

Case File Number PLN21053**December 7, 2022**

Location:	1031 62 nd Street; APN: 016 144205000 (See map on the reverse)
Proposal:	Demolition of two accessory structures and construction of ten dwelling units on a site with an existing duplex and two accessory dwelling units previously approved under a separate permit. The proposal would use the State Affordable Housing Density Bonus and include one very-low-income unit, a concession for open space, and waivers for lot coverage, height, and parking
Applicant:	Nathanial Klein
Phone Number:	(847) 337-1849
Owner:	Nathaniel Klein and Lu Huang
Case File Number:	PLN21053
Planning Permits Required:	Regular Design Review for construction of dwelling units; Major Conditional Use Permit for seven or more dwelling units in the RM-3 Zone
General Plan:	Mixed Housing Type Residential
Zoning:	RM-3
Environmental Determination:	Exempt per CEQA Guidelines Sections 15332-Infill Development; and 15183-Projects Consistent with a Community Plan, General Plan, or Zoning
Historic Status:	Non-Historic Property
City Council District:	1
Status:	Pending
Staff Recommendation:	Approval subject to the attached Conditions
Finality of Decision:	Appealable to City Council within 10 Days
For Further Information:	Contact Case Planner Gregory Qwan at (510) 238-2958 or by email at gqwan@oaklandca.gov

SUMMARY

The project sponsor is requesting approval for the demolition of two accessory structures and construction of ten new dwelling units. The site is on an interior lot located on the southside of 62nd Street and contains an existing duplex that would be lifted to accommodate two new units on the ground floor. The additional eight units would be located behind the duplex in a three-story tall multi-family building. Two accessory dwelling units that have been approved on the site under separate previous permits are currently under construction and located in the rear yard.

Requested permits include Regular Design Review for the construction of new dwelling units and a Major Conditional Use Permit for seven or more dwelling units in the RM-3 Zone. The proposal qualifies under the State Density Bonus Law for a concession for open space and waivers for lot coverage, height, and parking. The proposed development is consistent with General Plan policies and Zoning standards, subject to approval of the requested permits and the attached conditions of approval (See "Findings" and "Conditions of Approval" sections of this report for details).

The project will add ten units to the City's housing stock, including one unit affordable to very low-income households, within a neighborhood with good access to transit, parks, and schools. This project is subject to the State Housing Accountability Act which requires the design review of multi-family housing development projects (including density bonus projects that have an affordable housing component), to be

CITY OF OAKLAND PLANNING COMMISSION



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Address: 1031 62nd Street
Zone: RM-3

limited to objective design requirements. Therefore, based on the project's consistency with General Plan policies, Zoning standards, the State Housing Accountability Act, and State Density Bonus Law, staff recommends approval of the project.

BACKGROUND

On July 20, 2022, staff presented this project to the Planning Commission for review and decision. However, to better understand the proposal and due to concerns about handicapped access to rooftop group open space, the Planning Commission directed the applicant to provide design renderings and investigate compliance with Americans with Disabilities Act (ADA) requirements prior to returning to the Commission for a final decision. The applicant has since included design renderings of the proposal and worked with his engineer, Certified Access Specialist (CASP), and the City of Oakland Building Services Bureau to modify the project to comply with California Building Code and accessibility standards.

Changes to the project include adding an accessible ramp, relocating all group open space to the ground level in the front yard, and reducing the number of windows facing the interior side yard. In addition, the applicant has proposed one additional dwelling unit and requested a concession per State Density Bonus Law for an 83-square-foot reduction in required group open space. As discussed in the Zoning Analysis section, below, the city currently has no existing objective design standards that apply to the proposal, and the State Housing Accountability Act does not allow subjective design guidelines to apply to the project. Therefore, staff did not bring the proposal to the Design Review Committee. Staff has met with the applicant on multiple occasions and discussed potential voluntary improvements to the project, such as a front-facing walk-up stairway, but the applicant has chosen to move forward with a project that meets the required minimum development standards and utilizes qualifying waivers and a concession.

