section, below).

The proposal also includes a variety of high quality materials, including stucco with wood panel accents on the base of the building, profile metal panels on the towers, colored metal window frames, and durable brick veneer at the bottom of the ground floor.

- B. That the proposed design will be of a quality and character which harmonizes with, and**

FINDINGS

serves to protect the value of, private and public investments in the area;

The proposed high quality design and materials and relationship to neighboring properties will serve to protect the value of the neighborhood. As discussed in (A), above, the rhythm and patterns established by articulations, color, windows, and materials reduces the scale of the building, creates a successful composition, and relates to the pattern of commercial buildings on International Boulevard. The building is massed to relate to and reduce shadow and privacy impacts on the four-story senior residential facility across 37th Street and neighboring lower density homes.

- C. That 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 have been adopted by the Planning Commission or City Council.**

As described in the General Plan Analysis section, above, the project is consistent with the General Plan. The project is also consistent with the International Boulevard Transit Oriented Development Plan, which recommends focusing development activity and resources to TOD catalyst areas.

Section 17.134.050 (General Use Permit Criteria):

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

As discussed in the Design Review Criteria Section, above, the rhythm and patterns established by articulations, color, windows, and materials reduces the scale of the building, creates a successful composition, and relates to the pattern of commercial buildings on International Boulevard. The building is massed to relate to and reduce shadow and privacy impacts on the four-story senior residential facility across 37th Street and neighboring lower density homes. Traffic studies analyzing the project determined that intersections surrounding the site would continue to operate at acceptable levels through 2035. Ambulances will not serve the facility and will therefore not create noise disturbance to the neighborhood.

The retail space on 37th Avenue will contribute to the Fruitvale shopping district and the medical facility will bring potential customers into the neighborhood.

FINDINGS

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

The site plan includes a one-way automobile entrance that conveniently leads to an elevator and waiting area then to the exit. The proposal includes only two curb cuts, which are separated by approximately 20 feet, enough distance to preserve an off-site parking space. Rooms for rehabilitation, medical treatment, offices, and administration are all conveniently accessible from one another.

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

Intensely developing a site near a BART Station will contribute to transit use and is consistent the transit oriented development policies of local, regional, and state government. The proposed retail space will contribute to the successful operation of the Fruitvale Commercial District and the health facility will provide an essential rehabilitation service for the community and region.

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

See General Design Review Criteria, above.

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

As described in the General Plan Analysis section, above, the project is consistent with the General Plan. The project is also consistent with the International Boulevard Transit Oriented Development Plan, which recommends focusing development activity and resources to TOD catalyst areas.

Section 17.148.050 (General Variance Criteria):

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

FINDINGS

Staff supports the variances because it will improve the operational efficiency of the project. The site straddles the border between the RM-1 and CN-3 zones. The applicant designed the 38th Avenue side of the building as if it were entirely within the CN-3 zone, which resulted in variances for front yard setback (20 feet required, 10 feet provided) and height (30 feet required, 55 feet provided) in the RM-1 area of the site. This approach was required to contain the necessary operational area for beds, waiting areas, treatment rooms, equipment, extra wide corridors, and large elevators required for a hospital in a constrained urban site.

Further, the RM-1 zoning is in conflict with the site's Neighborhood Center Mixed Use (NCMU) General Plan map classification because NCMU is intended to allow a greater variety of uses and building intensity than the RM-1 zone allows. On the other hand, the CN (Neighborhood Commercial) zones, including the CN-3 zone, are designated to implement the intent of the NCMU General Plan Classification. Notably, the project would not require a variance if the entire 38th Avenue side of the site were zoned CN-3.

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

Strict compliance would preclude an effective design solution due to the reasons stated in (A), above.

- C. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The variance would most impact the adjacent parcel containing the single family home to the south of the site. A 30-foot setback created by the driveway and parking area, coupled with the relatively short, 55-foot tall southern building elevation provides significant solar access and visual relief to the neighboring home. The home's southern exposure to the sun also minimizes the impact of the project on that lot. A solar access study contained in Attachment A shows minimal solar impact from development on the home.

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

The variance is consistent with the purposes of the zoning regulations. The regulation is intended to allow height consistent with middle density neighborhoods. However, the proposal straddles the border between the RM-1 and the CN-3 zones and is significantly massed away from the neighboring single-family home in the RM-1 zone.

FINDINGS

- E. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050**

See General Design Review Criteria, above.

- F. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

As described in the General Plan Analysis section, above, the project is consistent with the General Plan. The project is also consistent with the International Boulevard Transit Oriented Development Plan, which recommends focusing development activity and resources to TOD catalyst areas.

CONDITIONS OF APPROVAL

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 April 14, 2014 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: Design Review for new construction per Chapter 17.136 of the OMC, Conditional Use Permit for a Health Care Civic Activity in the CN-1, S-15, or RM-1 zone, Conditional Use Permit for a parking reduction in the CN-1 zone per Chapter 17.116, and Variance for height and setback in the RM-1 zone.

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire two calendar 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. 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.

13. 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.

14. Compliance with the Green Building Ordinance, OMC Chapter 18.02***Prior to issuance of a demolition, grading, or building permit***

The applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the Green Building Ordinance, OMC Chapter 18.02.

- a) The following information shall be submitted to the Building Services Division for review and approval with the application for a building permit:
 - i. Documentation showing compliance with Title 24 of the 2008 California Building Energy Efficiency Standards.
 - ii. Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.

- iii. Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - iv. Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (b) below.
 - v. Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - vi. Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - vii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- b) The set of plans in subsection (a) shall demonstrate compliance with the following:
- i. CALGreen mandatory measures.
 - ii. All pre-requisites per the LEED checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit.
 - iii. LEED Silver per the appropriate checklist approved during the Planning entitlement process.
 - iv. All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Planning and Zoning Division that shows the previously approved points that will be eliminated or substituted.
 - v. The required green building point minimums in the appropriate credit categories.

During construction

The applicant shall comply with the applicable requirements CALGreen and the Green Building Ordinance, Chapter 18.02. The following information shall be submitted to the Building Inspections Division of the Building Services Division for review and approval:

- a) Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- b) Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- c) Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

CONDITIONS OF APPROVAL

After construction, as specified below

Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation to the Green Building Certification Institute and attain the minimum certification identified in subsection (b) above. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Planning and Zoning Division the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.

15. 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.

16. 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.

17. 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.

18. 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

19. Construction-Related Air Pollution Controls (Dust and Equipment Emissions)

Ongoing throughout demolition, grading, and/or construction

During construction, the project applicant shall require the construction contractor to implement all of the following applicable measures recommended by the Bay Area Air Quality Management District (BAAQMD):

- a) Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). 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) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) 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.
- e) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f) Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.

CONDITIONS OF APPROVAL

- h) All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- i) Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.
- j) All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- k) All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.
- l) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- m) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- n) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.
- o) Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.
- p) Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- q) The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- r) All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- s) Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
- t) Minimize the idling time of diesel-powered construction equipment to two minutes.
- u) The project applicant shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate matter (PM) reduction compared to the most recent California Air Resources Board (CARB) fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as they become available.

CONDITIONS OF APPROVAL

- v) Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).
- w) All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- x) Off-road heavy diesel engines shall meet the CARB's most recent certification standard.

20. Exposure to Air Pollution (Toxic Air Contaminants)

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

a. Health Risk Reduction Measures

The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to exposure to toxic air contaminants. The project applicant shall choose **one** of the following methods:

- 1) The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with the California Air Resources Board (CARB) and the Office of Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of project residents/occupants/users to air pollutants. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City.
- 2) The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
 - Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for residents, and other sensitive populations, in the project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-13 or higher. As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required.
 - Phasing of residential developments when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible.
 - The project shall be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these sources as feasible. If near a distribution center, residents shall not be located immediately adjacent to a loading dock or where trucks concentrate to deliver goods, if feasible.
 - Sensitive receptors shall not be located on the ground floor, if feasible.

- Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (*Pinus nigra* var. *maritima*), Cypress (*X Cupressocyparis leylandii*), Hybrid poplar (*Populus deltoids X trichocarpa*), and Redwood (*Sequoia sempervirens*).
- Within the project site, sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible.
- Within the project site, existing and new diesel generators shall meet CARB's Tier 4 emission standards, if feasible.
- Within the project site, emissions from diesel trucks shall be reduced through implementing the following measures, if feasible:
 - Installing electrical hook-ups for diesel trucks at loading docks.
 - Requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards.
 - Requiring truck-intensive projects to use advanced exhaust technology (e.g., hybrid) or alternative fuels.
 - Prohibiting trucks from idling for more than two minutes.
 - Establishing truck routes to avoid sensitive receptors in the project. A truck route program, along with truck calming, parking, and delivery restrictions, shall be implemented.

b. Maintenance of Health Risk Reduction Measures

Ongoing

Requirement: The project applicant shall maintain, repair, and/or replace installed health risk reduction measures, including but not limited to the HVAC system (if applicable), on an ongoing and as-needed basis. Prior to occupancy, the project applicant shall prepare and then distribute to the building manager/operator an operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.

21. Exposure to Air Pollution (Toxic Air Contaminants: Gaseous Emissions)

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

- a) Indoor Air Quality: In accordance with the recommendations of the California Air Resources Board (CARB) and the Bay Area Air Quality Management District, appropriate measures shall be incorporated into the project design in order to reduce the potential risk due to exposure to toxic air contaminants to achieve an acceptable interior air quality level for sensitive receptors. The project applicant shall retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the CARB and the Office of Environmental Health and Hazard Assessment requirements to determine the exposure of project residents/occupants/users to air pollutants prior to issuance of a demolition, grading, or building permit. The HRA shall be submitted to the Planning and Zoning Division for review and approval. The applicant shall implement the approved HRA recommendations, if any. If the HRA concludes that the air quality

risks from nearby sources are at or below acceptable levels, then additional measures are not required.

- b) Exterior Air Quality: To the maximum extent practicable, individual and common exterior open space, including playgrounds, patios, and decks, shall either be shielded from the source of air pollution by buildings or otherwise buffered to further reduce air pollution for project occupants.

22. 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.

CONDITIONS OF APPROVAL

23. 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.

24. 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.

25. 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:
 - i. 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.
 - ii. Prohibition of Z-duct construction.

26. 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.

27. 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.
- 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.

28. 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.

29. 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.

30. 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;

CONDITIONS OF APPROVAL

- 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.

31. 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.

32. 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.

33. 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:
- e) i. For *Sequoia sempervirens*, three hundred fifteen square feet per tree;
- f) ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.

- g) 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.
- h) 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.

34. Archaeological Resources

Ongoing throughout demolition, grading, and/or construction

- a) Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.
- b) In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- c) Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

CONDITIONS OF APPROVAL

35. Human Remains***Ongoing throughout demolition, grading, and/or construction***

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

36. Paleontological Resources***Ongoing throughout demolition, grading, and/or construction***

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

37. Vibrations Adjacent Historic Structures***Prior to issuance of a demolition, grading or building permit***

The project applicant shall retain a structural engineer or other appropriate professional to determine threshold levels of vibration and cracking that could damage the "C" rated historic structure at 1236 37th Avenue and design means and methods of construction that shall be utilized to not exceed the thresholds.

38. Erosion and Sedimentation Control Plan***Prior to any grading activities***

- a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.660 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan

shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

Ongoing throughout grading and construction activities

- b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

39. 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:
- i. All proposed impervious surface on the site;
 - ii. Anticipated directional flows of on-site stormwater runoff; and
 - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - iv. Source control measures to limit the potential for stormwater pollution;
 - v. Stormwater treatment measures to remove pollutants from stormwater runoff; and
 - vi. 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.

CONDITIONS OF APPROVAL

- 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.

40. 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:

- a) 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
- b) 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.

41. Stormwater and Sewer

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

CONDITIONS OF APPROVAL

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.

42. Bicycle Parking

Prior to issuance of a building permit

The project applicant shall submit plans for review and approval of the Planning Department that contain the design and location of long- and short-term bike parking. At least two short term and two long term parking spaces shall be provided at the site. The design and location of the parking on the plans shall meet the standards set forth in Chapter 17.117 of the Planning Code and the Oakland Bicycle Facility Design Guidelines at www.oaklandbikes.info/design.

43. Lot Merger

Prior to obtaining a Building Permit

The project applicant shall obtain an approved Parcel Map Waiver from the Bureau of Planning to merge both lots at the site. This approval shall be notarized and recorded with the County of Alameda. Evidence of this notarization and recordation shall be submitted to the Bureau of Planning.

44. Windows

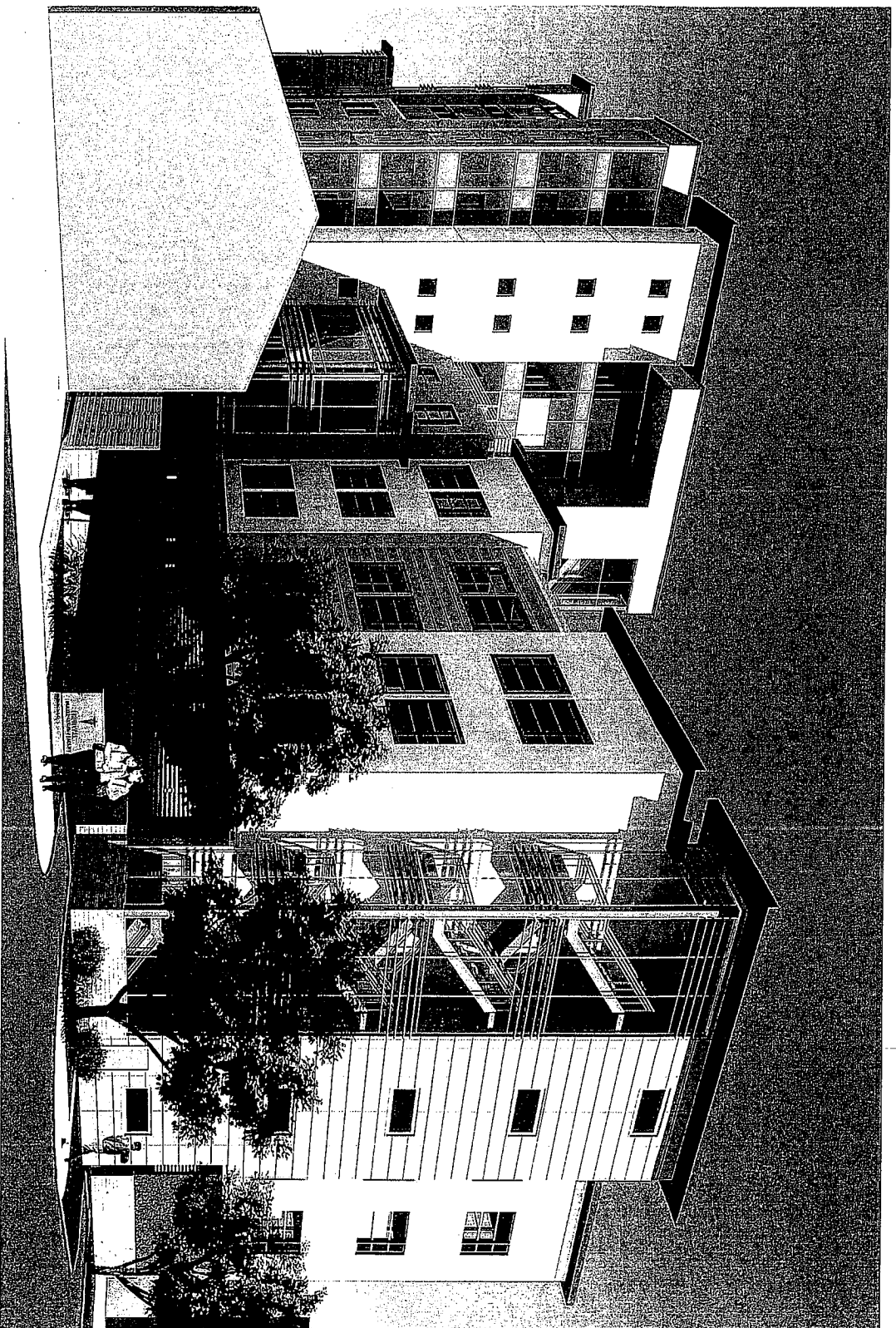
Prior to obtaining a Building Permit

The project applicant shall submit for review and approval by the Bureau of Planning a complete window schedule and window details.

APPROVED BY:

