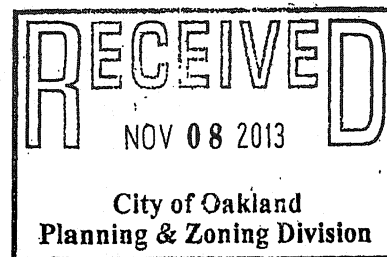


ATTACHMENT “F”



Via E-Mail and Hand Delivery

November 8, 2013

Rachel Flynn
Director of Planning and Building
City of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94596

Subject: Case File #: A13273 related to DR13-177 - 3600 Broadway APN: 012-0940-001-03
Interim Landscaping at Kaiser Oakland Medical Center Replacement Project
KP Project Number: 111-902-24
Response to Appeal of Conditional Design Approval

Dear Ms. Flynn:

As the City of Oakland's largest private employer, Kaiser Permanente is proud that the new Oakland Medical Center - our Flagship - will soon be complete. This project is the culmination of years of internal planning, working with City Staff and incorporating community and neighborhood input. The entire project and plans for this new medical are consistent with the Master Plan and all entitlements and conditions of approval. On September 12, 2013, the Planning and Zoning Division of the City of Oakland's Planning Department approved Kaiser Foundation Hospitals' design review application for interim landscaping, streetscape enhancements and lighting at site of the future Phase 2 MOB at MacArthur and Piedmont (the "MOB Site"). In compliance with Condition 25 of the approved Kaiser Permanente Master Plan for Replacement Program Phase 2 (the "Master Plan"), the approved design included temporary security fencing along the MacArthur and Piedmont frontages of the new Oakland Medical Center. This letter responds to the appeal of the Oakland Planning Department's September 12 conditional approval and respectfully requests that the Oakland Planning Commission uphold the recommendation of its Planning staff and the reasoned conclusions of the office of the Community and Economic Development Agency.

The appeal is founded on the faulty premise that allowing a 7' temporary fence--one that already creates publicly accessible landscaped areas--violates the spirit of the approved Kaiser Master Plan. In fact, the proposal approved on September 12th reflects many hours of input from the Planning staff and the community and satisfies the condition in the Master Plan that the medical center be "secure." Comments from large community meetings conducted on April 25, 2013 and July 25, 2013 are reflected in the approved plan. This plan creates a 6,880 square foot area between a meandering 7' foot fence and the sidewalk that is thoughtfully landscaped and publicly accessible. The approved plan reflects a fair compromise on the accessibility desires of some of our neighbors and the security concerns of others that far exceeds the requirements of Condition 25.

The express purpose of the interim improvements, as stated in Condition 25, is to provide for "landscaping, lighting and security" for the undeveloped MOB site on a temporary basis until such time as the MOB is constructed and operational. Kaiser is not required to provide any publically accessible on the MOB Site as part of these interim improvements. Condition 25 recognizes that hospitals pose unique security challenges--as evidenced by the recently reported event at San

Francisco General--and require measures to protect patients that go beyond what is required at commercial venues due to the elderly and infirm condition of a large number of patients arriving and departing from these facilities at all times. Hence the temporary fence is a critical means for ensuring the security of the future MOB Site adjacent to our new hospital and emergency department. Oakland Police crime statistics are typical of other large cities and indicate frequent trouble calls in the immediate area of the MacArthur-Piedmont corner during daylight hours. The temporary fence will prevent unauthorized and potentially illegal uses of the property that could also affect the surrounding residential neighborhood. In fact, several of the residents closest to the MOB Site are in support of Kaiser's fencing plan.

I. Specific Basis for Rejection of the Appeal:

- 1) Kaiser has serious legal concerns with the appellants' proposal that the City impose new conditions of development and requirements for public open space five years after Kaiser's project was approved. Such a requirement disturbs Kaiser's contractual and legal vested development rights under the 2008 approvals.
- 2) Contrary to the appellants' claims, the Master Plan does not require public access or open park space for this portion of the MOB Site, even after Phase II is completed. However, our approved design shows an accessible, attractively landscaped mini-plaza at the corner of MacArthur and Piedmont. The City's goal and Kaiser's commitment to activate lower Piedmont Avenue will be discussed when we are ready to build the MOB and to propose ground floor building uses.
- 3) It should be noted that under the City's Fence Ordinance, fences up to 8 feet in height are allowed as of right in commercial districts and through a non-appealable administrative approval process pursuant to Section 17.101D.060.C. Kaiser was not required to include the fence in the interim improvements proposal but did so in order to present a single package of improvements for approval. Kaiser believes that applying more stringent review requirements to our fence is fundamentally unfair.
- 4) The appeal asserts that the proposed interim design (a meandering, temporary fence surrounding a landscaped area and creating green and accessible areas) is inadequate and fails to substantially comply with the approved Master Plan. The appeal does not point to any specific evidence that the Kaiser interim improvements are somehow inconsistent with the Master Plan.
- 5) The appellants cite our Serenity Garden for our cancer patients and their families at 3701 Broadway as a model to follow. It is important to note that the Serenity Garden is fenced in and not accessible from the public street.



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Conclusion:

We agree with staff's endorsement of our plan in its September 12 approval as complying with the Master Plan. Kaiser's interim improvements comply fully with the approvals, conditions and requirements for the Master Plan by ensuring that the site is secured. Further, the appeal proposes no definitive alternatives to the Kaiser plan that would meet the requirement of Condition 25 that the MOB Site be "secure." It also fails to acknowledge that hospitals need to be secure in ways that are different from typical commercial ventures.

Kaiser Permanente has owned and operated a hospital at this location in Oakland for more than 70 years and throughout that time we have met our commitments to our neighbors. Kaiser remains committed to making extensive areas within the overall Replacement Project site open to the public in accordance with the Master Plan.

Please include this letter in the Planning Commissioners' meeting packet for the November 20 appeal hearing. Please call if you have questions. Thank you.

Regards,

A handwritten signature in cursive script that reads "Hollis Harris".

Hollis Harris
Vice President, National Facilities Services
Northern California
Kaiser Foundation Hospitals
1950 Franklin, 12th floor
Oakland, CA 94612

Cc: Kaiser Permanente Project File – 111-902-24-G5a
Kaiser Permanente: Kay Stodd, Jennifer Scanlon, Gary Bankhead, Jim Kautz,
Claude Watts, Michon Coleman, Yvette Radford

Mark Wald, Oakland City Attorney's Office
Indrajit Obeysekere, Kaiser Legal