PROPERTY AND NEIGHBORHOOD DESCRIPTION

The subject site is a 10,578 square-foot interior lot located on the south side of 62nd Street that contains an existing duplex with two accessory structures located in the rear. The existing accessory structures appear to be in varying states of disrepair. A variety of residential uses surround the site to the west, south, east, and across the street to the north. The Golden Gate Recreation Center and Playground is located within a one-minute walk to the west. The project site is located close to multiple transit options that serve Downtown Oakland, Downtown San Francisco, and Downtown Berkeley. The 72, 72M, 72R, 802, and 88 AC Transit bus lines run on San Pablo Avenue and Market Street within a five-minute walk from the subject property. The F Transbay bus line is also located nearby at Stanford Avenue and Market Street, providing commuter connectivity to the San Francisco Transbay Transit Center.

PROJECT DESCRIPTION

The proposed project involves construction of ten additional dwelling units on a site with an existing duplex. The two existing accessory structures would be demolished to make room for a three-story tall, eight-unit, multi-family building, located behind the existing duplex. The existing duplex at the front of the property would be raised to accommodate two new units on the ground floor. Two accessory dwelling units (ADUs) previously approved under a separate ministerial permit would be located near the rear property line. Open space would be located throughout the site. All group open space would be accessible at the ground level in the front yard. The project provides two short-term and three long-term bicycle parking spaces, per City standards.

GENERAL PLAN ANALYSIS

The subject site is located in the Mixed Housing Type Residential land use classification according to the City of Oakland General Plan Land Use and Transportation Element (LUTE). The intent of the Mixed Housing Type Residential land use classification 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 proposed project is consistent in all significant respects with the LUTE and with the following General Plan objectives and policies:

Objective N3: Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future housing needs of the Oakland community.

The project includes construction of ten new dwelling units, including one very-low-income affordable housing unit, on a site with an existing duplex and two accessory dwelling units previously approved under a separate ministerial permit.

Objective N4: Actively encourage the provision of affordable housing throughout the Bay Area.

The project includes one very-low-income affordable housing unit.

Objective N6: Encourage a mix of housing costs, unit sizes, types, and ownership structures.

The project includes dwelling units of varying sizes and one very-low-income affordable housing unit.

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

The City of Oakland's Planning Bureau is facilitating the construction of new homes by prioritizing the review of affordable housing projects.

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

The project is proposed for an underutilized site located in an urban area of North Oakland. The proposal would consist of infill development for a site with an existing duplex and two accessory dwelling units previously approved under a separate permit.

Policy N3.5, Encouraging Housing Development: The City should actively encourage development of housing in designated mixed housing type and urban housing areas through regulatory and fiscal incentives, assistance in identifying parcels that are appropriate for new development, and other measures.

The Density Bonus, Concession, and Waivers encourage development of new dwelling units.

Policy N4.2, Advocating for Affordable Housing: The City encourages local non-profit organizations, affordable housing proponents, the business community, the real estate industry, and other local policy makers to join in efforts to advocate for the provision of affordable housing in communities throughout the Bay Area region.

The Density Bonus, Concession, and Waivers help to encourage construction of affordable housing units and new housing stock.

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

The project meets the intent of the LUTE by providing twelve rental units of varying sizes, including one very-low-income affordable housing unit.

ZONING ANALYSIS

The State Housing Accountability Act requires that the City review new multi-family housing developments against objective standards, and the only applicable objective standards for the proposal are in the City's Planning Code. Note that the development of objective design standards for the City is underway and are expected to be adopted as early as August 2024.

The following table describes how the project meets zoning requirements or qualifies for concessions and waivers under the State Density Bonus Law. Under the law, the project may receive up to two concessions that are required to provide for affordable housing costs and any number of waivers to development standards if it is demonstrated that they are required to physically accommodate the bonus units.

Standard	Allowed/Required	Proposed	Notes
Maximum residential density under the State Density Bonus Law	12 units	12 units	1
Minimum setbacks	Front - 15' Interior side - 4' Rear - 15'	Front - 20' 8" Interior side - 4' Rear - 32.5'	3
Minimum group usable open space	200 sf/unit = 2,400 sf	2,415 sf	
Minimum group usable open space after private usable open space substitution.	85 sf/unit = 1,020 sf	937 sf	4, 5
Required bicycle parking	2 short-term spaces 3 long-term spaces	2 short-term spaces 3 long-term spaces	
Maximum lot coverage	50% (5,289 sf)	54% (5,761 sf)	2
Maximum height	30 ft	40.09 ft	2
Required off-street car parking spaces	8 spaces	0 spaces	2