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

CONDITIONS OF APPROVAL

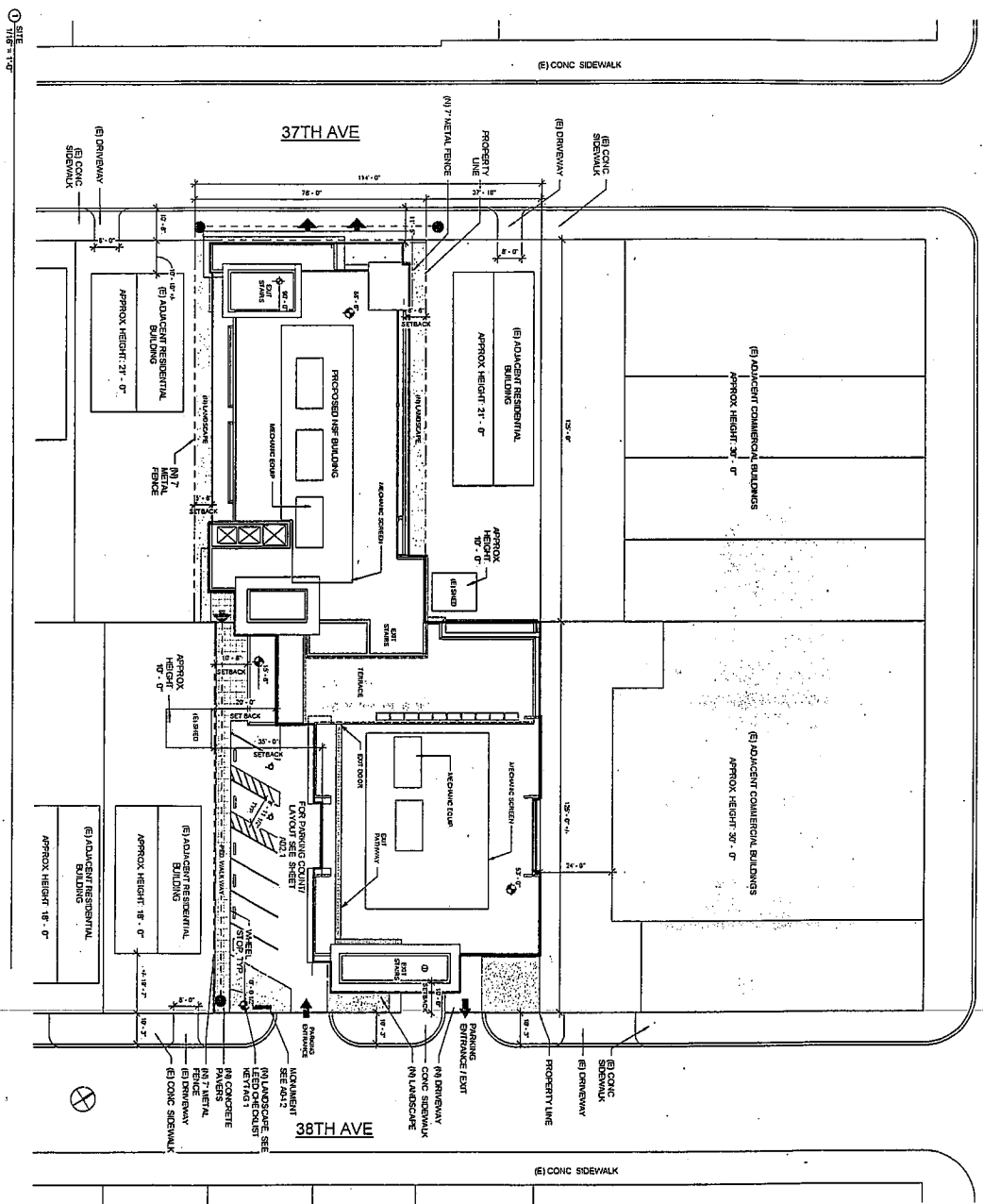


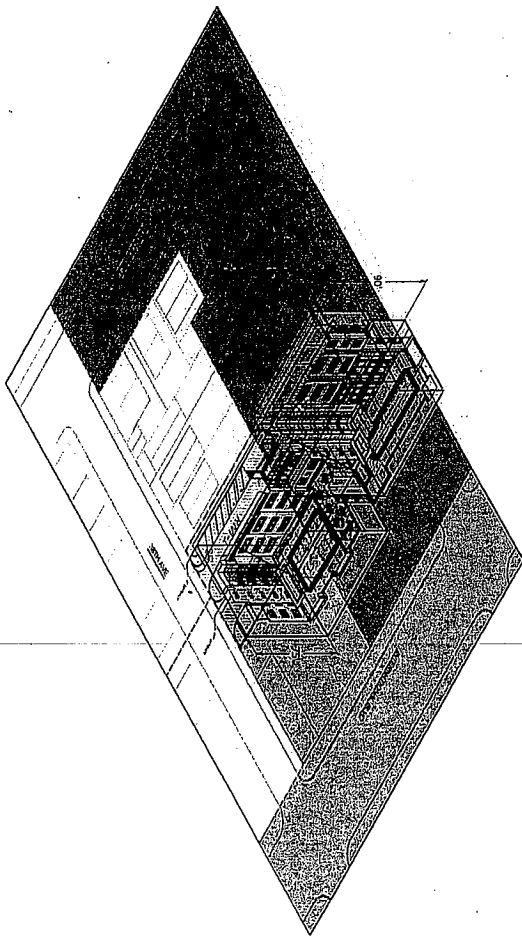
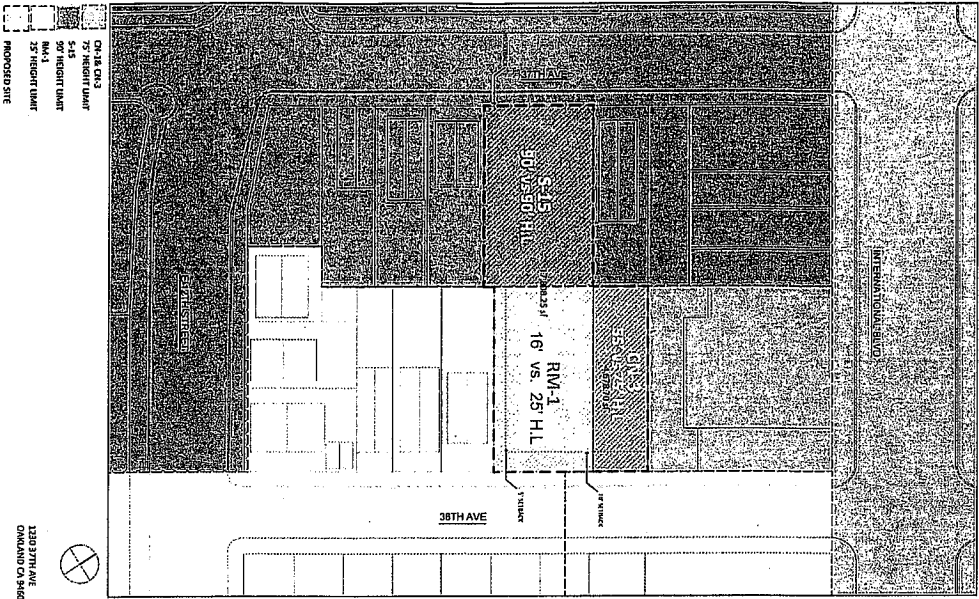


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DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
 1230 37TH AVE, OAKLAND, CA 94601

A0.2
SITE
 04/14/2014
 11X17 SHEETS, N.T.S.





BUILDING ENVELOPE





Partners

ARCHITECTURE, ENGINEERING
CONSTRUCTION MANAGEMENT
DEVELOPMENT SERVICES

DEVELOPMENT REVIEW APPLICATION SET

FRUITVALE SKILLED NURSING FACILITY

1230 37TH AVE, OAKLAND, CA 94601

SITE CONTEXT

04/14/2014

11x9 SHEETS, NTS



Parcel S-15



Parcel RM-1



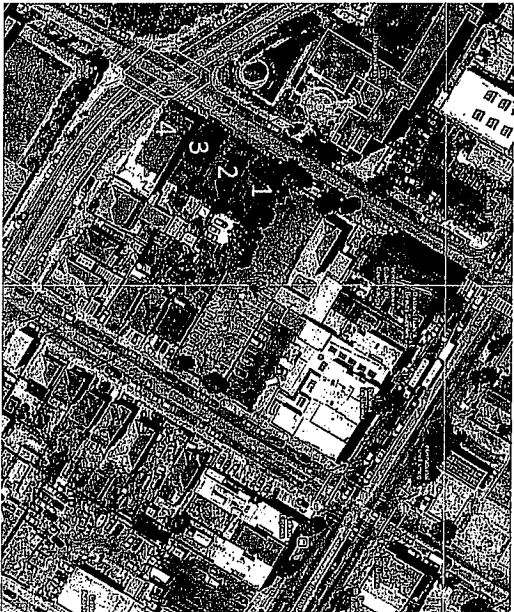
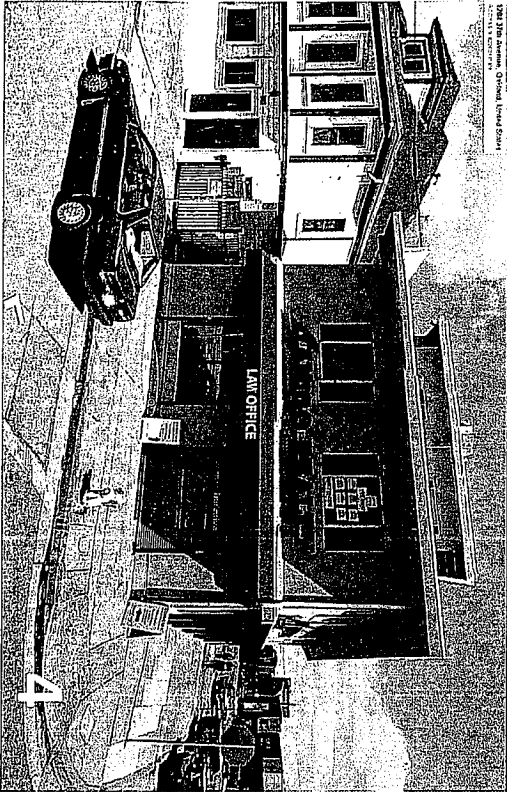
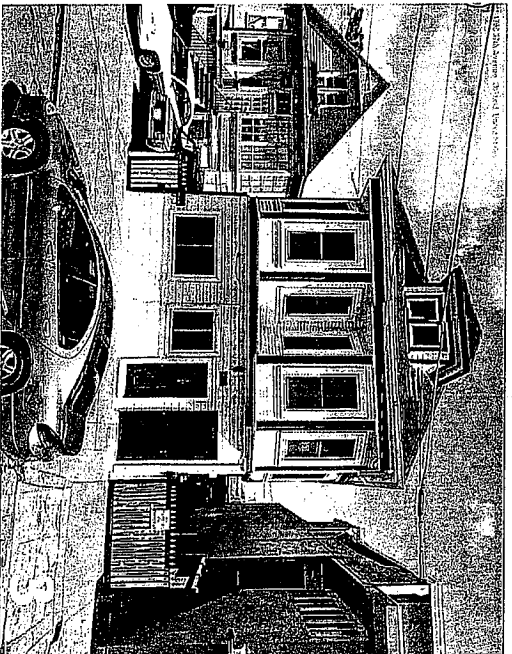
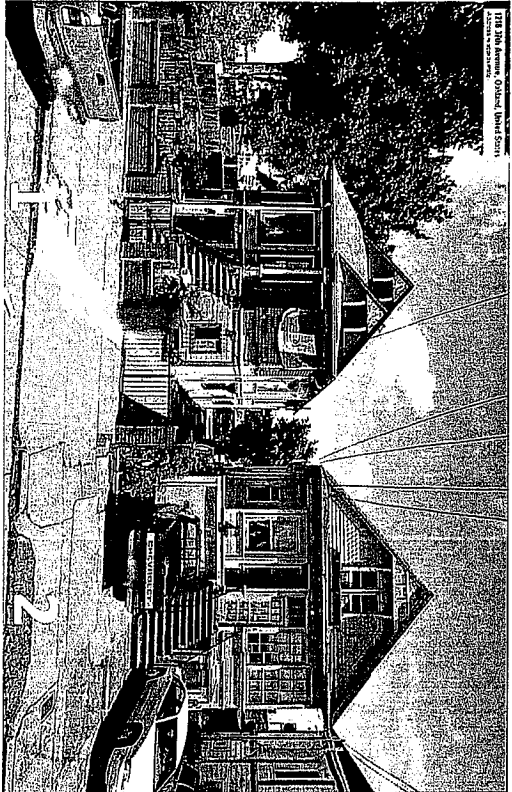
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38th Ave

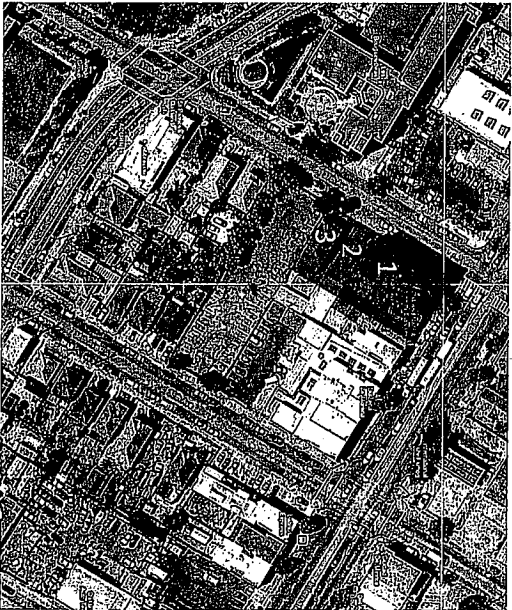
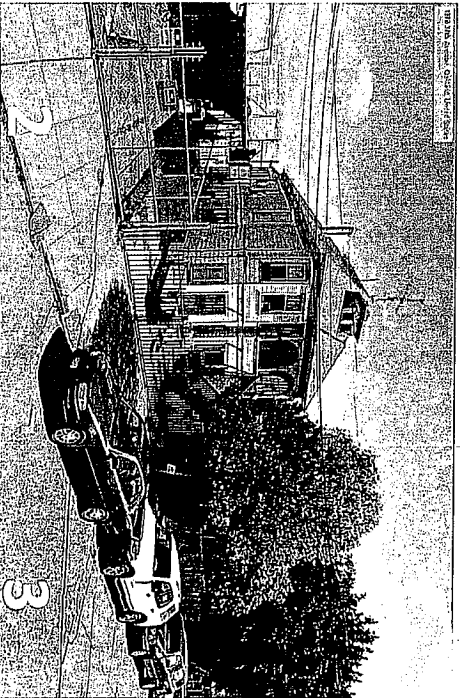
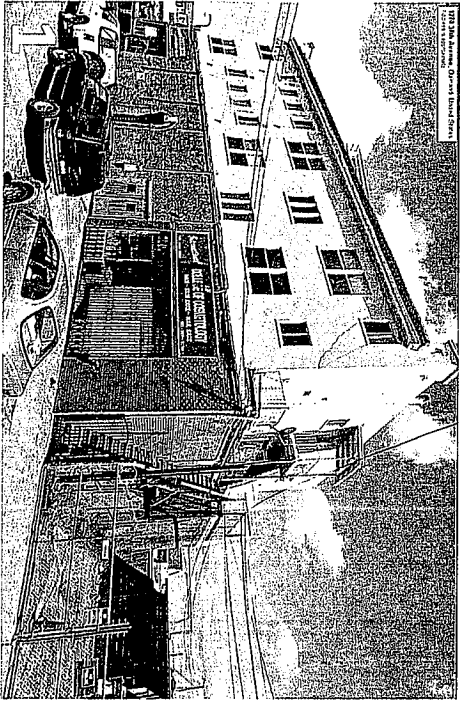


37th Ave



37th AVE





37th AVE



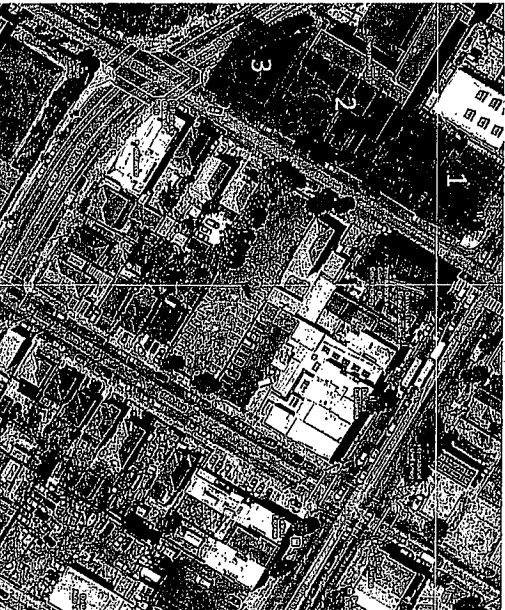
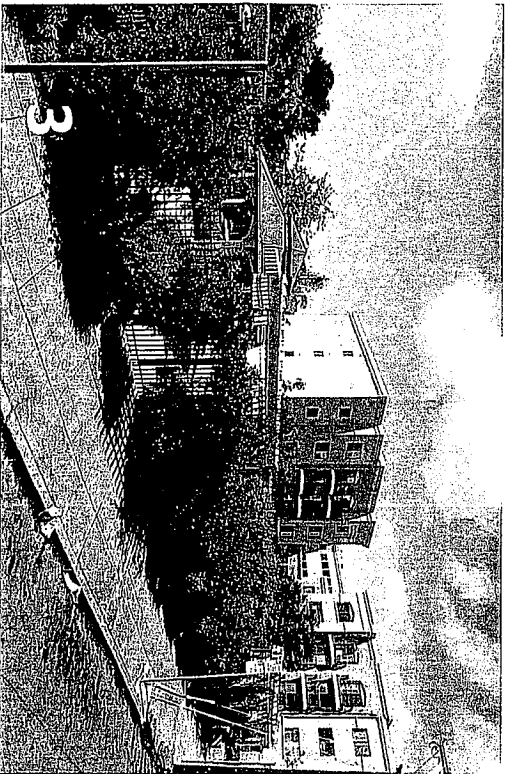
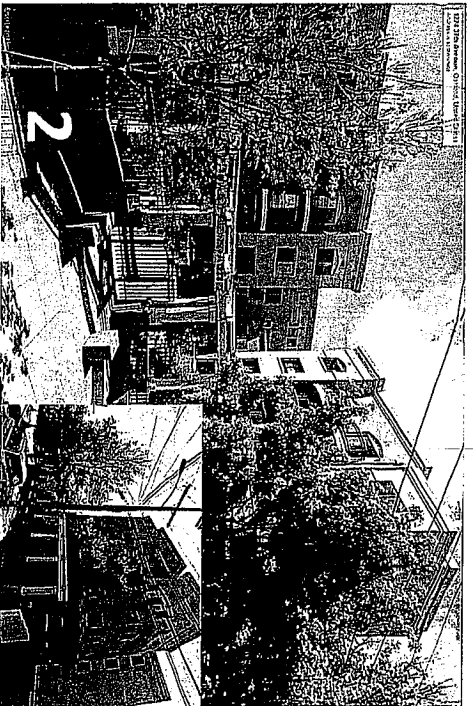
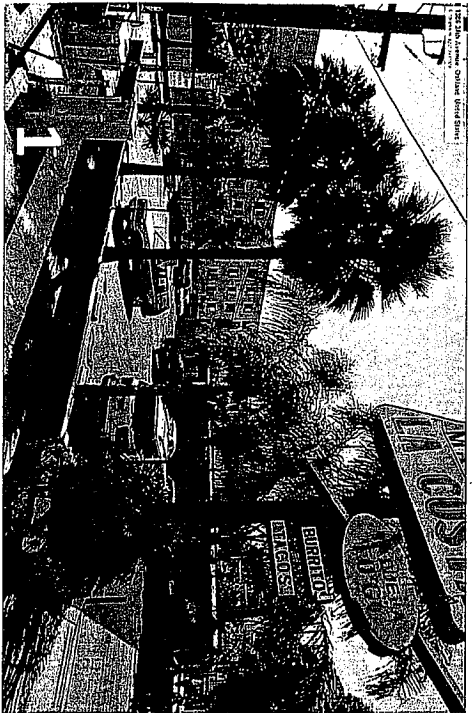
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ARCHITECTURE & ENGINEERING
CONSTRUCTION MANAGEMENT
DEVELOPMENT SERVICES

DEVELOPMENT REVIEW/APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
1230 37TH AVE, OAKLAND, CA 94601

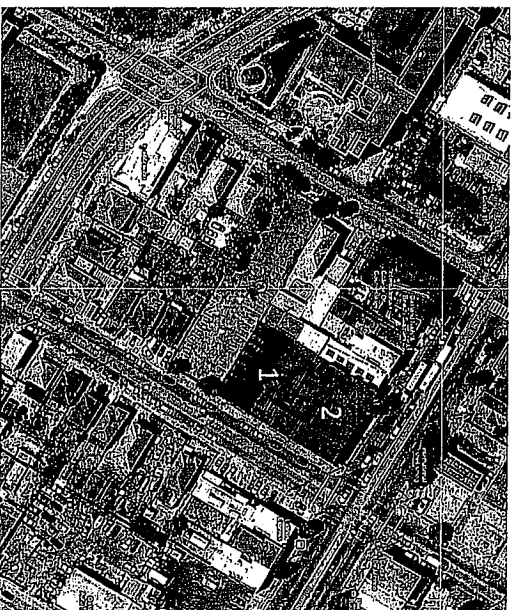
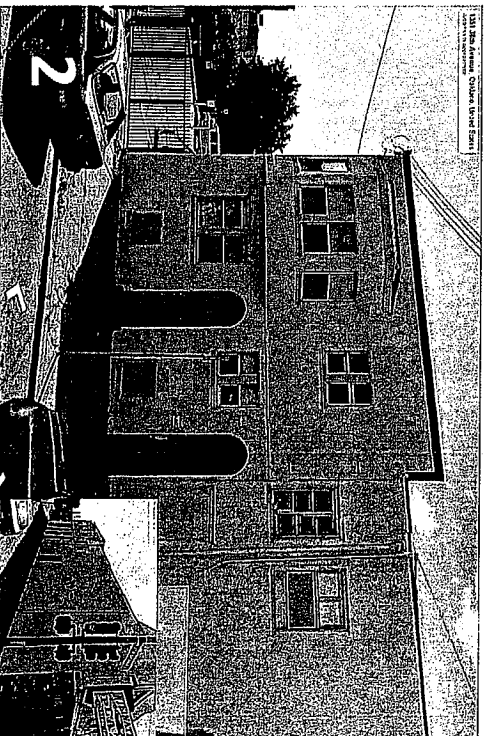
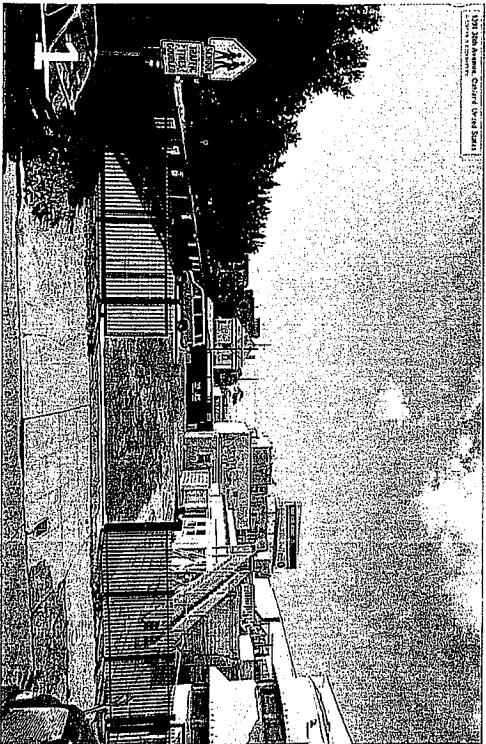
NEIGHBORHOOD CONTEXT
04/14/2014
11X17 SHEETS, N.T.S.