Notes:

1. The maximum density permitted in the RM-3 Zone is one unit per 1,500 square feet of lot area or 7.052 units. Under the State Density Bonus Law this number is rounded up to eight and increased 38.75 percent for projects that include one very low-income affordable unit. This equals 11.1 units for the project, which is rounded up to 12 as required by the law.
2. The applicant has requested a waiver under the State Density Bonus Law for this regulation.
3. The proposed setbacks listed are for the main structures and do not include allowed building projections or the accessory dwelling units previously approved under a separate ministerial permit.
4. Each square foot of private usable open space equals two square feet towards the total group usable open space requirement, except that 85 square feet of group open space per unit must be provided regardless of the amount of private usable open space in the project.
5. The applicant has requested a concession under the State Density Bonus Law for this regulation.

ENVIRONMENTAL DETERMINATION

The project qualifies for an Infill Exemption under CEQA Guidelines Section 15332 and Section 15183 for projects consistent with a community plan, general plan, or zoning.

KEY ISSUES AND IMPACTS

Despite concerns regarding the proposed design changes to the existing front building, staff recommends approval of the project because the State Housing Accountability Act requires City review of multifamily housing projects to be limited to objective requirements. Further, the project will provide ten additional units to the City's housing stock, including one unit affordable to very low-income households. As noted, the city is in the process of developing objective design standards that will be applicable to projects such as that proposed.

RECOMMENDATIONS

Based on the application materials, analysis contained in this report, findings, and attached conditions of approval, staff recommends that the Commission:

1. Affirm staff's CEQA determination; and
2. Approve the Regular Design Review and Conditional Use Permit, subject to the attached Findings and Conditions of Approval.

Prepared by:



GREGORY QWAN
Planner III

Reviewed by:



ROBERT MERKAMP
Zoning Manager

Approved for forwarding to the Planning Commission:



EDWARD MANASSE
Deputy Director, Bureau of Planning

ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. Plans and Photographs
- D. CASp Letter

ATTACHMENT A: FINDINGS FOR APPROVAL

This proposal meets the required findings and standards under Oakland Planning Code (OPC) Section 17.136.050(A), Regular Design Review Criteria For Residential Facilities, OPC Section 17.134.050, General Use Permit Criteria, and OPC Section 17.17.050, Supplemental Criteria for three or more units in the RM-3 Zone of the Oakland Planning Code as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

REGULAR DESIGN REVIEW CRITERIA FOR RESIDENTIAL FACILITIES (OPC SECTION 17.136.050(A))

- 1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures.**

The proposal meets all zoning development standards, with a concession for open space, and waivers for lot coverage, height, and car parking development standards. No existing Objective Design Standards apply to multi-family affordable housing projects in this area.

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

The proposed new development will bring more residents to revitalize the neighborhood. The attached standard conditions of approval will help ensure that all potential negative impacts will be reduced to less than significant.

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

The proposed development is expected to involve minimal earthwork for foundations and other site improvements.

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

Not Applicable.

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

The property is located in the Mixed Housing Type Residential area of the General Plan's Land Use and Transportation Element (LUTE). The intent of the area 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 proposal to construct ten new dwelling units, including one very-low-income dwelling unit, meets this intent and the following LUTE Objectives and Policies:

Objective N3: Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future housing needs of the Oakland community.

FINDINGS

Objective N4: Actively encourage the provision of affordable housing throughout the Bay Area.

Objective N6: Encourage a mix of housing costs, unit sizes, types, and ownership structures.

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

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

Policy N3.5, Encouraging Housing Development: The City should actively encourage development of housing in designated mixed housing type and urban housing areas through regulatory and fiscal incentives, assistance in identifying parcels that are appropriate for new development, and other measures.

Policy N4.2, Advocating for Affordable Housing: The City encourages local non-profit organizations, affordable housing proponents, the business community, the real estate industry, and other local policy makers to join in efforts to advocate for the provision of affordable housing in communities throughout the Bay Area region.

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

GENERAL USE PERMIT CRITERIA (OPC SECTION 17.134.050)

- 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 proposal meets all zoning development standards, including density, with a concession for open space, and waivers for lot coverage, height, and car parking development standards. The subject site is located within a one-minute walk of the Golden Gate Recreation Center and Playground and in an already developed urban area with existing utilities. The subject site is well served by existing transit and within a five-minute walk of the 72, 72M, 72R, 802, 88 AC Transit lines and F Transbay line located on San Pablo Avenue and Market Street.

- 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 proposal meets all setbacks and will create ten additional housing units, including one very-low-income affordable unit, located near existing recreational facilities, transit, and shopping within a five-minute walk.

FINDINGS

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

The project increases the vitality of the neighborhood by constructing additional housing on an underutilized lot, potentially increasing patronage to surrounding businesses.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.050.**

The proposal conforms to design review criteria as described in the previous section of this Attachment.

- 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 property is located in the Mixed Housing Type Residential area of the General Plan's Land Use and Transportation Element (LUTE). The intent of the area 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 proposal to construct ten new dwelling units, including one very-low-income dwelling unit, meets this intent and the following LUTE Objectives and Policies:

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

FINDINGS

SUPPLEMENTAL FINDINGS FOR THREE OR MORE UNITS IN THE RM-3 ZONE (OPC SECTION 17.17.050)

- a. **That the proposed development will not adversely affect adjoining property, nor the surrounding neighborhood, with consideration to be given to density; to the availability of neighborhood facilities and play space to the generation of traffic and the capacity of surrounding streets; and to all other similar, relevant factors;**

The proposal open space complies with applicable City standards. Two short-term and three long-term bicycle parking spaces would be provided on-site. Public transit (AC Transit Lines 72, 72M, 72R, 802, 88, and F Transbay) is available within walking distance. The Golden Gate Recreation Center is located within a one-minute walk and provides additional play space and recreational opportunities. The new units will not generate substantial traffic as the density is permitted with the density bonus and approval of the Conditional Use Permit. In addition, the project would be required to pay the City of Oakland Transportation Impact Fee which assures that development projects pay their fair share to compensate for increased demand on citywide transportation infrastructure. Furthermore, there are several multi-family properties on the block.

- d. **That the design and site planning of the buildings, open areas, parking and service areas, and other facilities provide a convenient, attractive, and functional living environment; and that paths, stairways, accessways, and corridors are designed to minimize privacy impacts;**

The proposal is located in an existing residential area served by existing utilities and roadways and will provide a convenient, attractive, and functional living environment. The project will provide adequate bicycle parking and open space on-site. New landscaping would be installed throughout the site.

- e. **That lot shape, size, and dimensions allow a development which will provide satisfactory internal living conditions without adversely affecting the privacy, safety, or residential amenity of adjacent residences.**

The proposal is located on a 10,578 square foot narrowing lot from front to back. The lot measures approximately 55' wide at the front property line, approximately 37' wide at the rear property line, and approximately 228' deep. No changes in lot dimension or size are proposed. The project meets the minimum required setbacks along the sides, rear, and front. Additional residential units would improve safety by providing more "eyes on the street", through increased neighborhood surveillance.

ATTACHMENT B: CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, and the approved plans **received October 11, 2022**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, 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 Approval, 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 or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, Department of Transportation, and Public Works Department. 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 #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the

CONDITIONS OF APPROVAL

Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval 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 Approval 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 Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (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 this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project 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 project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval 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. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Trash and Blight Removal

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in Chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

- v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Landscape Plan

a. Landscape Plan Required

- Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code. Proposed plants shall be predominantly drought-tolerant. Specification of any street trees shall comply with the Master Street Tree List and Tree Planting Guidelines (which can be viewed at <http://www2.oaklandnet.com/oakcal/groups/pwa/documents/report/oak042662.pdf> and <http://www2.oaklandnet.com/oakcal/groups/pwa/documents/form/oak025595.pdf>, respectively), and with any applicable streetscape plan.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. Landscape Installation

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. Landscape Maintenance

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

15. Lighting

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Dust Controls – Construction Related

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- 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. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f. All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g. 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Criteria Air Pollutant Controls - Construction Related

Requirement: The project applicant shall implement all of the following applicable basic control measures for criteria air pollutants during construction of the project as applicable:

- a. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two 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.
- b. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations (“California Air Resources Board Off-Road Diesel Regulations”).