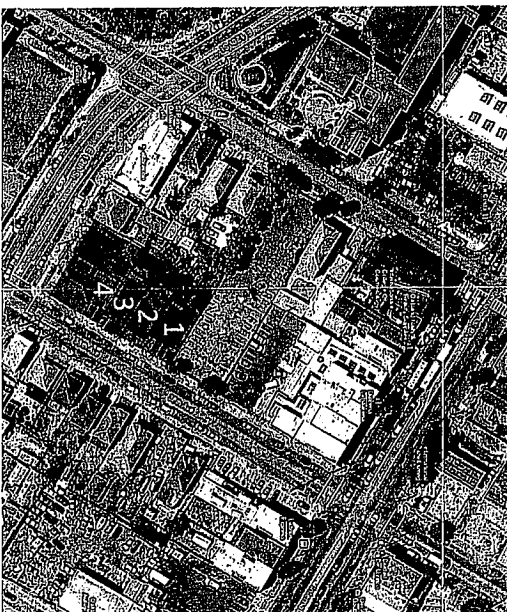
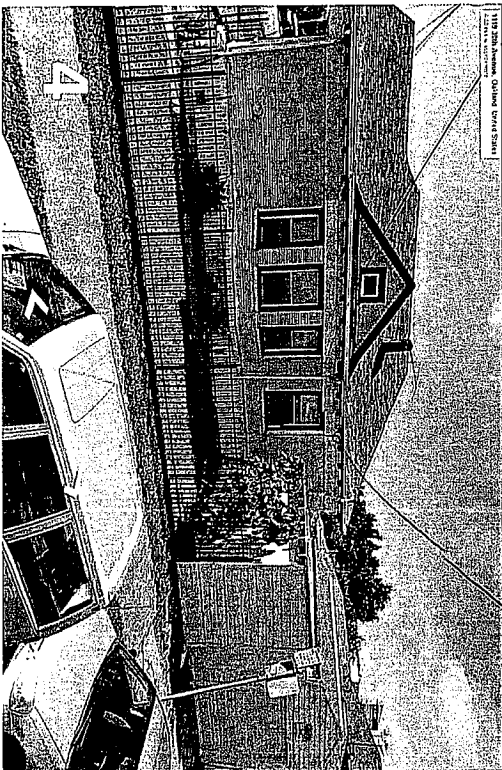
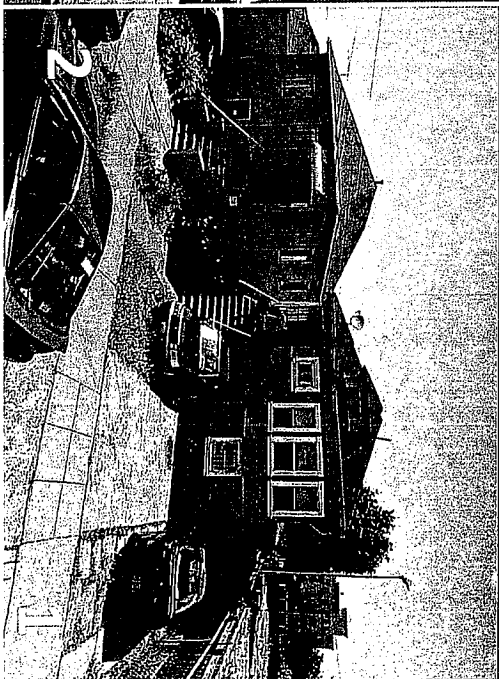
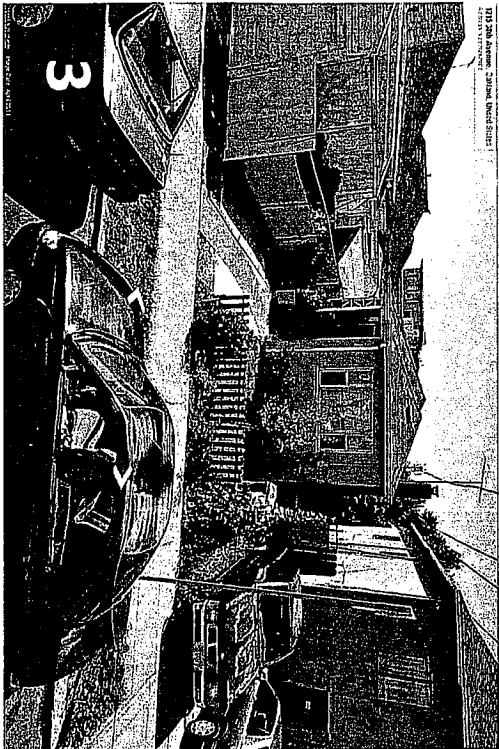
37th AVE





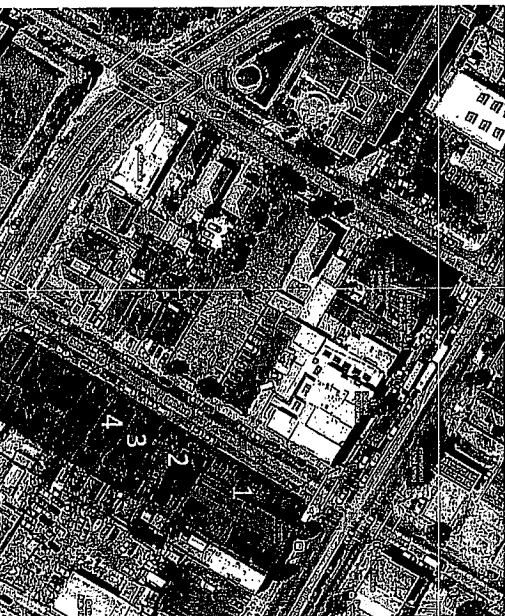
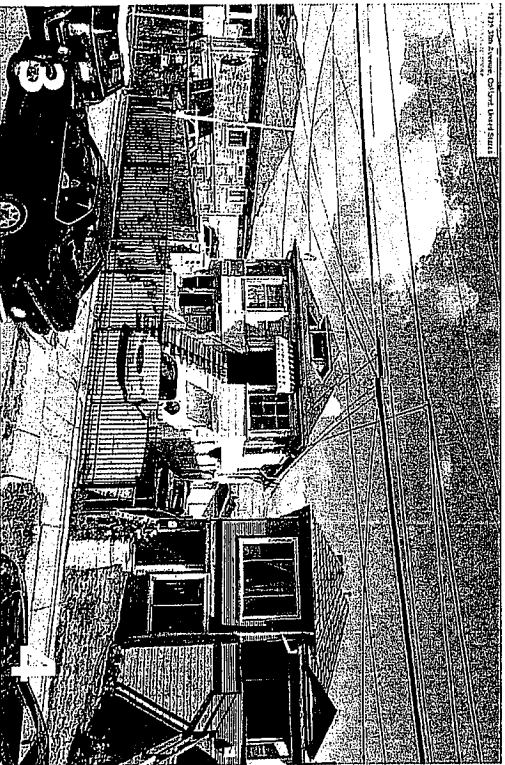
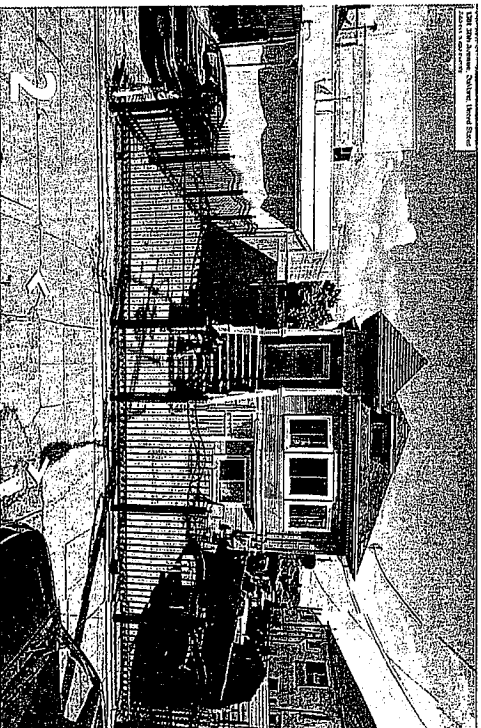
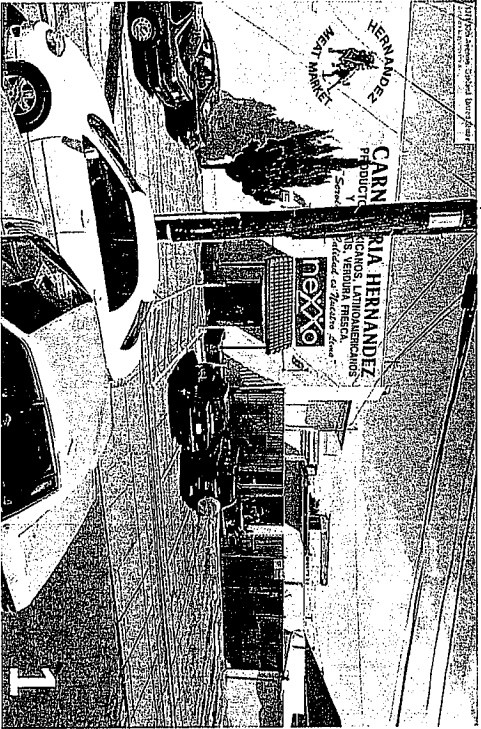
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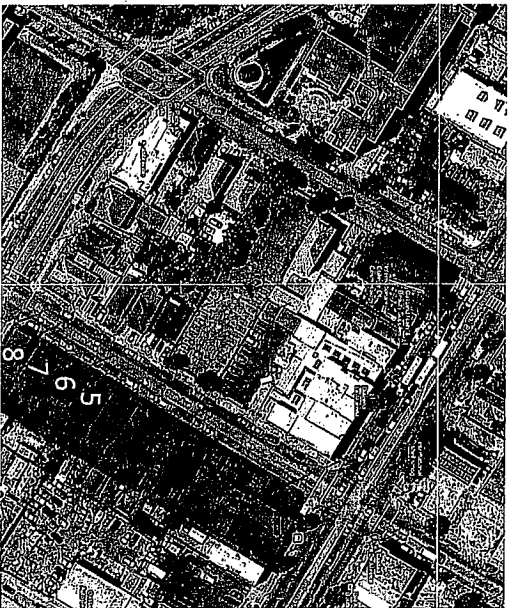
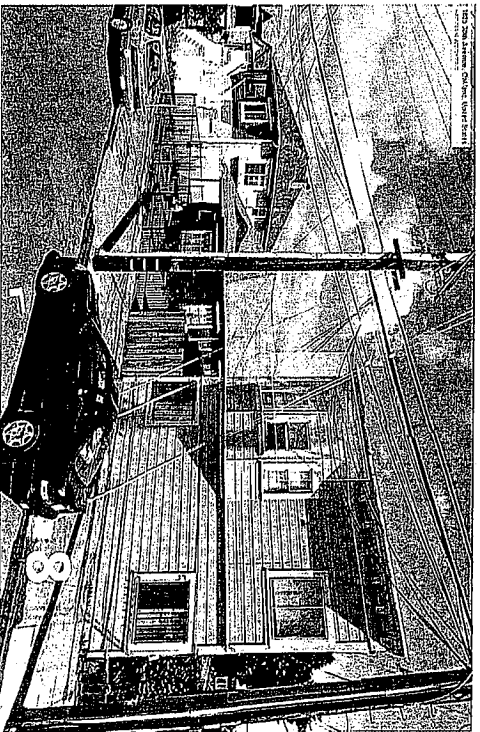
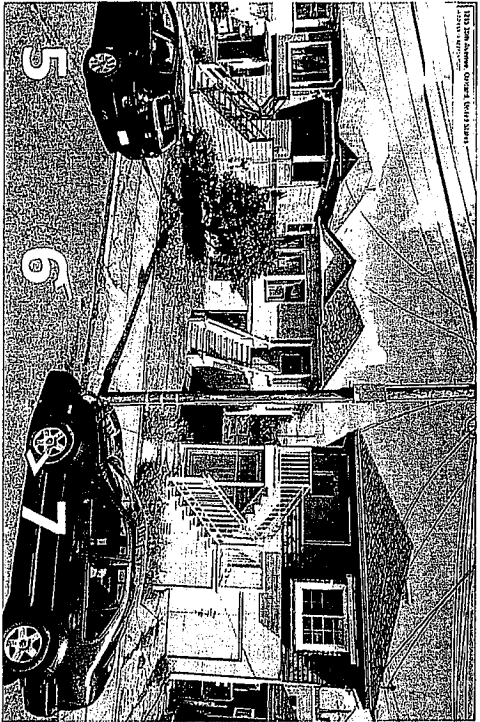
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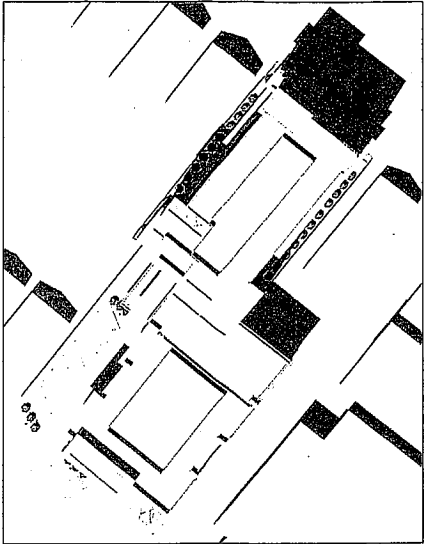
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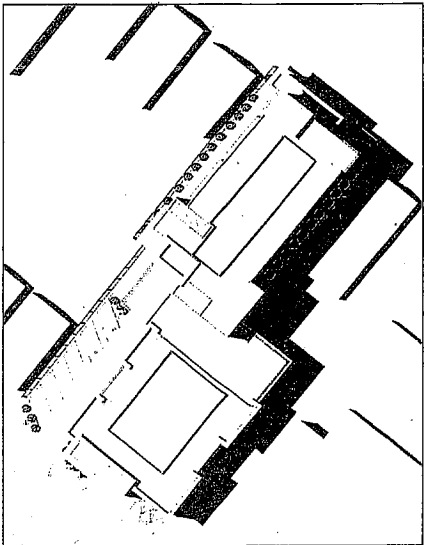


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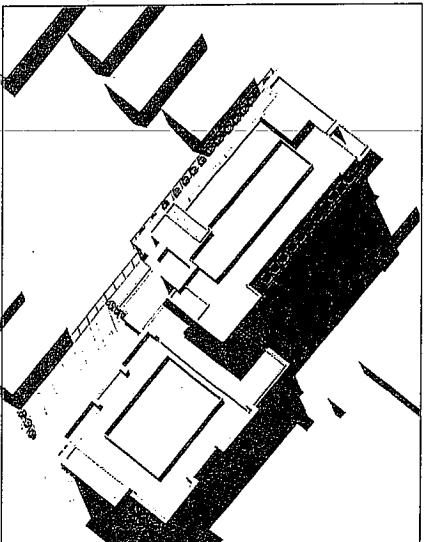




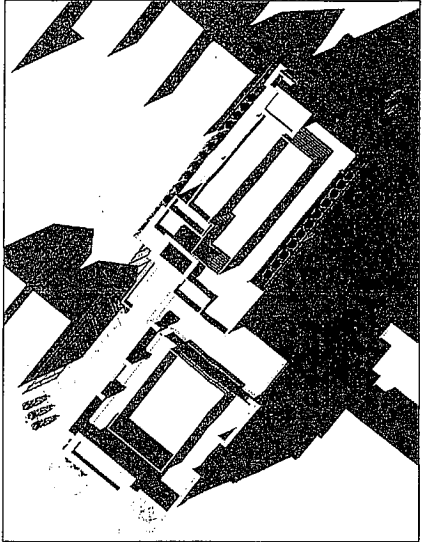
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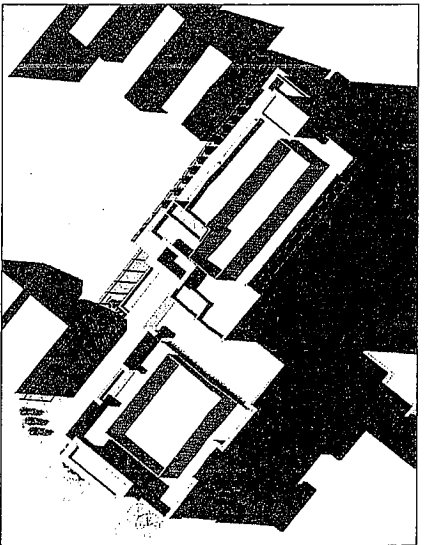
12 PM