- c. 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. Equipment check documentation should be kept at the construction site and be available for review by the City and the Bay Area Air Quality District as needed.
- d. Portable equipment shall be powered by grid electricity if available. If electricity is not available, propane or natural gas generators shall be used if feasible. Diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.
- e. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.
- f. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") and upon request by the City (and the Air District if specifically requested), the project applicant shall provide written documentation that fleet requirements have been met.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

19. Tree Removal During Bird Breeding Season

Requirement: To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of birds shall not occur during the bird breeding season of February 1 to August 15 (or during December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats). If tree removal must occur during the bird breeding season, all trees to be removed shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to the start of work and shall be submitted to the City for review and approval. If the survey indicates the potential presence of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the California Department of Fish and Wildlife, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

When Required: Prior to removal of trees

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

20. Tree Permit

a. Tree Permit Required

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC Chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Tree Protection During Construction

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

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.

- v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

c. Tree Replacement Plantings

Requirement: Replacement plantings shall be required for tree removals for the purposes of erosion control, groundwater replenishment, visual screening, wildlife habitat, and preventing excessive loss of shade, in accordance with the following criteria:

- i. 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.
- ii. Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye), *Umbellularia californica* (California Bay Laurel), or other tree species acceptable to the Tree Division.
- iii. Replacement trees shall be at least 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.
- iv. Minimum planting areas must be available on site as follows:
 - a. For *Sequoia sempervirens*, three hundred fifteen (315) square feet per tree;
 - b. For other species listed, seven hundred (700) square feet per tree.
- v. In the event that replacement trees are required but cannot be planted due to site constraints, an in-lieu fee in accordance with the City's Master Fee Schedule may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- vi. The project applicant shall install the plantings and maintain the plantings until established. The Tree Reviewer of the Tree Division of the Public Works Department may require a landscape plan showing the replacement plantings and the method of irrigation. Any replacement plantings which fail to become established within one year of planting shall be replanted at the project applicant's expense.

When Required: Prior to building permit final

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

21. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration 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, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

22. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event 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

California Health and Safety Code. 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 and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

23. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

24. Seismic Hazards Zone (Landslide/Liquefaction)

Requirement: The project applicant shall submit a site-specific geotechnical report, consistent with California Geological Survey Special Publication 117 (as amended), prepared by a registered geotechnical engineer for City review and approval containing at a minimum a description of the geological and geotechnical conditions at the site, an evaluation of site-specific seismic hazards based on geological and geotechnical conditions, and recommended measures to reduce potential impacts related to liquefaction and/or slope stability hazards. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

25. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture's recommendations for 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. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- 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 project 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 notifying the City and applicable 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

26. Erosion and Sedimentation Control Measures for Construction

Requirement: The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

27. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

28. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets "No Dumping – Drains to Bay;"

- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
 - i. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
 - ii. Dumpster drips from covered trash, food waste, and compactor enclosures;
 - iii. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
 - iv. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
 - v. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

29. NPDES C.3 Stormwater Requirements for Small Projects

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

30. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling 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.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

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.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

31. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- 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. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties 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.
- e. 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.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

32. Extreme Construction Noise

- a. **Construction Noise Management Plan Required**

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90 dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. 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;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. 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
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

33. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of Chapter 17.120 of the Oakland Planning Code and Chapter 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 City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

34. Capital Improvements Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Capital Improvements Fee Ordinance (Chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

35. Construction Activity in the Public Right-of-Way**a. Obstruction Permit Required**

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets, sidewalks, bicycle facilities, and bus stops.

When Required: Prior to approval of construction-related permit

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

b. Traffic Control Plan Required

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, bus stops, or sidewalks, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian accommodations (or detours, if accommodations are not feasible), including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The Traffic Control Plan shall be in conformance with the City's Supplemental Design Guidance for Accommodating Pedestrians, Bicyclists, and Bus Facilities in Construction Zones. The project applicant shall implement the approved Plan during construction.

Initial Approval: Department of Transportation

Monitoring/Inspection: Department of Transportation

c. Repair of City Streets

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks, caused by project construction at his/her 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 approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Department of Transportation

36. Bicycle Parking

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (Chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

37. Transportation Impact Fee

Requirement: The project applicant shall comply with the requirements of the City of Oakland Transportation Impact Fee Ordinance (Chapter 15.74 of the Oakland Municipal Code).