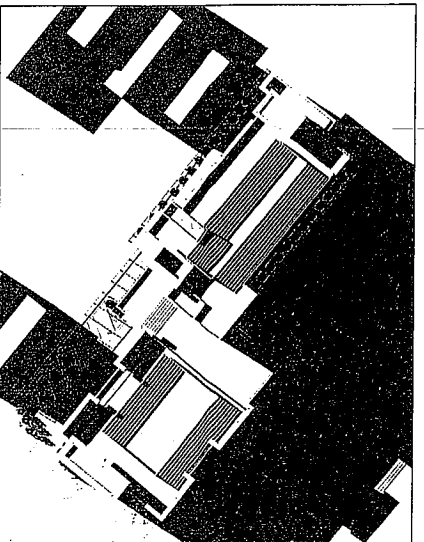
2 PM



10 AM



12 PM



2 PM



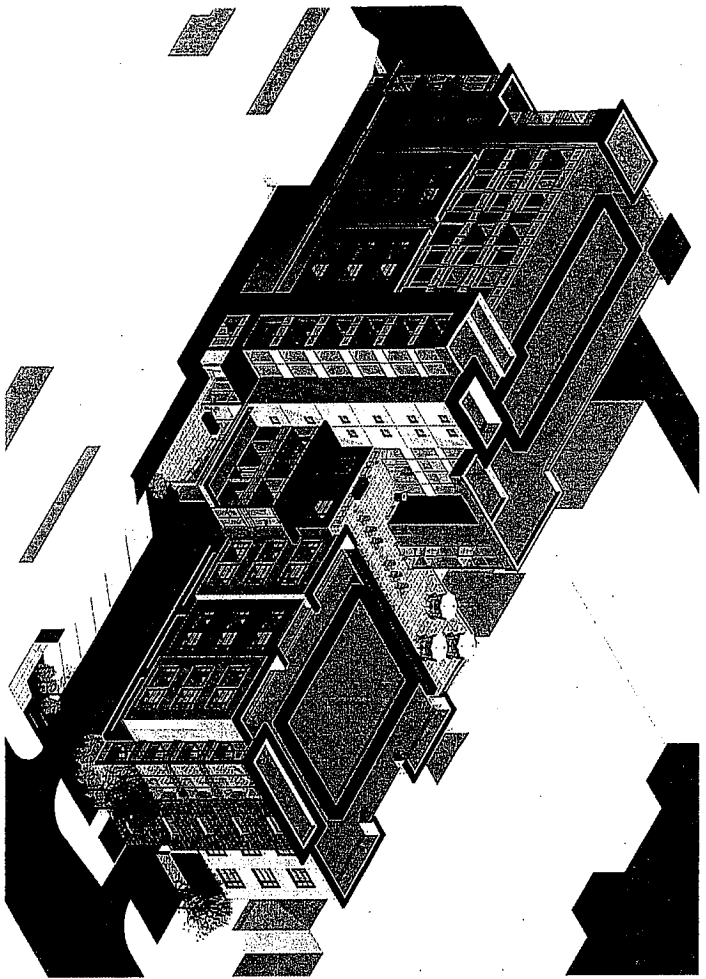
Partners

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CONSTRUCTION MANAGEMENT
ENVIRONMENTAL SERVICES

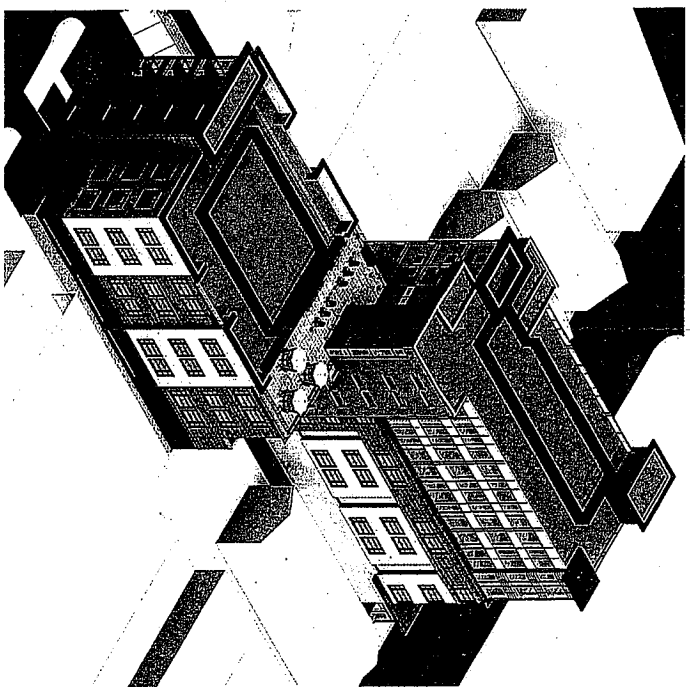
DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
1230 37TH AVE. OAKLAND, CA 94601

A01.10
WINTER SOLSTICE STUDY
04/14/2014
11X9 SHEET, J.T.S.



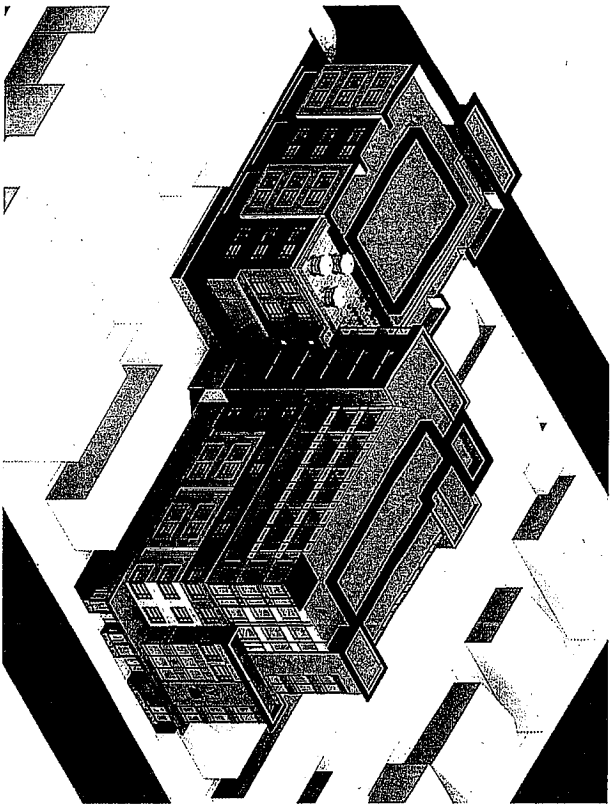


VIEW FROM 38TH AVENUE

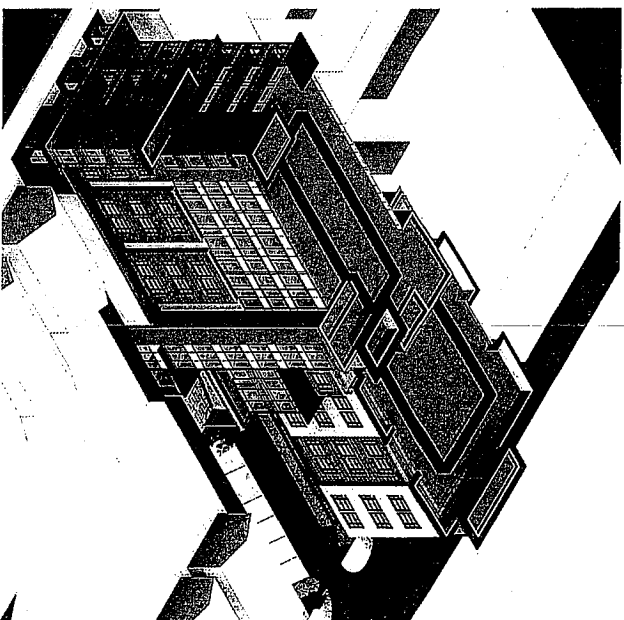


VIEW FROM 38TH AVENUE





VIEW FROM 37TH AVENUE



VIEW FROM 37TH AVENUE

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DEVELOPMENT SERVICES

DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
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MASSING STUDY
04/14/2014

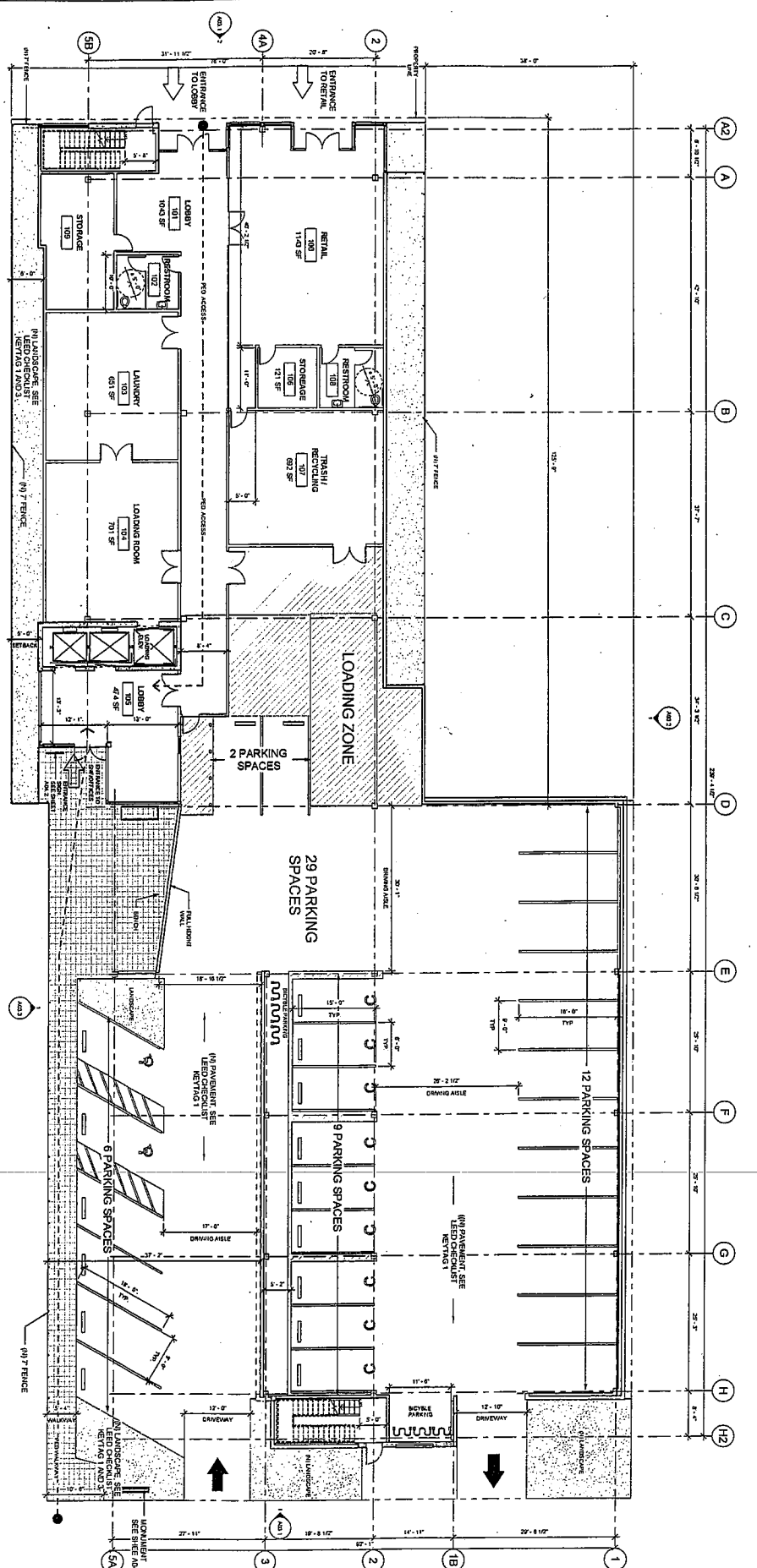
A01.12
TIMOTHY GREENGLASS





S-15	SNF	PARKING REQUIREMENT TOTAL
OFF-STREET PARKING IS NOT REQUIRED FOR MEDICAL SERVICES AND GENERAL RETAIL SALES	136 BEDS/6 TO 1 STAFF = 28 STAFF 28 STAFF/3 BEDS TO 1 STAFF = 10 PS. REQ.	COMMERCIAL : 0 REQUIRED OFFICE/MEDICAL SERVICES: 0 REQUIRED SNF: 10 REQUIRED
SNF PARKING REQUIRED: 1:3		TOTAL PARKING PROVIDED: 29 SPACES

LEVEL 1
1/8" = 1'-0"





Partners

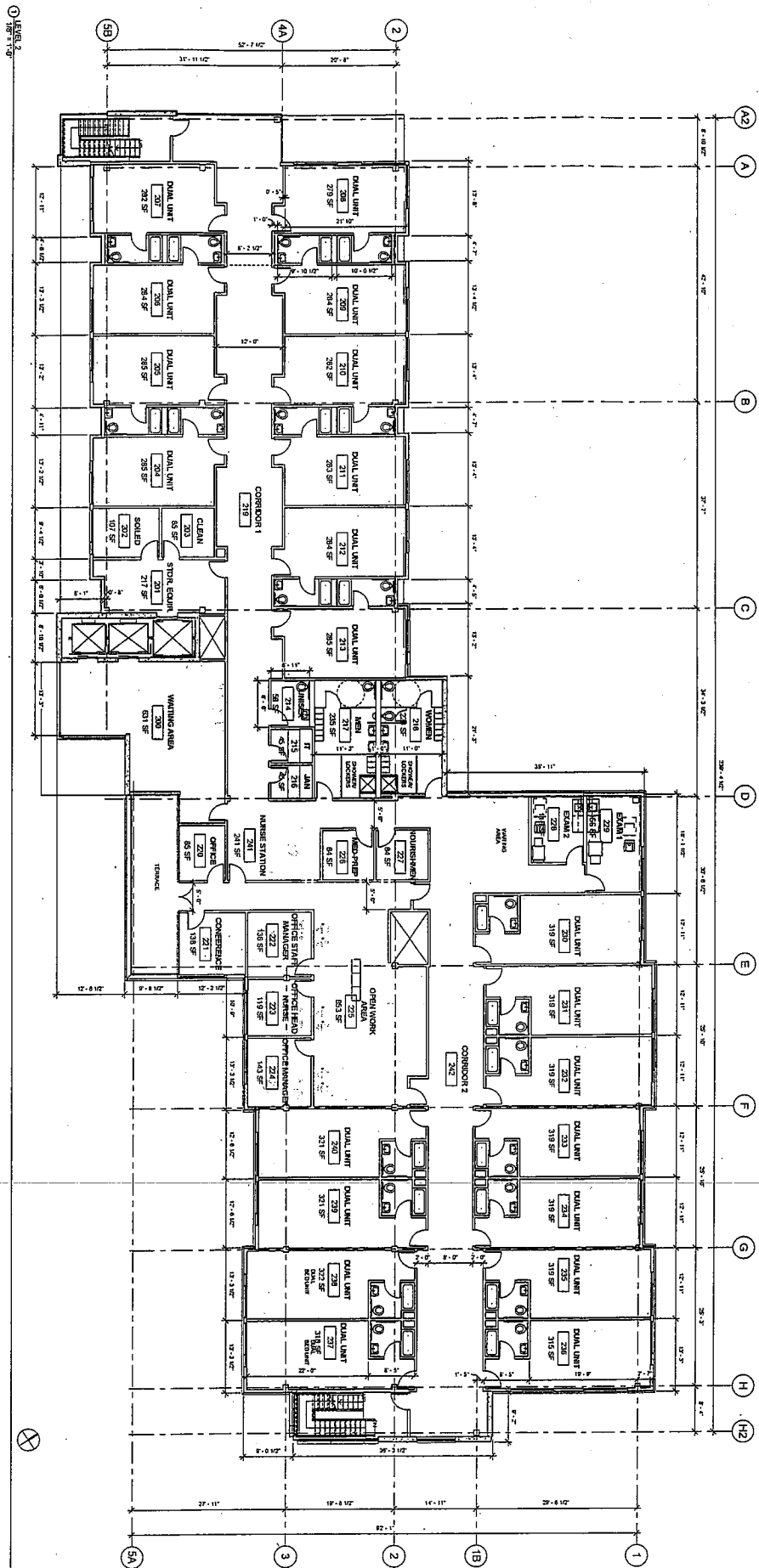
ARCHITECTURE & ENGINEERING
CONSTRUCTION MANAGEMENT
OPERATION SERVICES

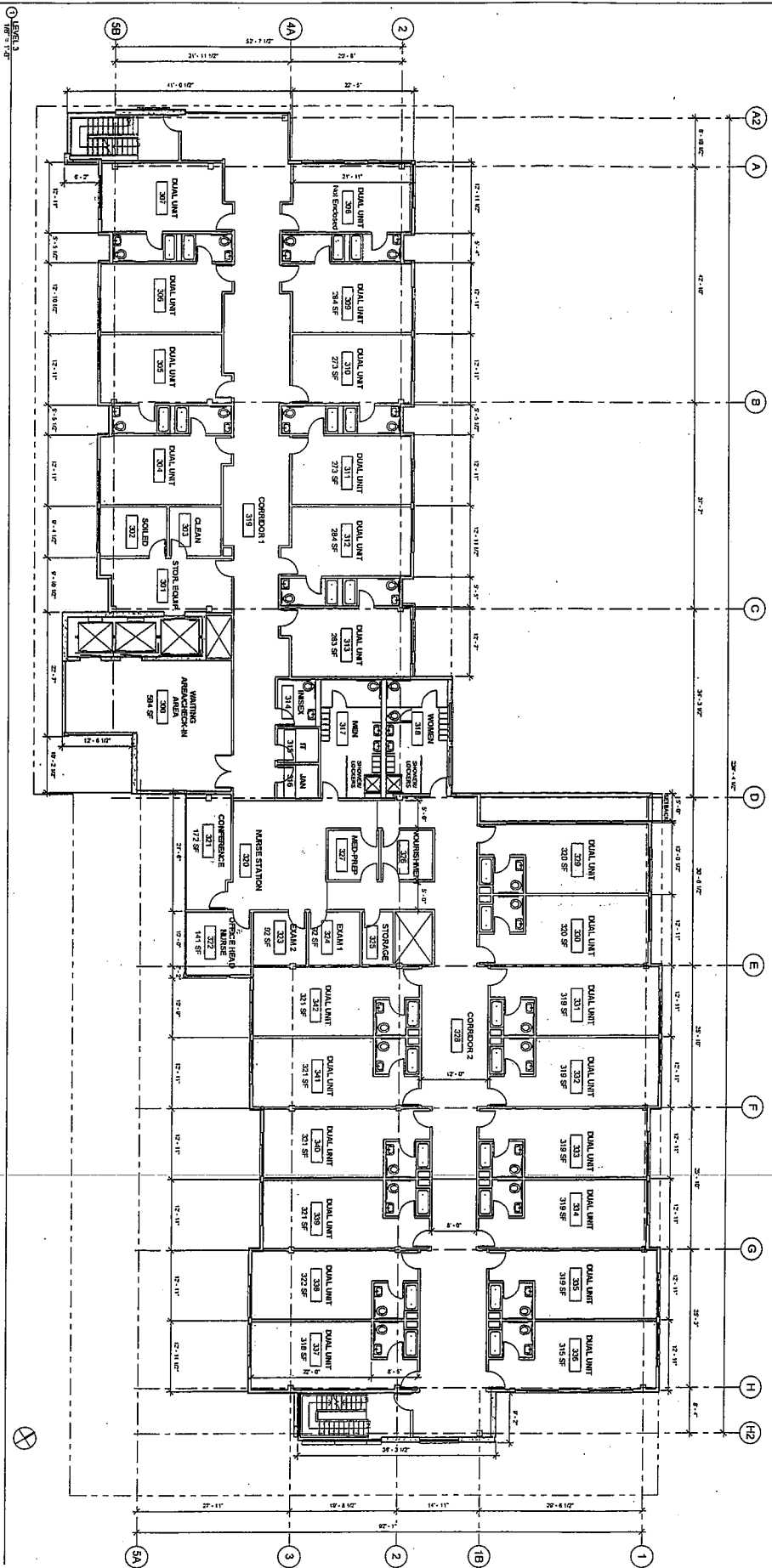
DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY

1230 37TH AVE. OAKLAND, CA 94601

A02.2
FLOOR PLAN LEVEL 2
04/14/2014

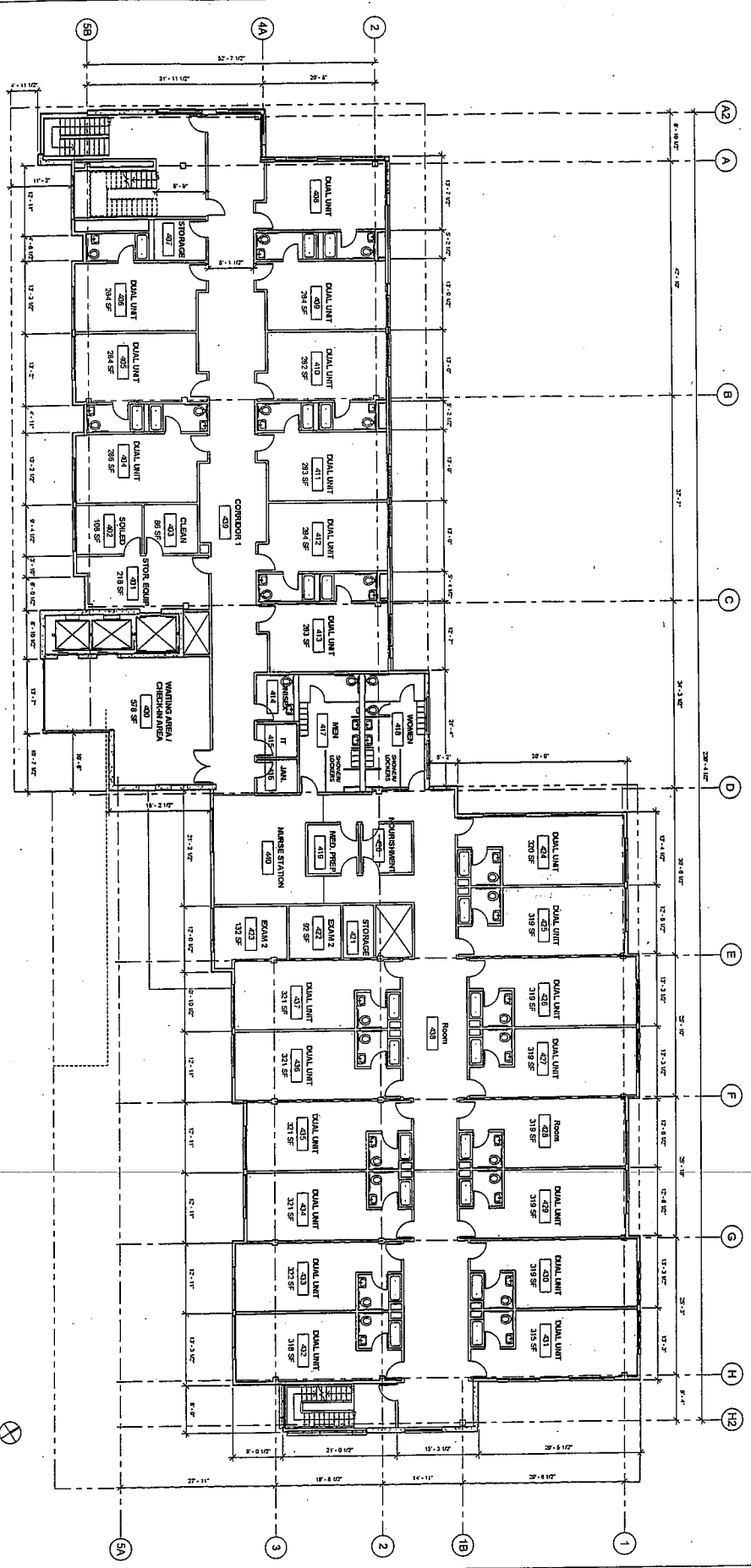
11X17 SHEETS, NTS







LEVEL 4
1/5-1/6



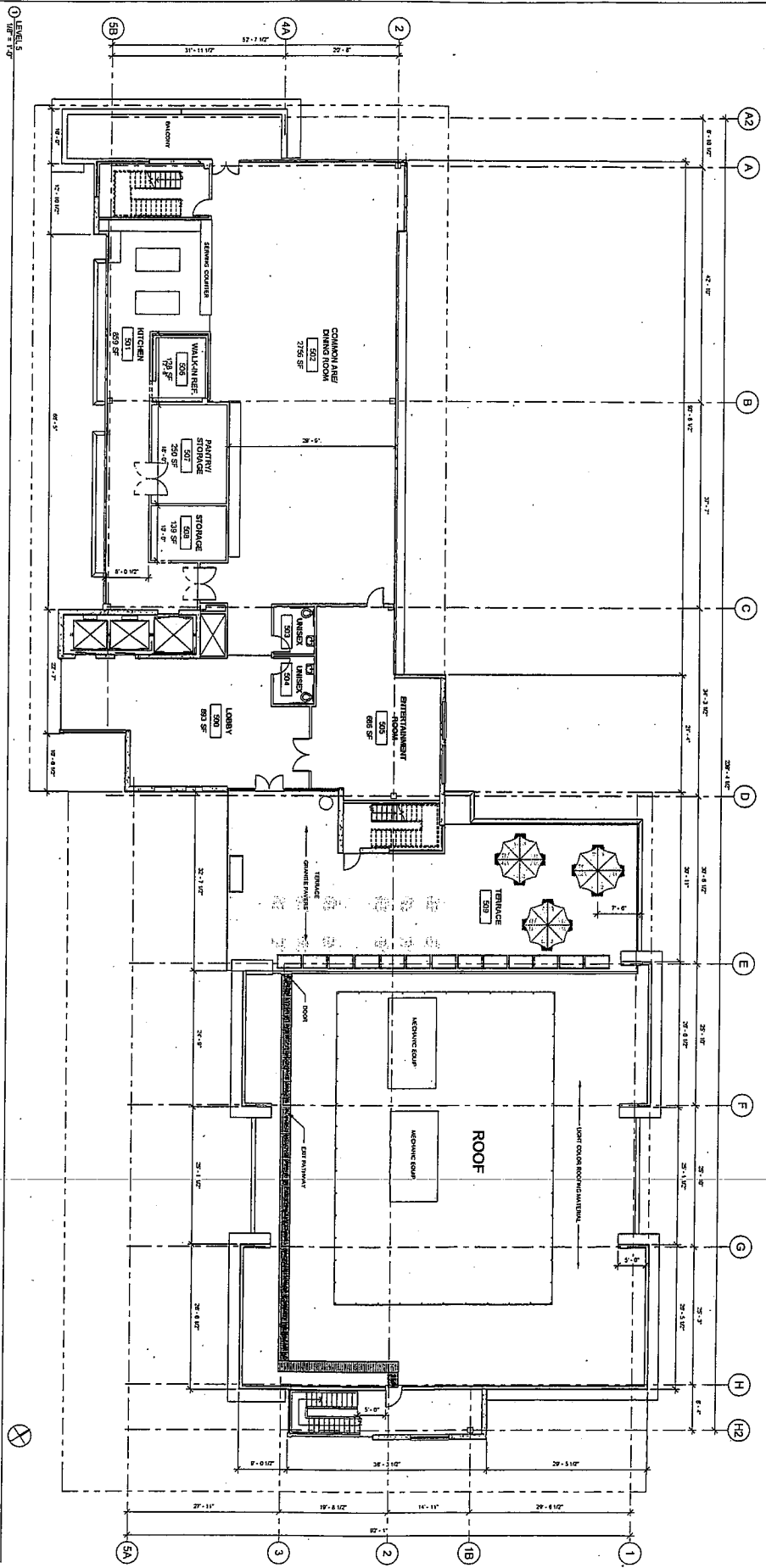


Partners

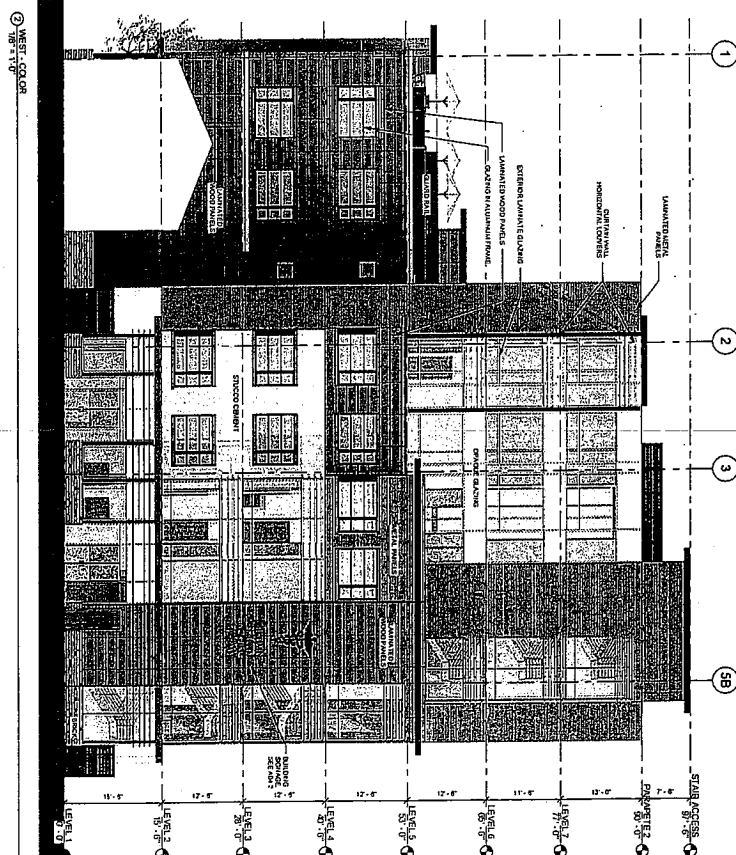
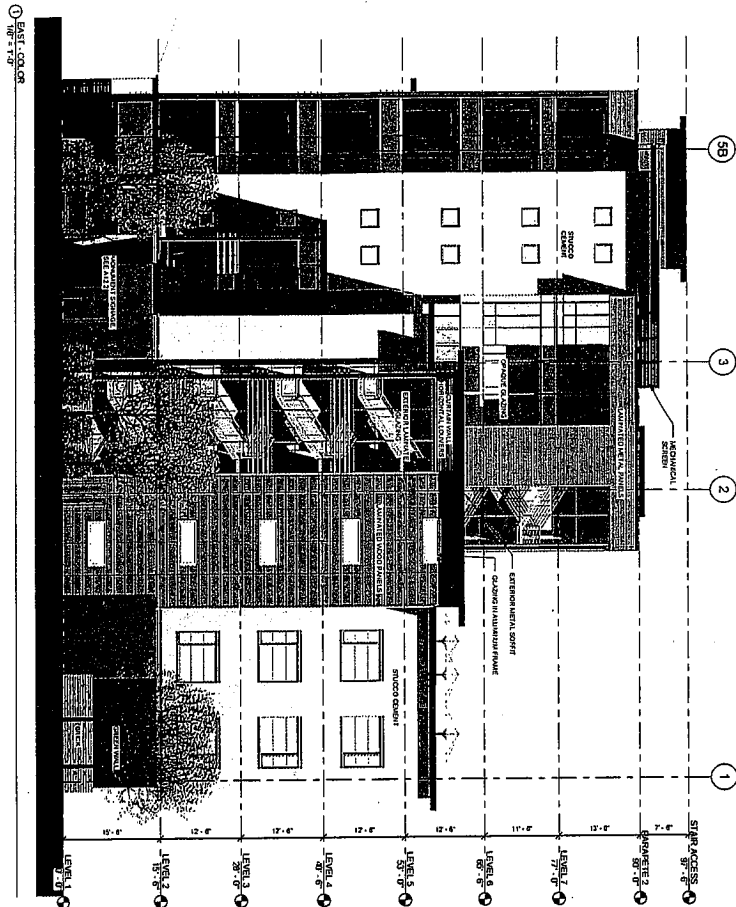
ARCHITECTURE & ENGINEERING
CONSTRUCTION MANAGEMENT
DEVELOPMENT SERVICES

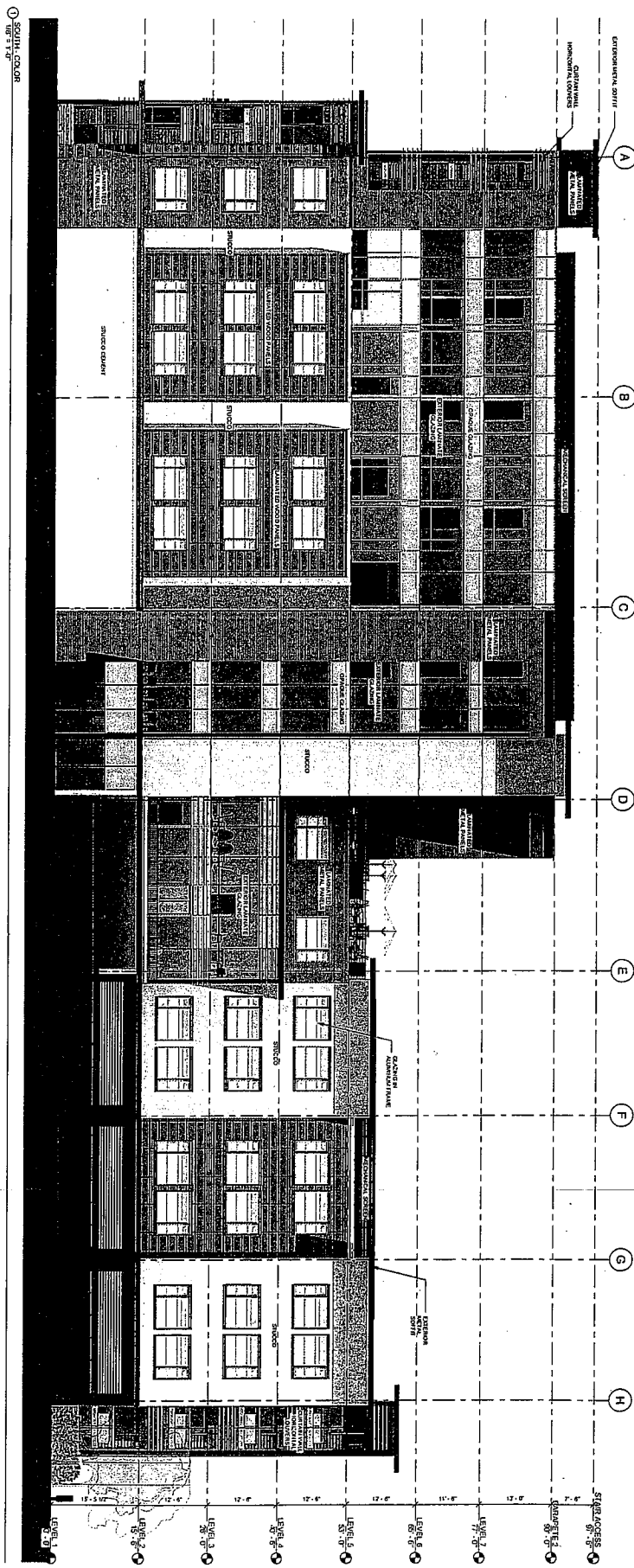
DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
1230 37TH AVE, OAKLAND, CA 94601

A02.5
FLOOR PLAN LEVEL 5
04/14/2014
11X17 SHEET, N.T.S.









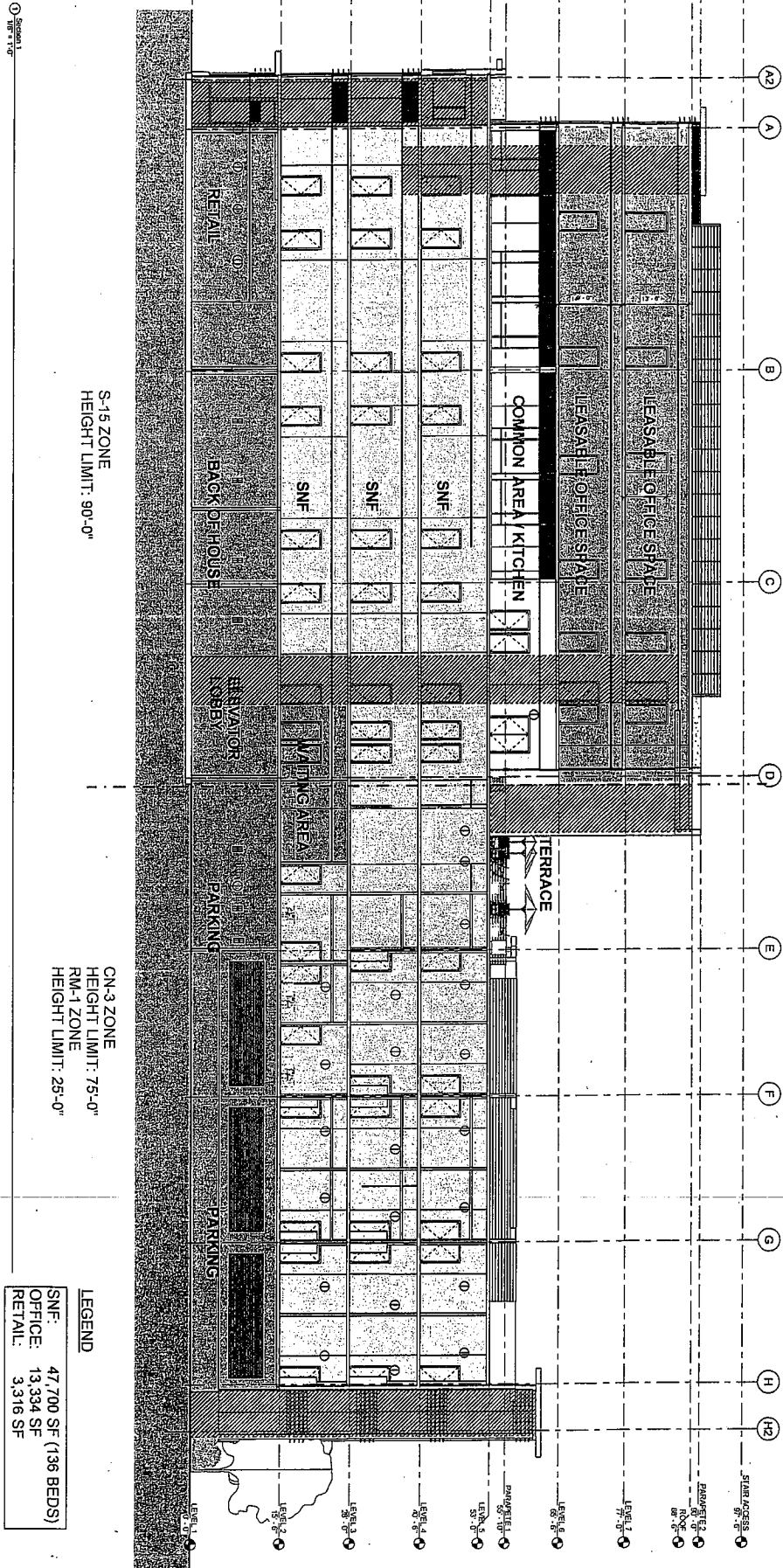
AE3 Partners ARCHITECTURAL & ENGINEERING
 CONSTRUCTION MANAGEMENT
 DEVELOPMENT SERVICES

DEVELOPMENT REVIEW/APPLICATION SET
 FRUITVALE SKILLED NURSING FACILITY
 1230 37TH AVE, OAKLAND, CA 94601

BUILDING ELEVATION
 A03.3
 04/14/2014
 11X17 SHEETS, MTS

DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY BUILDING SECTION/STACKING DIAGRAM
1230 37TH AVE. OAKLAND, CA 94601