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

38. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

39. Underground Utilities

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

40. Recycling Collection and Storage Space

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in

compliance with the Ordinance. For residential projects, at least two (2) cubic feet of storage and collection space per residential unit is required, with a minimum of ten (10) cubic feet. For nonresidential projects, at least two (2) cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten (10) cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

41. Green Building Requirements

a. Compliance with Green Building Requirements During Plan-Check

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - 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.
 - 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.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - Green building point level/certification requirement: 23 points per the appropriate checklist approved during the Planning entitlement process.
 - 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 Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
 - The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. Compliance with Green Building Requirements During Construction

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. 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.
- ii. 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.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. Compliance with Green Building Requirements After Construction

Requirement: Prior to the finaling the Building Permit, the Green Building Certifier shall submit the appropriate documentation to City staff and attain the minimum required point level.

When Required: Prior to Final Approval

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

42. Water Efficient Landscape Ordinance (WELO)

Requirement: The project applicant shall comply with California's Water Efficient Landscape Ordinance (WELO) in order to reduce landscape water usage. For the specific ordinance requirements, see the link below:

<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/docs/Title%2023%20extract%20-%20Official%20CCR%20pages.pdf>

For any landscape project with an aggregate (total noncontiguous) landscape area equal to 2,500 sq. ft. or less, the project applicant may implement either the Prescriptive Measures or the Performance Measures, of, and in accordance with the California's Model Water Efficient Landscape Ordinance. For any landscape project with an aggregate (total noncontiguous) landscape area over 2,500 sq. ft., the project applicant shall implement the Performance Measures in accordance with the WELO.

- a. **Prescriptive Measures:** Prior to construction, the project applicant shall submit the Project Information (detailed below) and documentation showing compliance with Appendix D of California's Model Water Efficient Landscape Ordinance (see website below starting on page 38.14(g) in the link above):
- b. **Performance Measures:** Prior to construction, the project applicant shall prepare and submit a Landscape Documentation Package for review and approval, which includes the following
 - i. Project Information:
 - Date,
 - Applicant and property owner name,
 - Project address,

- Total landscape area,
 - Project type (new, rehabilitated, cemetery, or home owner installed),
 - Water supply type and water purveyor,
 - Checklist of documents in the package,
 - Project contacts, and
 - Applicant signature and date with the statement: “I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package.”
- ii. Water Efficient Landscape Worksheet
 - Hydrozone Information Table
 - Water Budget Calculations with Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use
 - iii. Soil Management Report
 - iv. Landscape Design Plan
 - v. Irrigation Design Plan, and
 - vi. Grading Plan

Upon installation of the landscaping and irrigation systems, and prior to the final of a construction-related permit, the Project applicant shall submit a Certificate of Completion (see page 38.6 in the link above) and landscape and irrigation maintenance schedule for review and approval by the City. The Certificate of Completion shall also be submitted to the local water purveyor and property owner or his or her designee.

For the specific requirements within the Water Efficient Landscape Worksheet, Soil Management Report, Landscape Design Plan, Irrigation Design Plan and Grading Plan, see the link below:

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

43. Residential Tenants

Requirement: The property owner shall comply with all applicable laws and requirements concerning residential tenants, including but not limited to, the City’s Rent Adjustment Ordinance (OMC chap. 8.22, Article I), Just Cause Eviction Ordinance (OMC chap. 8.22, Articles II & III), Tenant Protection Ordinance (OMC chap. 8.22, Article V) and Code Compliance Relocation Ordinance (OMC chap. 15.60). Existing and former tenants temporarily or permanently evicted, displaced or relocated due to the project or City action related to the project may be entitled to protections and benefits, including, but not limited to, relocation payments and the right to return to previous units. The property owner may be required to submit evidence of compliance with applicable tenant protection laws upon request of the City. For more information, please contact the Oakland Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland, California, 94612; (510) 238-6182.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