A03.4
04/14/2014
T.M. SHEETS, AIA





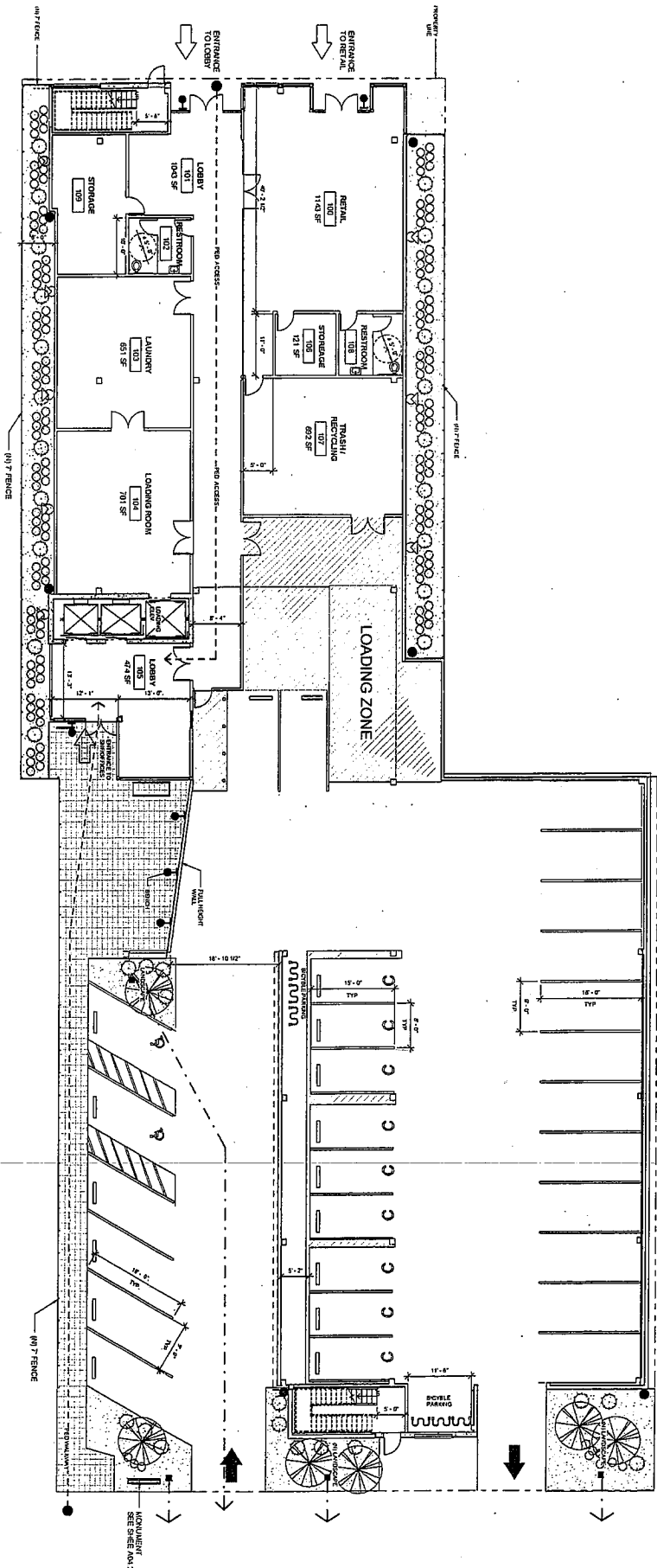
Partners
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DEVELOPMENT SERVICES

DEVELOPMENT REVIEW/APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
1230 37TH AVE. OAKLAND, CA 94601

A04.1
LIGHTING/STORMWATER PLAN
04/14/2014
11X17 SHEETS, NT'S

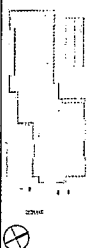
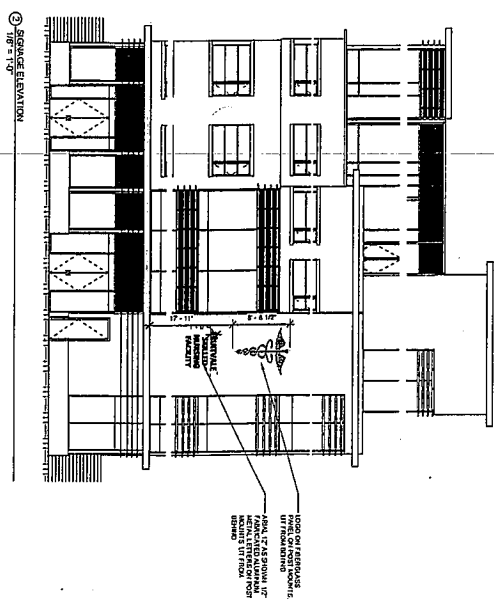
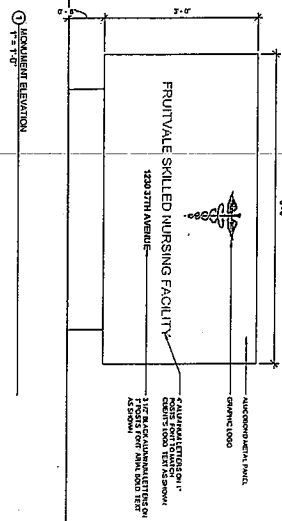
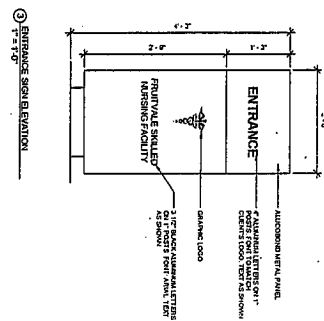


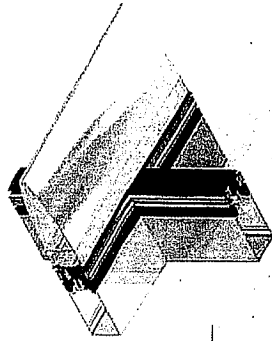
① LIGHTING/STORMWATER PLAN
SEE L-101



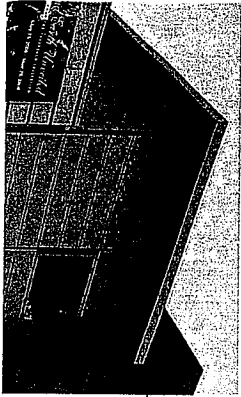
LANDSCAPE SYMBOL LEGEND

- SITE TREES SEE L-101
- TALL SHRUBS SEE L-101
- LOW SHRUBS SEE L-101
- GROUND COVER AREA SEE L-101
- CONCRETE PAVING SEE L-101
- STORMWATER DRAINS
- UPLIGHTS
- WALL MOUNTED LIGHTS
- RAINWATER LEADER

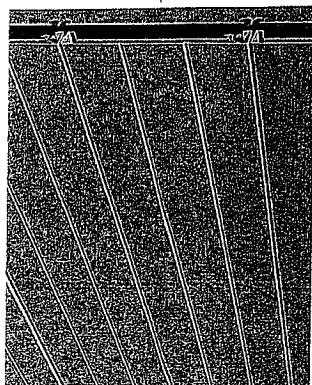
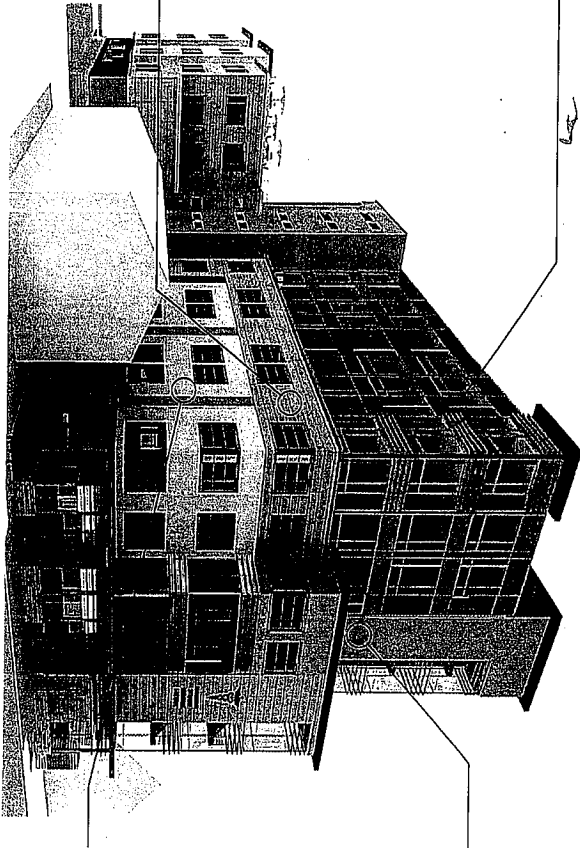




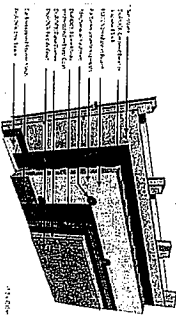
HORIZONTAL LOUVER



WOOD PANELS AND SOFFIT



PROFILE METAL PANELS



STUCCO RAIN SCREEN

FOR SAMPLES, SEE PHYSICAL 24"X36" COLOR BOARD





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DEVELOPMENT SERVICES

DEVELOPMENT REVIEW APPLICATION SET

FRUITVALE SKILLED NURSING FACILITY

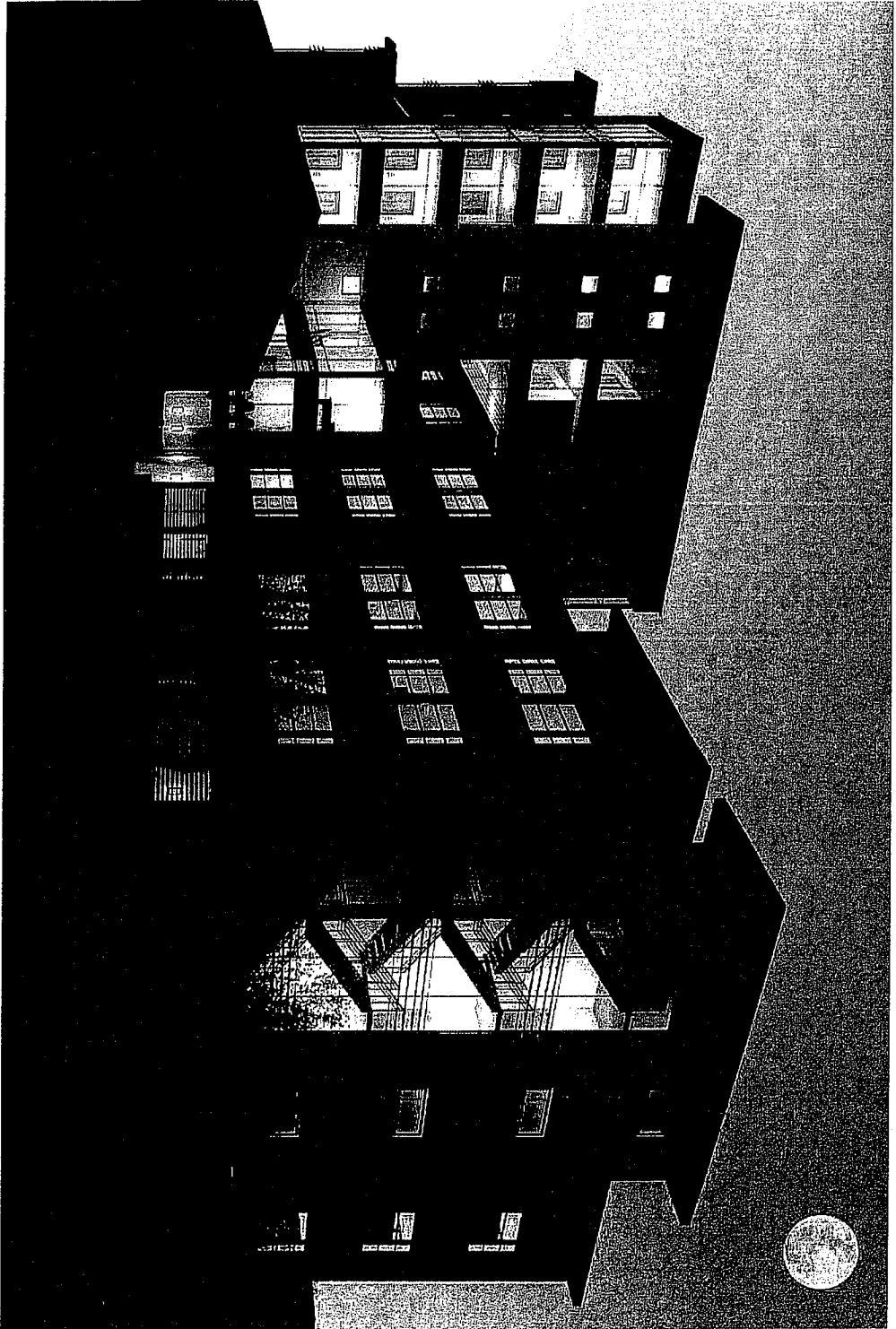
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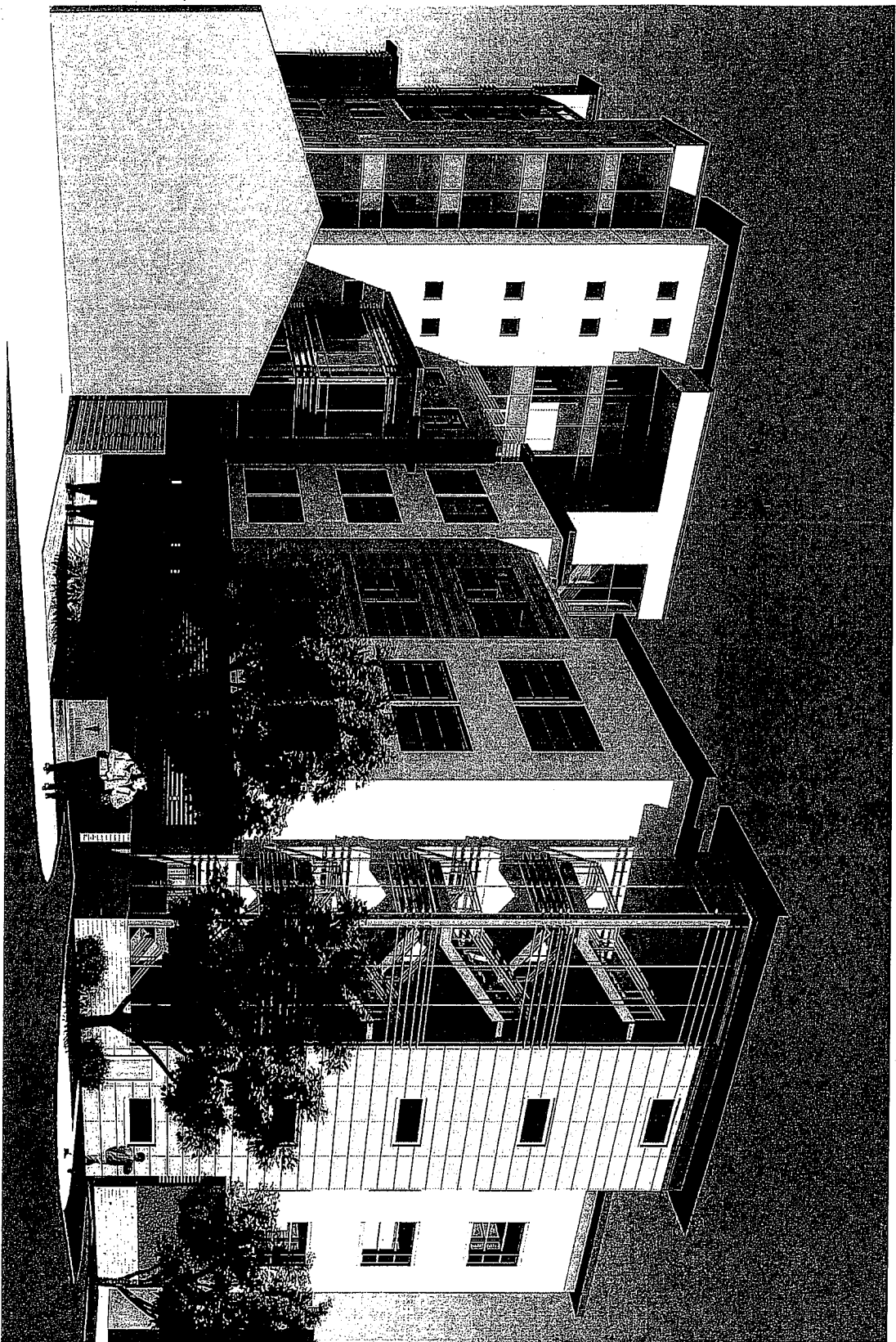
PERSPECTIVE RENDERING

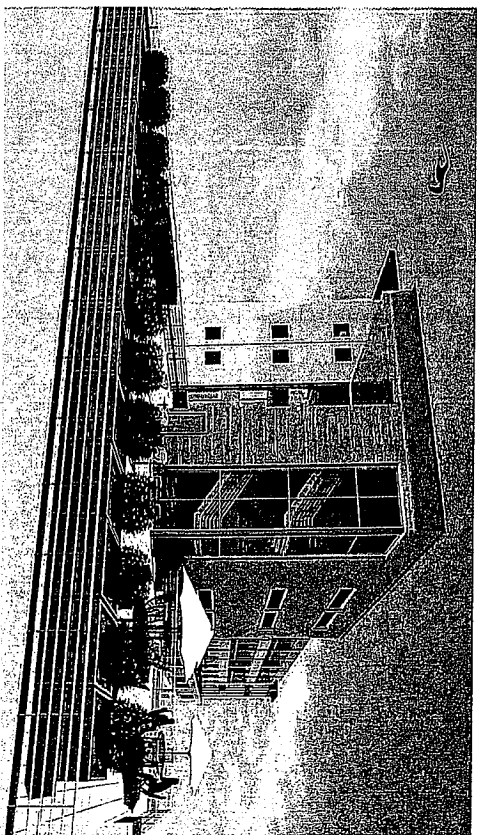
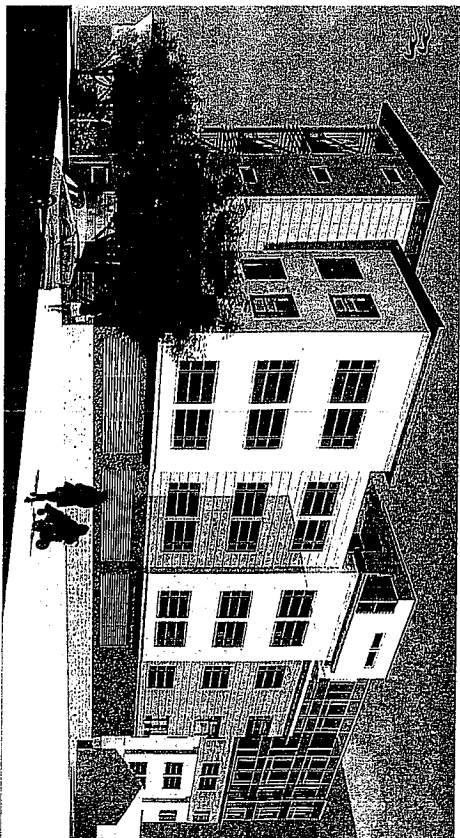
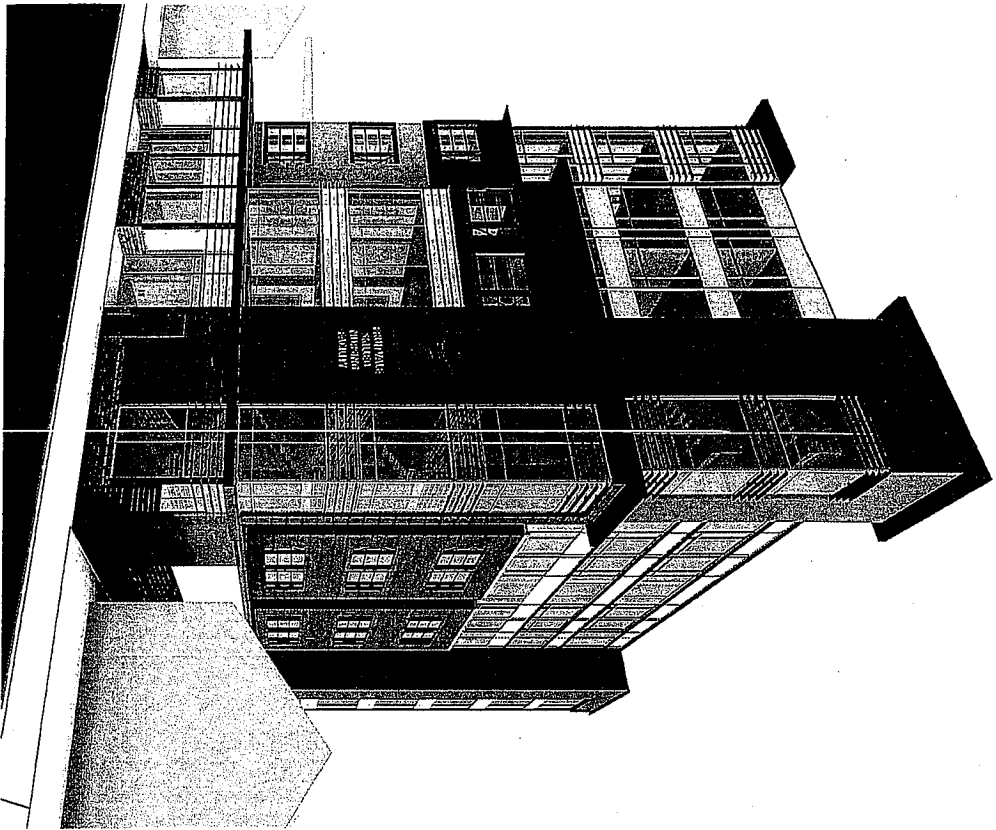
A05.2