44. Affordable Residential Rental Units - Agreement and Monitoring

- a. Requirement #1:** Pursuant to Section 17.107 of the Oakland Planning Code and the State Density Bonus Law California Government Code Section 65915 et seq. (“State Density Bonus Law”), the proposed project shall provide a minimum of **one** target dwelling unit available at **very low income** (as **8%** of the total units) for receiving a density bonus, concession and/or waiver of development standards.
- b. Requirement #2:** The approved residential affordable units that are part of this approval shall remain and continue to be affordable at the specified level in accordance with California Health and Safety Code Section 50053 and its implementing regulations for a term of not less than 55 years or a longer period of time if required by the construction or mortgage finance assistance program, mortgage insurance program, or rental subsidy program. This Condition of Approval must also be in compliance with Section 65915(c)(1) of the State Density Bonus Law specifically, as well as all other applicable provisions of the State Density Bonus Law.
- c. Requirement #3:** Prior to submittal of a construction-related permit, the applicant shall contact the Oakland Housing and Community Development Department (Housing Development Services Division) to enter into a Regulatory Agreement based on the City’s model documents, as may be amended from time to time, governing the target dwelling units. The Agreement shall contain restrictive covenants to ensure the continued affordability of the target dwelling units at the specified rent levels for a period of not less than fifty-five (55) years pursuant Section 65915 (c)(1) of the State Density Bonus Law, and restrict the occupancy of those units only to residents who satisfy the affordability requirement as approved for this project. Only households meeting the eligibility standards for the target dwelling units shall be eligible to occupy the target dwelling units.

If the property has an approved condominium map and the developer chooses to rent the affordable units at initial occupancy, the units cannot convert to ownership during the term of the Agreement, even if the market-rate units in the development convert to ownership.

The Regulatory Agreement shall be recorded with the Alameda County Recorder’s Office as an encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The Regulatory Agreement may not be subordinated in priority to any other lien interest in the property.

- d. Requirement #4:** Rental target dwelling units shall be managed / operated by the developer or developer’s agent or the developer’s successor. The developer of rental target dwelling units shall submit for review and approval by the Oakland Housing and Community Development Department and any other relevant City departments, an annual report identifying which units are target dwelling units, the monthly rent, vacancy information, monthly income for tenants of each target rental dwelling unit throughout the prior year, and other information required by the City. Said agreement shall maintain the tenants’ privacy. The applicant shall pay to the Oakland Housing and Community Development Department an annual monitoring fee pursuant to the Master Fee Schedule (updated annually and available from the Budget Office of the City Oakland’s Finance Department: <https://www.oaklandca.gov/departments/finance-department>) for City monitoring of target dwelling units.

- e.* Requirement #5: The floor area, number of bedrooms, and amenities (such as fixtures, appliances, location and utilities) of the affordable units shall be substantially equal in size and quality to those of the market rate units. Further, the proportion of unit types (i.e. three-bedroom and four-bedroom, etc.) of the affordable units shall be roughly the same as the project's market rate units.
- f.* Requirement #6: Tenant households in affordable units must have equal access to the project's services and facilities as tenant households in all other units within the project.
- g.* Requirement #7: Affordable units must be evenly distributed throughout the project.
- h.* Requirement #8: Applicant shall comply with the requirements of Section 65915(c)(3)(A) of the State Density Bonus Law requiring, without limitation, replacement units in those circumstances where the parcel subject to the density bonus requests contains or contained affordable units within the last five years.
- i.* Requirement #9: Applicants shall comply with all applicable provisions of State Density Bonus Law and all provisions of the City's density bonus law that are not preempted by state law.
- j.* Requirement #10: Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of the project.
- k.* Requirement #11: The City will not issue final certificates of occupancy for more than fifty percent (50%) of the market rate units in any phase of development until final certificates of occupancy are issued for all of the affordable units in that phase.

When Required: First Construction-Related Permit Application and Ongoing

Initial Approval: Oakland Housing and Community Development Department – Housing Development Services Division

Ongoing Monitoring/Inspections: Housing Development Services Division

45. Final Design Review

Requirement: As the design of the building is further detailed, the design elements listed below shall be revised and shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. Only high-quality materials will be approved.

a) Window and Door Details: The applicant shall submit to the Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations. Details shall show each window with a minimum 2" recess from the surrounding exterior walls, have wood-like sash dimensions, and contain exterior trim with minimum depth of 1" from the surrounding exterior walls. Each window shall be single or double hung or casement style.

When Required: Prior to issuance of building permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

APPROVED BY:

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

CONDITIONS OF APPROVAL