04/14/2014

11x17 SHEETS, A11.5







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DEVELOPMENT SERVICES

DEVELOPMENT REVIEW APPLICATION SET
FRUITVALE SKILLED NURSING FACILITY
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A05.4
PERSPECTIVE RENDERING
04/14/2014
11/17 SHEETS 11/18





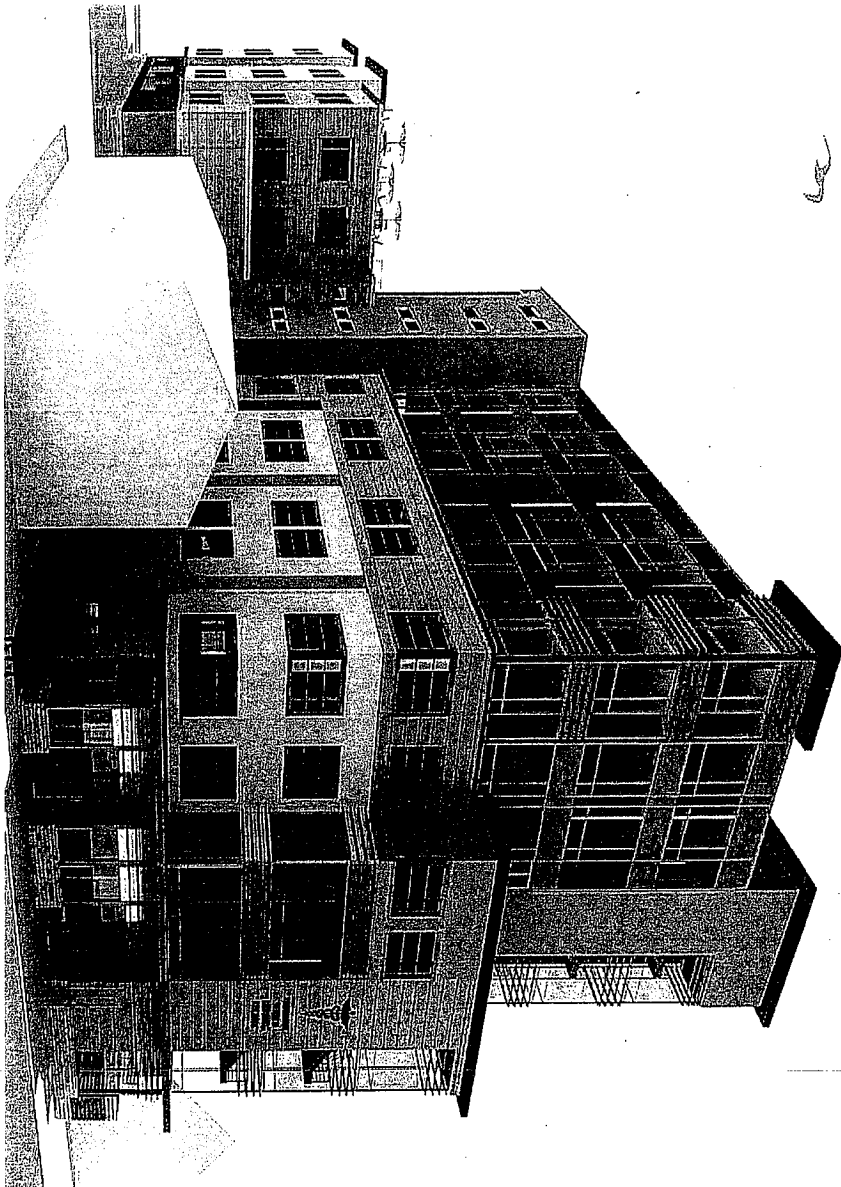
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FRUITVALE SKILLED NURSING FACILITY
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PERSPECTIVE RENDERING

A05.5
04/14/2014
1107 SHEETS.MXD



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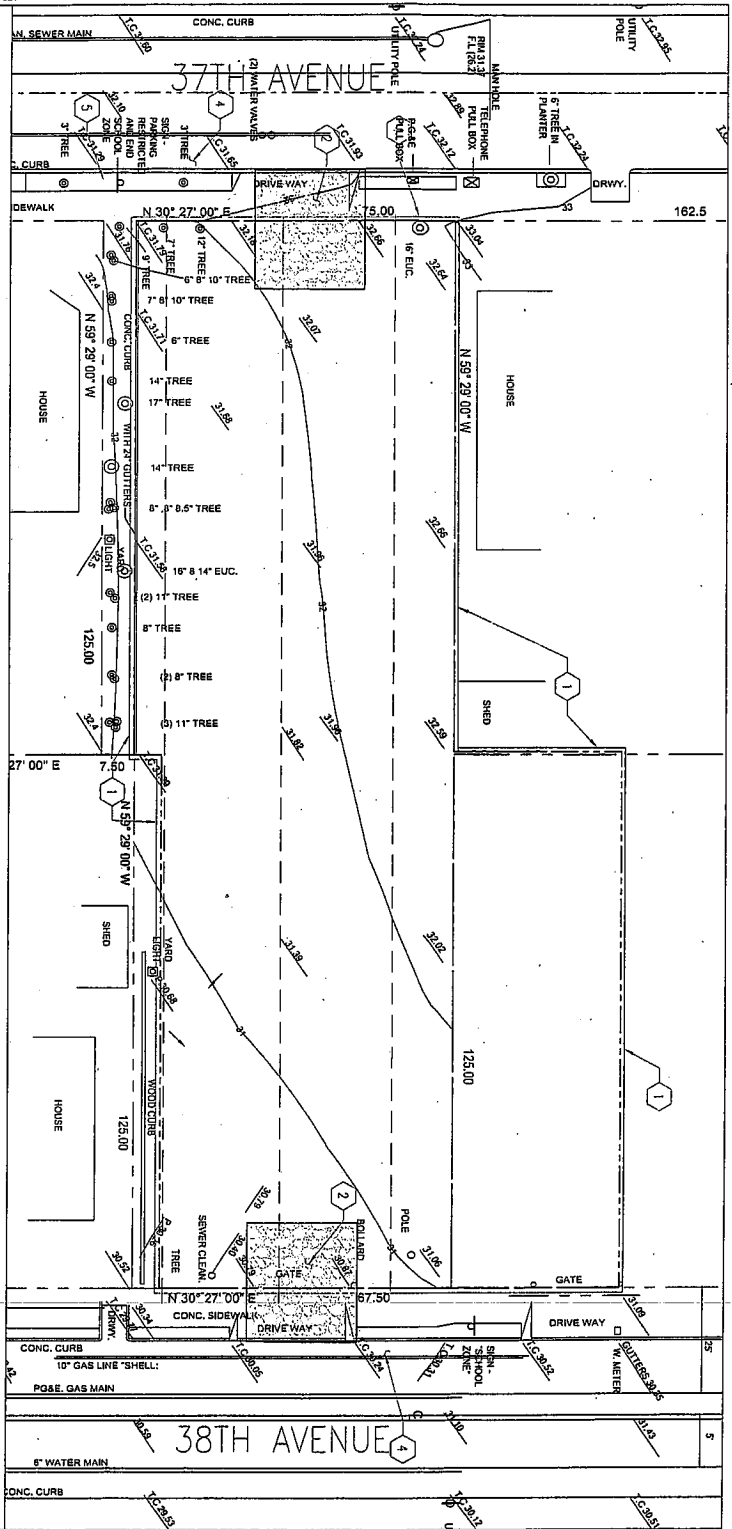
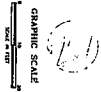
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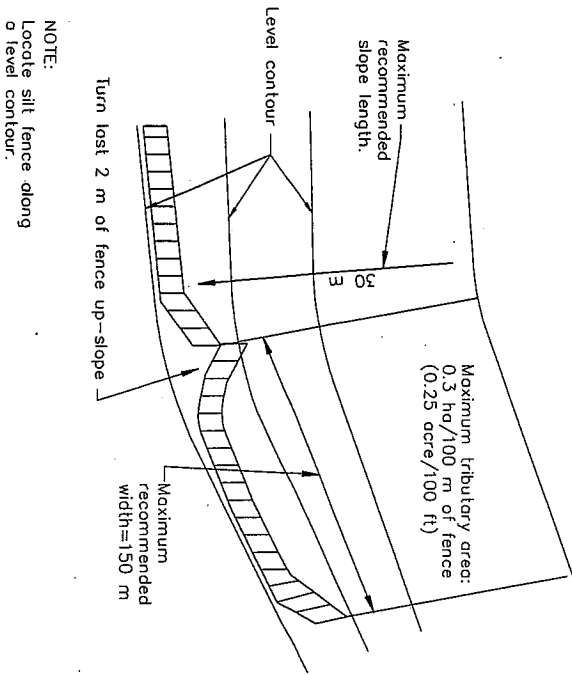
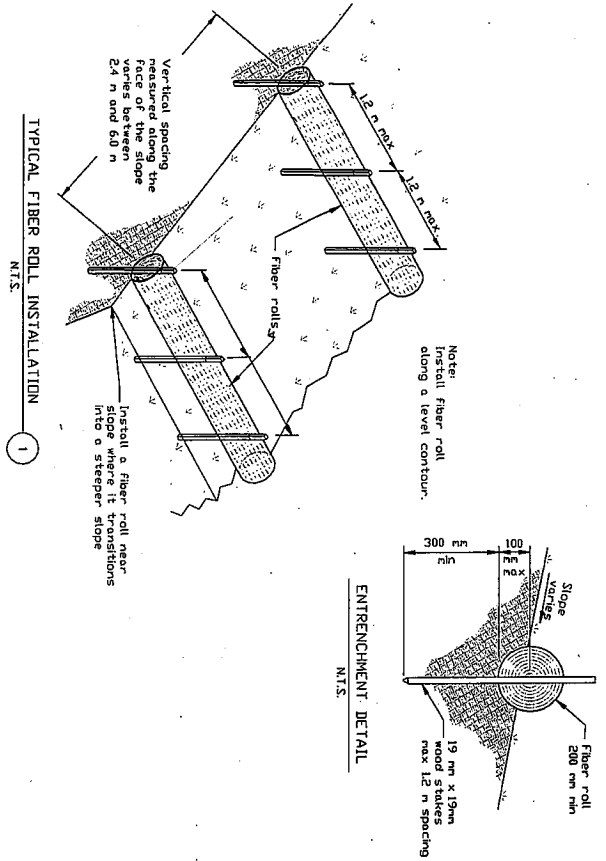
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|-------|---------------------------|
| C1.00 | COVER SHEET |
| C2.01 | GRADING & STORMWATER PLAN |
| C3.01 | EROSION CONTROL PLAN |
| C3.02 | EROSION CONTROL DETAILS |
| C4.01 | DETAILS |
| C4.02 | DETAILS |



- GENERAL NOTES**
1. SURFACING AND/OR WORKINGS SHALL BE PERFORMED ON A DAILY BASIS DURING EXCAVATION ACTIVITIES AND AT OTHER INTERVALS.
 2. ALL WORK SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 3. ALL EXCAVATION SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 4. PROTECT EXISTING UTILITIES, AT EXIST. COORDINATE WITH EXISTING PROGS.
 5. EXISTING UTILITIES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 6. ALL UTILITIES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 7. ALL UTILITIES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
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 9. ALL UTILITIES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 10. ALL UTILITIES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.

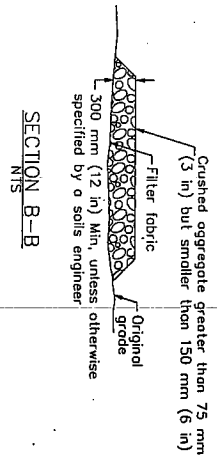
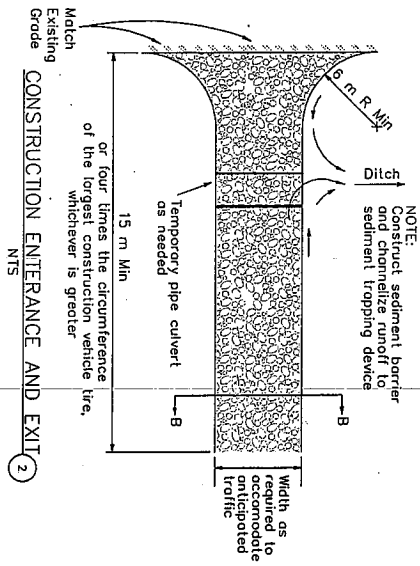
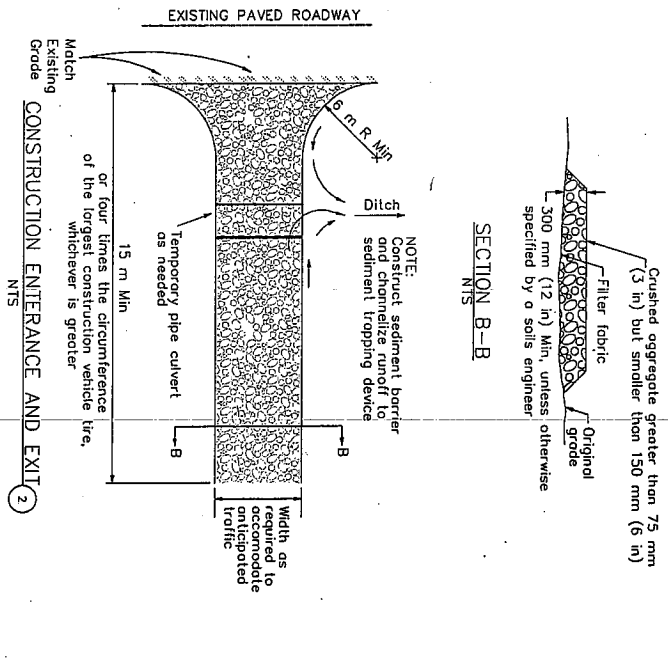
- EROSION CONTROL NOTES**
1. EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED AT ALL TIMES DURING EXCAVATION ACTIVITIES AND AT OTHER INTERVALS.
 2. ALL EROSION CONTROL MEASURES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 3. ALL EROSION CONTROL MEASURES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
 4. PROTECT EXISTING UTILITIES, AT EXIST. COORDINATE WITH EXISTING PROGS.
 5. EXISTING UTILITIES SHALL BE PROTECTED BY RED OR WHITE BARS AND SIGNS AND SHALL BE MAINTAINED AT ALL TIMES.
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AE3 Partners Architectural Engineering 3111 E. 15th Avenue, Suite 200 Denver, CO 80202 Tel: 303.733.0070 Fax: 303.733.0071 www.ae3partners.com	PECI Professional Engineering & Construction, Inc. 11111 E. 15th Avenue, Suite 200 Denver, CO 80202 Tel: 303.733.0070 Fax: 303.733.0071 www.peciconsulting.com	DRONE ORIENTED REVIEW APPLICATION SET FURNITURE SCHEDULED NURSING FACILITY 11111 E. 15th Avenue Denver, CO 80202	EROSION CONTROL PLAN C3.01
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NOTE:
Locate silt fence along a level contour.

TYPICAL SILT FENCE LAYOUT
NOT TO SCALE



1	Sheet Title	1777-000-00
2	Revision	
3	Revision	
4	Revision	
5	Revision	
6	Revision	
7	Revision	
8	Revision	
9	Revision	
10	Revision	
11	Revision	
12	Revision	
13	Revision	
14	Revision	
15	Revision	
16	Revision	
17	Revision	
18	Revision	
19	Revision	
20	Revision	

As per sheet

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Architectural & Engineering
Consulting Engineers
11 E. Broadway, Suite 205
Oakland, CA 94612
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Fax: 415.777.0002
www.ae3partners.com

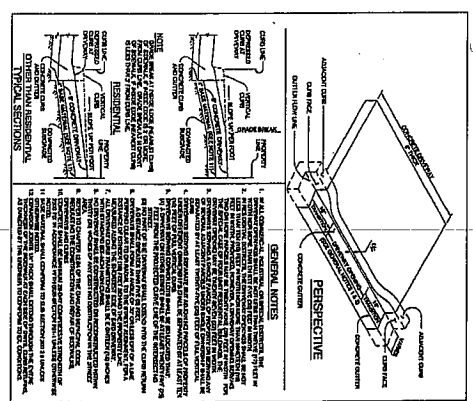
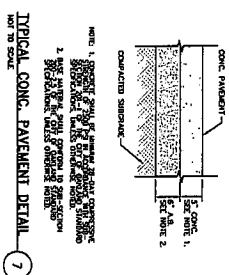
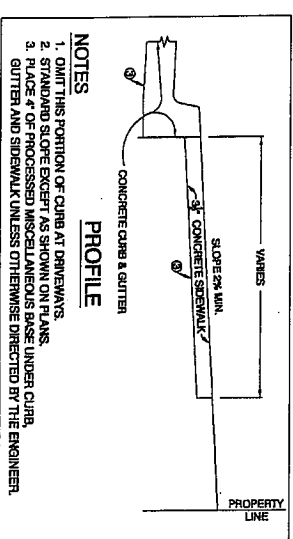
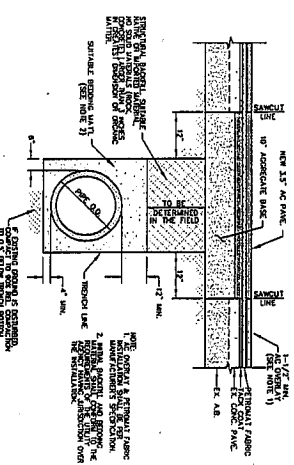
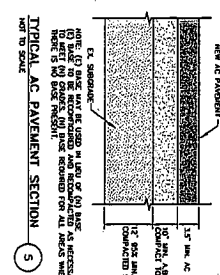
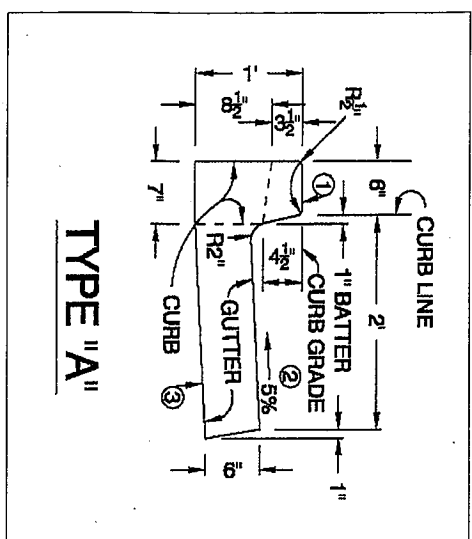
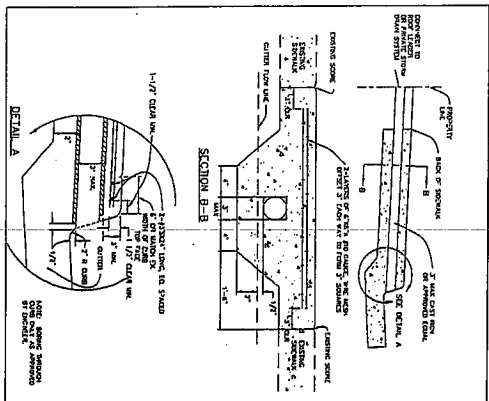
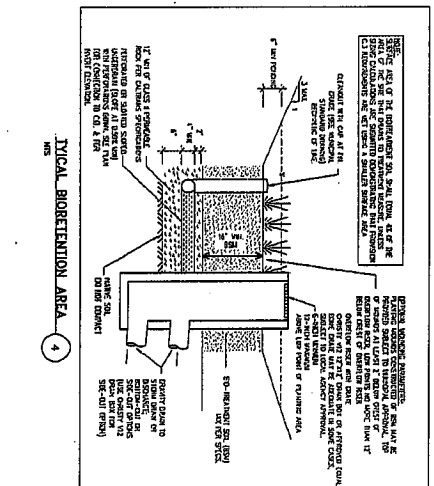
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2000 California Street, Suite 200
Oakland, CA 94612
Tel: 415.777.0001
Fax: 415.777.0002
www.peci.com



DEVELOPMENT REVIEW
APPLICATION SET
FRUITVALE SKILLED NURSING
FACILITY
1230 3TH AVENUE
OAKLAND, CA 94612

EROSION CONTROL DETAILS

Drawn By: AEA
Reviewed By: AEA
Date: 04/10/2011
C3.02

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[illegible]

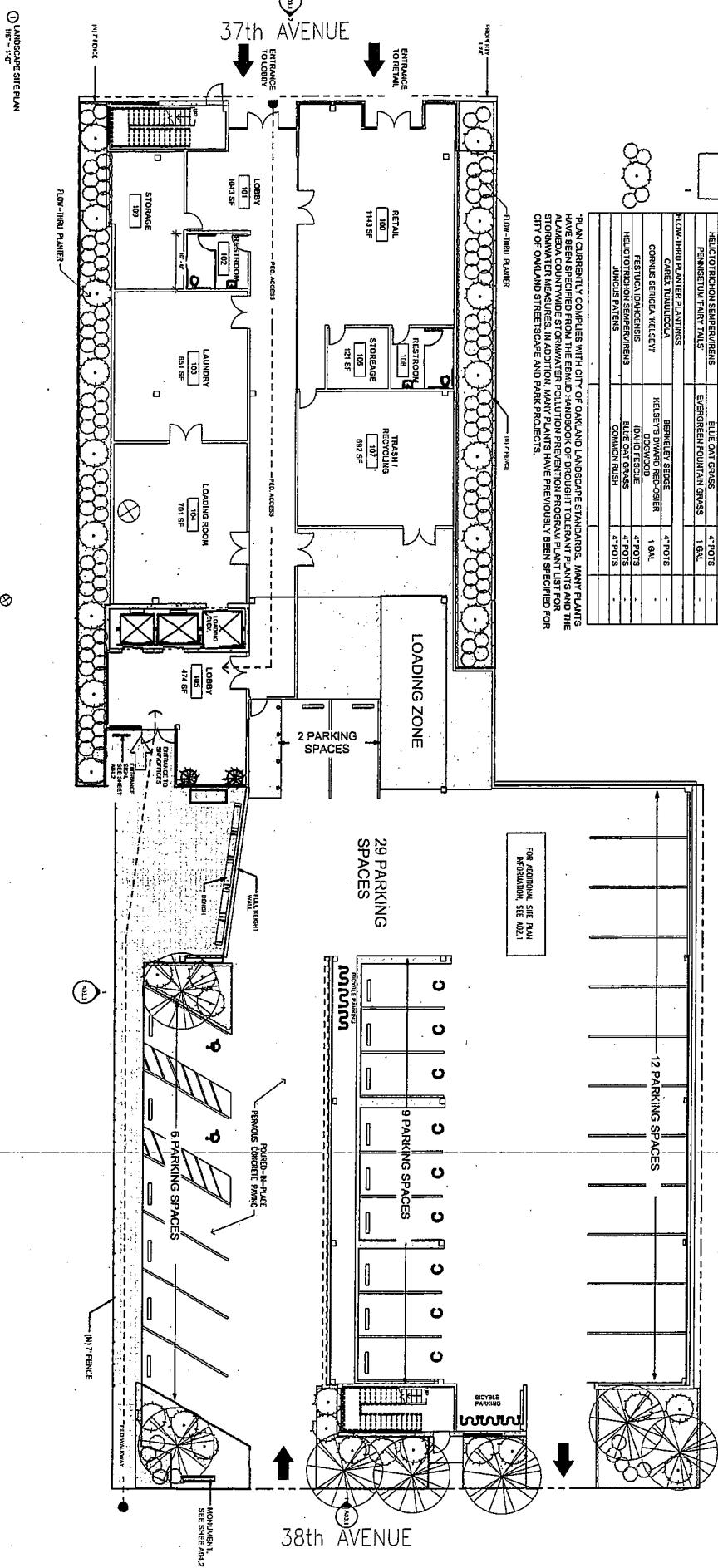
"PLAN CURRENTLY COMPLIES WITH CITY OF OAKLAND LANDSCAPE STANDARDS. MANY PLANTS BEING SPECIFIED FROM THE EMULD HANDBOOK OF DROUGHT TOLERANT PLANTS AND THERE ALAMEDA COUNTYWIDE STORMWATER POLLUTION PREVENTION PROGRAM PLANT LIST FOR STORMWATER MEASURES. IN ADDITION, MANY PLANTS HAVE PREVIOUSLY BEEN SPECIFIED FOR CITY OF OAKLAND STREETSCAPE AND PARK PROJECTS.

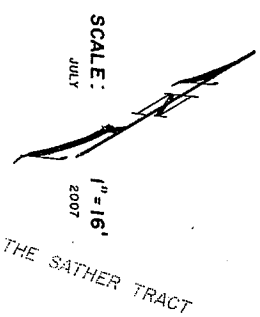
1. THE PHOTOSELECTION SYSTEM WILL BE DESIGNED TO PROVIDE AN AUTOMATIC IRRIGATION SYSTEM WITH 100% COVERAGE, MINIMIZE OVERSPRAY AND SEPARATE SLASHED AND SHIRING/ROUND-COVER SYSTEMS WITH AN AUTOMATIC PAN SHUT OFF VALVE.
2. CONTROLLER SPECIFIED WILL ALLOW FOR MULTIPLE TYPES OF LOCATION, TO ALLOW FOR WEATHER, PLANT TYPE, AND LOCATION.
3. SPRINKLER HEAD LAYOUT IS "HEAD TO HEAD" AND THUS MAXIMIZES DISTRIBUTION UNIFORMITY.

ALL TREES ON SITE TO BE REMOVED. FOR TREE REMOVAL
PLAN SEE SHEET L-102. TREES TO BE REMOVED ARE
SYZIGIUM PARGURIA AND EUCALYPTUS

4. PRESSING COMPENSATING (PC) SCREENS SHALL BE UTILIZED FOR SOME SPRAY HEADS. THE PC SCREENS WILL HELD REDUCE LOSS OF WATER DUE TO WIND DISPERSAMENT AND THEY WILL COVER LANDSCAPE AREAS WITH A LOWER OR REQUIREMENT.
5. THE IRRIGATION SYSTEM SHALL BE DESIGNED TO ALLOW FOR APPLYING REQUIRED WATER AMOUNTS DURING THE EARLY MORNING HOURS.
6. PLANT MATERIAL, WITH A MEDIUM TO LOW WATER REQUIREMENT IS AN ADDITIONAL LEADING FACTOR TO CONSERVE WATER USE BEYOND THE NOTED IRRIGATION SYSTEM.

7. NO TURF SHALL BE USED ON THE PROJECT. DROUGHT TOLERANT, SELF-SUSTAINING PLANT MATERIAL HAS BEEN UTILIZED THROUGHOUT THE PROJECT.





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REFER-SEWER AND MONUMENT MAP NO. 121 & 122

ATTACHMENT B – Environmental Review

Staff finds that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15332 (In-Fill Development Projects) and 15183 (Projects consistent with a Community Plan, General Plan or Zoning). Attachment B contains a more detailed environmental analysis.

Section 15183

The project is consistent with the requirements of Section 15183 because, as described in the General Plan Analysis section, above, the project is consistent with the General Plan. The project also meets all standards for the applicable zones except for setback and height on part of the site. As described in the Findings and Key Issues and Impacts sections, below, the proposal meets all the required findings in the Planning Code for these variances to be approved.

Section 15332

The project meets all the conditions for an exemption under Section 15332 of the CEQA Guidelines. The following are the conditions required for the Section 15332 exemption and the reason the project meets the conditions.

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

As described in the General Plan Analysis section, above, the project is consistent with the General Plan. The project meets all zoning requirements except for setback and height on part of the site. As described in the Findings section, below, the proposal meets all the required findings for these variances to be approved.

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

The site is located within the City of Oakland, is less than 5 acres, and is substantially surrounded by urban uses, including commercial and multifamily buildings and single family homes.

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

The site is in a heavily urbanized area of Oakland where neither the project site nor the immediate surrounding provide habitat for any endangered, rare or threatened plant or animal species.

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

As described below, the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Traffic

A transportation impact analysis (dated May 28, 2013) was prepared for the City stating that the highest peak hour trip generation for the project will be 51 vehicles during the PM peak hour. Based on this level of traffic, the project will not result in any significant traffic capacity or safety impacts and no mitigation measures are required. SCA #26 (see below) contains measures assuring that traffic impacts due to construction activities will be less than significant.

Noise

SCAs #22 – #24 and #30 assure that noise impacts due to construction activities will be less than significant. Incorporating the measures contained in SCAs #25 and #26 into the project assure that the interior and operational noise of the facility will also be less than significant.

Air Quality

Staff performed a screening analysis to determine whether the facility at this site could possibly impact the health of sensitive receptors by exposing them to poor air quality. The analysis was based on guidelines provided by the Bay Area Air Quality Management District (BAAQMD), which is used to assess a project's potential risk and hazard impacts for comparison to the lead agency's applicable thresholds of significance. Based on these Guidelines, staff performed an initial screening using the BAAQMD's most conservative assumptions to determine the site's possible exposure to toxic air contaminants (TACs) and particulate matter with diameters equal to or less than 2.5 microns (PM_{2.5}). The screening determined that a more refined analysis is not necessary because the estimated air contamination, even with the most conservative assumptions, was below the City's thresholds of significance for exposing sensitive receptors to air contamination.

SCA #19 also assures air quality impacts due construction activities will be less than significant. Incorporating the measures contained in SCAs #20 and #21 into the project also assure that the outdoor air quality will not significantly impact the interior air quality of the facility.

Water Quality

SCAs #38 through #41 will assure that there will not be a significant impact on the quality of water during or after construction. These conditions require:

- An erosion and sedimentation control plan for grading;
- A post-construction stormwater treatment plan consistent with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program;
- Entering into a maintenance agreement with the City for stormwater treatment; and
- An analysis confirming of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair.

Further, the site is currently completely paved, so the addition of permeable surfaces to the site will improve current stormwater treatment.

5. The site can be adequately served by all required utilities and public service.

Utilities

The Project site is located within a fully urbanized area within the City of Oakland's Fruitvale Commercial District and is therefore currently serviced by all required utilities (e.g. water, electricity, sanitary sewer facilities, and storm drain facilities) and all required public services (e.g. police and fire services and public schools). As with any development, the Project may require specific on-site upgrades or extensions of existing utility infrastructure to serve the proposed new building. However, the development will not require upgrades to the overall utility system.

Police Services

Whereas the City of Oakland continues to deal with issues surrounding crime and crime prevention, and whereas the Oakland Police Department continues to manage its resources as effectively as possible given budgetary constraints, it is not anticipated that the project will result in the need for any new physical facilities to maintain acceptable service ratios, response times or other Oakland Police Department performance objectives. Therefore, police service is adequate to serve the Project.

Fire Protection Services

First-responder fire protection services would be provided by the Oakland Fire Department. The closest facility is Station 13 located at 1225 Derby Avenue, approximately only one-half a mile from the project site. Station 13 has a fire truck and a total of 12 firefighters. Station #18 is one mile away and has a ladder truck, which is capable of fighting fire capable of fighting structural fires in multi-level buildings. Development of the project site may result in an increase in calls for fire services. However, given the proximity of these stations, the Fire Department would be able to provide adequate fire suppression and emergency medical

response services to the Project Site with existing facilities and staff. The project would not require development of new or physically altered facilities. Therefore, fire protection service is adequate to serve the project.

The project should reduce Emergency Medical Service (EMS) calls because the facility will contain its own emergency medical equipment for patients at the site. The rehabilitation and subacute care focus of the proposal should also reduce EMS calls because it allows patients to fully recover prior to returning home.

Schools

The facility is not expected to have any impact on school services because it will not bring any new children into the school district.

General Exceptions to Exemptions – CEQA Guidelines Section 15300.2

CEQA Guidelines section 15300.2 lists exceptions to the categorical exemptions. As stated below, the proposed project is not subject to any of these exceptions.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

This exception does not apply to the project since it seeks a Class 32 in-fill development project.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The proposed project will not cause a significant cumulative impact, and there are no new skilled nursing, rehabilitation, sub-acute care, medical office, or hospital facilities proposed for the area. Therefore, the cumulative impact of successive projects of the same type in the same place is not significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

There are no unusual circumstances surrounding the proposed project and there is not a reasonable possibility that the project would have a significant effect on the environment due to unusual circumstances. As discussed throughout this section, the project is not expected to result

in any significant effects on the environment. “Unusual circumstances” of a particular project exist if the proposed project’s circumstances differ from the *general* circumstances of projects addressed by the exemption sought (i.e., in-fill development). The project area is fully urbanized, typified by a wide range of zero lot-line buildings of varying heights, frontage widths, and uses found in an urban area. The site is consistent with the General Plan.

The proposed project would not be visible from a designated scenic highway. The project would not result in damage to scenic resources, including but not limited to trees, historic buildings, and rock outcroppings.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Database searches of the State Water Resources Control Board (SWRCB), Geotracker (SWRCB, 2014) and the California Environmental Protection Agency Department of Toxic Substances Control (DTSC) Envirostar online databases (DTSC, 2014) were utilized to identify known environmental cases on the project site. The project is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The project is neither in a historic district or site and is not adjacent to a property that is considered a historic resource under CEQA.

ATTACHMENT B: ADDITIONAL CONDITIONS OF APPROVAL

The following conditions of approval are required in addition to those contained in the July 16, 2014 staff report (see Attachment A).

45. Complaint Procedures

Prior to the operation of the facility

The applicant shall provide the direct phone number of the facility manager for neighbors to report parking or traffic issues in the neighborhood. This phone number shall be provided to immediate neighbors of the facility and be posted in a visible location outside the facility.

46. Employee Shifts

Ongoing

All major employee shift changes shall be at least thirty minutes prior to the time BART ends daily train service at the Fruitvale BART Station.

47. Loading

Prior to issuance of building permit

The applicant shall identify the type and size of trucks that will service the facility. These trucks shall be sufficiently small and maneuverable to use the designated loading area on the site.

Ongoing

- A. Other than construction activities, only those trucks identified in this condition or trucks smaller than those identified in this condition shall service the facility.
- B. All loading and unloading shall take place at the designated loading area on the site. No loading vehicles shall be parked in the street.
- C. This condition only applies to trucks required for the regular ongoing, routine operation of the building and does not apply to vehicles used during the construction of the building or major tenant moves.

48. Employee Parking

Ongoing

Employees shall not park on-street in areas with a residential zoning designation. Information and a map showing designated employee parking areas and areas where parking is not allowed shall be provided to each employee of the facility.

The following condition amends Condition #18 in the July 16, 2014 Staff Report. Additions are underlined and deletions are in ~~strikeout~~.

18. 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. The plan shall include pre-tax commuter benefits for BART and AC Transit. Other 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) On-site car-sharing program (such as City Car Share, Zip Car, etc.)
- i) Distribution of information concerning alternative transportation options
- j) Parking spaces sold/leased separately
- k) Parking management strategies; including attendant/valet parking and shared parking spaces

ATTACHMENT C -- FINDINGS FOR DENIAL

The Planning Commission finds that this proposal does not meet each of the required findings under Sections 17.136.050, General Design Review Criteria as set forth below, 17.134.050, General Use Permit Criteria, and 17.148, General Variance Criteria. A project must meet each finding to be approved.

Findings for denial are shown in **bold** type; explanations as to why these findings cannot be made are in normal type.

B. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;

The project does not meet this finding because the height of the building will create adverse and unacceptable solar impacts on neighboring properties as shown in the shadow studies contained in Attachment A of this report.

C. That 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 have been adopted by the Planning Commission or City Council.

The project does not meet this finding because it is inconsistent with the following General Plan policies:

Policy N1.8: Making Compatible Development

Policy N1.9: Locating Office Development

Section 17.134.050 (General Use Permit Criteria):

A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.

The project does not meet this finding because the height of the building will create adverse and unacceptable solar impacts on neighboring properties as shown in the shadow studies contained in Attachment A of this report. Further, the seven-story height of the building will be out of scale with other buildings in the neighborhood. Finally, the health care facility will

not bring the activity and vitality to the neighborhood intended for a transit oriented development district.

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

The proposal does not meet this finding as shown in the Design Review Findings, above.

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

The project does not meet this finding because it is inconsistent with the following General Plan policies:

Policy N1.8: Making Compatible Development

Policy N1.9: Locating Office Development

Section 17.148.050 (General Variance Criteria):

- C. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The project does not meet this finding because it will adversely affect the livability of abutting properties.

- E. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050**

The proposal does not meet this finding as shown in the Design Review Findings, above.

- F. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The project does not meet this finding because it is inconsistent with the following General Plan policies:

Policy N1.8: Making Compatible Development

Policy N1.9: Locating Office Development